SENATE—*Tuesday, August 2, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

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

For what the law could not do, in that it was weak through the flesh * * *.—Romans 8:3.

Eternal God, the apostle Paul reminds us there are some things law cannot do. Even the perfect Law of God, as in the Ten Commandments, is limited in its power, because of the weakness of the flesh.

Thou knowest the frustration—the sense of futility—which must touch the hearts and minds of the Senators and their committees. Long hours of hard work and debate finally produce a law as good as the human mind can conceive. And yet, the problem which the law was supposed to address not only does not stop, but grows.

Patient God, help Your servants to see that the real problem is human nature itself—"the flesh," as Paul calls it. And that social and cultural disintegration are rooted in human weakness. Help them to see that the Bible addresses itself to this fundamental problem in history with solutions which are grounded in faith.

In the name of Him who came to fulfill the law. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1513, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1513) entitled "Improving America's Schools Act of 1993."

The Senate resumed consideration of the bill.

Pending:

Smith amendment No. 2433, to prohibit the use of instructional materials, instruction, counseling, or other services on school grounds, from being used for the promotion of homosexuality as a positive lifestyle alternative.

Kennedy amendment No. 2436 (to amendment No. 2433), to prohibit the use of funds to make condoms available in a public school unless the program under which such condoms are distributed meets certain local control criteria.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2436, AS MODIFIED, TO AMENDMENT NO. 2433

Mr. KENNEDY. Mr. President, I send a modification to the desk.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his amendment. It is so modified.

The amendment (No. 2436), as modified, is as follows:

At the end of the pending amendment, insert the following:

SEC. . LIMITATION.

None of the funds authorized to be appropriated under this Act may be used to make condoms available in a public school.

Mr. KENNEDY. Mr. President, I see our friend and colleague from Idaho is on the floor. As we had briefly outlined last evening, we will go to the Senator's amendment. Just for the awareness of our Members, we have agreed to a time limit of 1 hour; 45 minutes under the control of the Senator from Idaho and 15 under the control of myself and Senator JEFFORDS. That is, we will ask consent to formalize that, but that is our understanding at the present time. We will proceed on our side as if that agreement is in effect. We will formalize it in just a few moments.

I thank the Senator for his cooperation and look forward to the debate.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the two pending amendments? If not, it is so ordered. The Senator from Idaho [Mr. CRAIG] is recognized.

AMENDMENT NO. 2437

(Purpose: To modify the fair wages provisions)

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2437.

The amendment is as follows:

On page 1244, line 10, before the period, insert the following: "if the Federal share of the financing of such a repair, renovations, alteration, or construction project is greater than 25 percent of the total cost of the project."

Mr. CRAIG. Mr. President, I allowed the full reading of the amendment this morning because I think it speaks so clearly for itself.

As we attempt to deal with S. 1513 and as this Congress struggles to find dollars to assist States and local units of government in funding education, our No. 1 priority ought to be to make sure that those dollars go just as far as they possibly can go. This is, of course, not just educational facilities of the kind that we would think about—by that I mean schools and school-associated facilities—it is also libraries and other things within our communities across this country that serve in the expanding and the broadening of the human mind. It is something our country has always done so well.

So, as we struggle with the $200-plus billion deficit and a $4 trillion debt, should we not as a Congress be working to make sure the money we provide to assist States goes just as far as it possibly can? The amendment today addresses that most important issue. The amendment amends section 1501(o) of title XV, which applies the Davis-Bacon Act to new programs of educational infrastructure grants. I repeat, "new programs of educational infrastructure grants."

● 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

Title XV grants are for repairs, renovation, alteration and construction of public, elementary and secondary school libraries, media centers and facilities used by academic and vocational instruction.

The title XV grant program is authorized at $400 million, and that is this year as it relates to S. 1513, and $200 million is already included in the fiscal year 1995 Labor-HHS-Education appropriations bill about to come to the floor.

So we are talking about approximately half a billion dollars that we will spread across 50 States. A local elementary agency, or an LEA, as we call them, is eligible for a grant of the dollars we are talking about if they submit an application showing urgent need, and that, of course, is what is important in these dollars.

These are not within the normal flow of the educational or the HHS dollars we are talking about, but those who express an urgent need because they have an inadequate facility as it deals with the media centers, the secondary school libraries or the academic and vocational instruction facilities.

The local education agency can also apply for a grant if it serves large numbers of disadvantaged children. It can also apply for a grant to address conditions that compromise learning, health and safety. So, in other words, over the last good number of years, as we have been renovating our school facilities to get rid of asbestos, one of the ways this grant could be applied is to assist in providing a few dollars to mix with the local county or school district dollar and the State dollar to assist in renovating and making an educational facility more healthy and safe for the students involved. And if the facility lacks capacity, including the ability to raise funds to undertake the project without some Federal assistance, and they can display need, that is what this section of this bill and this section of the Federal law is all about.

So my amendment states that Davis-Bacon applies to title XV grants that finance the local education agency project in whole or in part. Education groups who have worked for creation of the grant program anticipate that, in many cases, the Federal share of the project will be very small, but it is that extra bump, it is that extra boost that the local and the State cannot come up with.

As we know, in working with our States and local governments, in many of these programs where there is a Federal mandate or where there is a Federal law to be addressed to bring about adequate education based on Federal standards, or safety in facilities based on Federal standards, that our local units of government bring together a combination of dollars. It is not a single fund or a single source. It is a little bit of a grant here and a little bit of a grant here in some of our more impoverished communities, both urban and rural, to make sure that they can comply and meet the standards of the Federal law.

While implementing regulations for title XV grants are far in the future, the likelihood certainly exists that small amounts of Federal funding will be used to leverage significant larger amounts of State and local funds. And that is exactly what I was talking about. The total pool of primary and secondary school spending for new construction, additions and modernizations in 1993 was about $10 billion, according to the American School and University Magazine of May 1994.

So this simple amendment, when you look at that kind of impact, if a local education agency finances more than 75 percent of the total cost of a project and a Federal infrastructure grant contributes less than 25 percent, Davis-Bacon will not apply. If the Federal Government makes only a minimal contribution to a construction or a repair project, it is not a Federal project, and we should not mandate all the same labor regulations that apply to Federal projects.

I think this Congress clearly understands the significance of that difference. If it is not a Federal project, if it is truly a local project, why then, because of a small amount of Federal money being involved, should we force a local education agency into a substantial greater amount of funding that has to come from the taxpayers of the local unit just to meet these Federal standards?

I believe that this is a reasonable and very modest amendment. I would have preferred to simply exempt the new grants from the outright impact of Davis-Bacon, but I realize that many of my colleagues want Davis-Bacon to apply where there is a significant Federal spending of a construction or repair dollar. So I am not going to argue that today. We are not talking significant amounts of money in the sense of the project itself.

The ranking member, NANCY KASSEBAUM, did offer a strike amendment in the committee for Davis-Bacon, and it was defeated 12 to 5. I can count. I know the numbers. But I do believe this Congress needs to be rational and responsible in the expense of Federal dollars, and what we are saying here is that where Federal dollars are not the primary source, where it is simply the impetus to get the local community and the State dollar over the hump, if you will, in the ability to multiply the combination of dollars to bring about the requirement of the need for an educational facility.

So rather than prolonging the debate or diverting it to a long discussion about Davis-Bacon, this is a very simple approach.

Last week, I went before Chairman SIMON's subcommittee and debated Davis-Bacon. We want reform of Davis-Bacon. This is not the place to debate that reform. By that, I mean we need broad, sweeping, significant reform to bring this very old and antiquated law into the 21st century, but of course, this Congress, by phenomenal pressure, has been unwilling to do so.

This 25-percent-matching-funds trigger is a modest part of my comprehensive reform bill, S. 916. So what I am suggesting to the Senate today is that if we cannot accept or look at the whole of the reform, let us not penalize local communities, let us not penalize local taxpayers who want to do the very best for their children, by saying you are going to have to spend an extra 3 to 15 percent of the cost of construction merely to comply with a 1930's Federal law that does not make any sense today.

The type of modest reform that belongs on grant programs that will finance essential local products is what we are talking about. I do not even think it is a Davis-Bacon issue. It should not be thought of in that context. But because the law is pervasive, this bill is not specific in its exemption, that is what I am talking about today. If less than 25 percent of the money is Federal money, it just is not reasonable to apply the labor regulations designed for Federal procurement contracts.

We are trying to prevent simply the tail from wagging the whole dog, in this instance; trying to protect needy school districts from an expensive Federal mandate on how they use their money, not public money in the national sense, but public money in the sense of a small community of 1,000, 2,000, 5,000 people. Or the inner city where we know city fathers and school districts are doing their very best to provide an educational opportunity for the young people of that area and struggling every day to meet the unique demands of that particular locale.

Some colleagues may argue that a large Federal contribution justifies attaching costly strings. I will let them argue that because that is not what I am arguing. I am talking about a small Federal contribution of, it could be, a few thousand dollars, and yet it would shove the whole process to cost substantially more. But it is certainly, I think, reasonable to talk about this and to bring it once again before this Congress for the kind of contribution that they ought to make in the consideration of this issue.

The same point, excessive strings tied to a minimal contribution which oftentimes can amount to the project not going forward, I think that is significant to bring up.

Several years ago, I was involved in a water treatment program in the north end of my State. Because there was a small Federal grant involved and the

city, in this instance, had failed to calculate Davis-Bacon into it, that water treatment project simply did not go forward. As they were ready to let the bids out, they realized they had calculated improperly and they had to back away. There would have been hundreds of thousands of dollars spent, jobs created and a cleaner source of discharge water flowing into the Spokane River and, yet, because of a 1930's obsolete law, that project did not go forward.

Now, that happens every day across America, and it ought to be changed. I am proposing a change in S. 916. But today, when we struggle to educate our children, to provide the facilities and the opportunities, why cannot this Congress just back away a little bit, just blink on the few thousands of dollars that would be spread project by project across this country and say the prevailing wage in the sense of Davis-Bacon simply would not have to apply.

Now, nationally, on average, Davis-Bacon adds about 3.1 percent of the total of a construction cost, according to CBO. And including the effects of a ban on the use of helpers inserted every year in the Labor-HHS-Education appropriations, which is already there, coincidentally, the $400 million that I mentioned authorized for title XV grants in S. 1513 amounts to about 3.7 percent of the $10.778 billion totally spent on education and secondary school construction, additions, and modernizations.

The exact Davis-Bacon cost premium CBO found in 1983, before several Reagan Department of Labor regulations started saving taxpayers money, that premium cost was about 3.1 percent. That is what I am talking about here, in very clear, simple, straightforward terms, less than 3.1 percent of the total amount of money that will be spent across this country this year to construct, to modernize, or to add to educational facilities. And yet the failure of this Senate to pass this amendment and put this issue into the education conference may deny small school districts in my State and your State, Mr. President, the opportunity to go forward with that one addition, that expansion of the vocational education shop, the buying of additional equipment in their media centers. All of that is what I am talking about, and it is a very straightforward approach.

Costs vary widely from community to community. In some, Davis-Bacon seems to have no impact simply because they are a wealthy district, but not all school districts are wealthy. And in others, it could mean a lot. It is reported to add up in some areas to over 50 percent of the total construction cost to ultimately end up denying the ability to construct. The General Accounting Office found that when Davis-Bacon does increase the cost, the typical range of inflation runs from about 5 to 15 percent.

Past a certain point, even supporters of Davis-Bacon I hope will realize that applying it to financially strapped schools is counterproductive. A University of Oregon study found that Davis-Bacon typically increases total construction cost in rural areas by 26 to 38 percent. Why? Because the wage is less in rural areas in part, and that is the opportunity, that is the advantage that a rural school district sometimes has, to be able to build a better program, to be able to expand the school, to be able to offer rural children a similar opportunity that urban children have and that more wealthy school districts have. Obviously, in many rural areas, a 25 percent Federal contribution will do nothing more than pay for Davis-Bacon requirements, if the University of Oregon study is accurate.

I believe it is unfair—I have expressed that, I hope, clearly this morning—to impose that heavy a burden, much less a heavier one than can be handled.

In Philomath, OR, a community that several years ago was strapped because of a decision on the part of the Endangered Species Act to disallow the cutting of old growth timber that put a lot of our loggers out of work—and everyone in the West knows what I am talking about; it was called the spotted owl crisis—that community, in an effort to pull itself up by its bootstraps, said they were going to do something for themselves. The local sawmill donated the lumber and the local labor force wanted to donate their time but because the library district, in its effort to put money together in a tax-strapped, poor district, now got a little Federal grant, they could not do it. In other words, the employees could not volunteer their time.

It took that library district 2 years of fighting and the efforts of Senator HATFIELD and Senator PACKWOOD personally taking their time with the Bush administration to find a little loophole in the law to squeeze through so that this poor district, strapped by a Federal law that put thousands of its people out of work, could make an effort to pull itself up by its bootstraps and construct a library and say to the country around it: Look what we are doing for ourselves. And because our infrastructure is now stronger and because we have a better public library, why not come and bring your employment and bring your jobs and put our people back to work.

What am I talking about? I am talking about a misdirected, obsolete law in this country called Davis-Bacon that caused that very thing to happen. So when we are talking title XV infrastructure grants to do the simple little things like building libraries in our schools, expanding libraries in our schools, how can we, straight faced, stand on the floor of this Senate and uniquely, by failure to pass this amendment, deny these school districts that opportunity?

Some years ago, the Loudon County, VA, school board—right here in this immediate area—was ready to build a vocational education facility, until they realized that Davis-Bacon strings were attached to the Federal contribution and that actually made the project so much less viable that the board decided to drop the project. And sure enough, title XV infrastructure grants are supposed to help construct and repair vocational education facilities. Loudon County, VA, had to say no. The young people of that county had less opportunity because of the very law we are talking about.

Mr. President, could I ask how much time I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has used 20 minutes.

Mr. CRAIG. An important precedence for this 25 percent matching fund trigger, the same 25 percent matching fund trigger is in the conference report on the crime bill. Mr. President, Members of the Senate, please listen. By midweek this week, we will be debating the crime bill conference report.

Mr. President, I ask the Senator from Massachusetts [Mr. KENNEDY] to please listen. The very provision I am asking today to be put in the education bill the Senate has just now put in the crime bill because as we are concerned about education, but we are also concerned about our communities' and our States' abilities to expand and improve their criminal detention facilities. We were wise enough, in the crime report, to put in the identical amendment. So that is now in there.

We are going to use absolutely the same language and the same guidelines for that very finite amount of money that we are going to try to put into crime control in our country to expand the ability of our local and State law enforcement facilities to do the same thing that we want done here. But in this case, we are not taking criminals off the street. We are hopefully putting educated young citizens on the street with a better opportunity.

That is why I had hoped maybe the ranking member and the chairman would just accept this amendment. We would not have to go to a full debate. We would not have to bring it up for a vote. But, of course, that is not the case. I am saddened by that because I think that what we are offering here just makes an awful lot of sense for America and for the taxpayers of this country who continually argue with us and demand of us that we be more prudent and efficient with the dollars that we ask from them to provide for the greater good of this country.

In the old General Revenue Sharing Act, Congress explicitly recognized exactly the principle underlying in this amendment and, of course, that was money going out to the States and to the counties.

I come from a big rural county, and I know how that revenue sharing got spent and how it gets spent today. It does all kinds of things for people, as a general tax dollar would be used in a very rural county where there are 7,000 or 8,000 people in a county that is almost the size of the State of Connecticut. There are no people there to speak of. Seventy percent of the land is public land. And as a result of that, the tax base is very limited.

So we were smart enough when we created the General Revenue Sharing Act to provide this kind of an exemption because we said once that dollar is out there blending with the State and local money, it really becomes part of the local base. Why, therefore, then should we force that community to comply with a much broader Federal base? Eighteen States either have not enacted or have repealed what is known as the "little Davis-Bacon."

My State of Idaho once had a little Davis-Bacon. We simply are not wealthy enough to extend that much of the largess to expand the cost of our construction program beyond what is the normal charge for labor in a community of, say, 25 or 30 percent. We are simply not that wealthy. Idaho knows that.

Alabama, Arizona, Colorado, Florida, Georgia, my State of Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, South Carolina, South Dakota, Utah, Vermont, and Virginia have now all recognized this and either have not passed or have repealed little Davis-Bacon for all the reasons I have just given.

So what we are asking here is straightforward: To give these States the chance, and to expand that Federal dollar, and to make it wiser. Three States completely exempt school construction from little Davis-Bacon State prevailing wage laws: Arkansas, Kentucky, and New Mexico, once again State legislatures that were faced with the reality that there just is not that much money out there to do all we want to do, and we have to make it stretch just a little further.

Maryland exempts school construction from little Davis-Bacon law unless the State's share of the project is more than the whole of 75 percent. So that is the reality. That is the substance of the debate.

Let me ask unanimous consent at this moment that I be allowed to enter into the RECORD a letter to Senator BENNETT JOHNSTON from the Associated Professional Educators of Louisiana asking the Senator to support this amendment.

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

ASSOCIATED PROFESSIONAL EDUCATORS OF LOUISIANA,
Baton Rouge, LA, July 27, 1994.

Senator J. BENNETT JOHNSTON,
Senate Office Building,
Washington, DC.

DEAR SENATOR JOHNSTON: The Associated Professional Educators of Louisiana (A&PEL) opposes provisions in the "Improving America's Schools Act," S. 1513 by Senator Edward Kennedy of Massachusetts, which extends coverage of the federal Davis-Bacon Act to school "repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant under this title . . .".

This would represent a massive expansion of the coverage of the Davis-Bacon Act and would be a major federal intrusion into state activity. Furthermore, this provision could increase the cost of school construction to state and local taxpayers of Louisiana at a time when educational dollars are scarce and taxpayers are begrudging any added costs for public schooling.

As an organization of 5,000 Louisiana teachers, we ask that you support amendments that will be offered on the Senate floor to strike this provision or to alter the language to make it less intrusive.

Your support in this action will be most appreciated.

Sincerely,

RUTH PETRY,
State President.

Mr. CRAIG. Mr. President, let me also ask unanimous consent that the letter to Senator PAUL COVERDELL from the Professional Association of Georgia Educators be entered into the RECORD—same argument, same concern.

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

PROFESSIONAL ASSOCIATION OF GEORGIA EDUCATORS,
Clarkston, GA, July 28, 1994.

Senator PAUL COVERDELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: The Professional Association of Georgia Educators (PAGE) urges you to vote against the bill, "Improving America's Schools Act" (S. 1513). The bill contains unneeded provisions which would improperly extend the Davis-Bacon Act regarding "repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant under this title. . . ."

The proposed expansion of the Davis-Bacon Act would give the federal government intrusive power to involve itself in state responsibilities. But, most damaging of all, the extension would further inflate the cost of school construction projects in Georgia. Since recent flood damage to our schools is massive, much reconstruction must take place. The bill, sponsored by Senator Edward Kennedy (S. 1513), would trigger higher wages where the Davis-Bacon Act applies. This would cause a heavier tax burden for all taxpayers in Georgia.

We urge you to support amendments that would strike the S. 1513 provision or alter it in ways that would make it inoperative with respect to the repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant from the federal government.

Thank you for your prompt consideration.

Sincerely,

ELLEN COODY,
Acting Executive Vice President.

Mr. CRAIG. Let me also, Mr. President, ask unanimous consent that a letter from the Coalition to Reform the Davis-Bacon Act—that is a huge cross-section of the American small business and large business infrastructure, from air conditioning contractors to the U.S. Chamber of Commerce, all the way down through the system of those people who provide the services that build the facilities for these small communities—become part of the RECORD.

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

THE COALITION TO REFORM THE DAVIS-BACON ACT

Air Conditioning Contractors of America.
American Concrete Pipe Association.
American Farm Bureau.
American Portland Cement Alliance.
American Public Transit Association.
American Road and Transportation Builders Association.
Associated Builders and Contractors.
Associated General Contractors.
Brick Institute.
Citizens Against Government Waste.
Contract Services Association.
Council of State Community Development Agencies.
Fluor Corporation.
Independent Electrical Contractors, Inc.
Institute for Justice.
Labor Policy Association.
National Aggregates Association.
National Association of Counties.
National Association of Dredging Contractors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Minority Contractors.
National Center for Neighborhood Enterprise.
National Federation of Independent Business.
National Industrial Sand Association.
National League of Cities.
National Terrazzo & Mosaic Association.
National School Boards Association.
National Slag Association.
National Stone Association.
National Tax Limitation Committee.
National Taxpayers Union.
Printing Industries of America.
Public Service Research Council.
U.S. Chamber of Commerce.

COALITION TO REFORM THE DAVIS-BACON ACT,
Rosslyn, VA, July 26, 1994.

Hon. LARRY E. CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: S. 1513, the Improving America's Schools Act, is expected to be voted on in the near future. One section of this bill would provide funds for the renovation and construction of public elementary and secondary school facilities used for academic or vocational instruction—including libraries and media centers. This section would also mandate that Davis-Bacon wage rates be paid on this construction. Because the inflated costs and other problems associated with Davis-Bacon would be imposed primarily on states and localities, the Coalition to Reform the Davis-Bacon Act urges you to

support any amendment which would eliminate or narrow the scope of the Davis-Bacon application to this section.

The Davis-Bacon Act of 1931 has been estimated to raise the cost of federal construction by an average of 5–15%. This outdated law will needlessly waste more than $3 billion in federal taxpayers' dollars over the next five years. Clearly, if Davis-Bacon is not applied to projects funded under S. 1513, a greater number of schools could be built or improved.

Under S. 1513, the federal government would give grants to local educational agencies to improve their school facilities. However, in many cases the state or locality would pay for the bulk of the project and the federal contribution would be nominal. Regardless of the amount the federal government contributes, all laborers and mechanics performing the construction would have to be paid the inflated Davis-Bacon wage. This often would virtually nullify the federal contribution.

Requiring that the inflated Davis-Bacon wage rate be paid on projects funded in whole or in part under S. 1513 is in effect an unfunded federal mandate on states and localities. Davis-Bacon is a federal law which was meant to apply to federal construction projects; school construction is clearly under the states' domain. Eighteen states have seen fit to either repeal or never have a state prevailing wage statute and several others have specifically exempted school construction from their law; however, this bill would require the federal prevailing wage law to apply to primarily state and locally funded school construction.

Because the application of Davis-Bacon would further limit the number of projects which could be performed under this bill and would burden financially-strapped states and localities, we strongly urge you to support any amendment to either strike or limit this language in S. 1513.

Mr. CRAIG. Mr. President, the Associated Building Contractors has submitted information, and I ask unanimous consent that it be printed in the RECORD, along with the repeal and modification of the Davis-Bacon Act work schedules, labor cost schedules, and budget outlays, which have been examined in the consideration of S. 916 and that will be before the subcommittee in its consideration of reform.

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

DAVIS-BACON AND S. 1513, THE IMPROVING AMERICA'S SCHOOLS ACT

The Senate has begun consideration of S. 1513, the Improving America's Schools Act. One section of this bill would provide funds for the renovation and construction of public elementary and secondary school facilities used for academic or vocational instruction—including libraries and media centers. This section would also mandate that Davis-Bacon wage rates be paid on this construction. Because the inflated costs and other problems associated with Davis-Bacon would be imposed primarily on states and localities, Associated Builders and Contractors (ABC) urges you to support any amendment which would eliminate or narrow the scope of Davis-Bacon application to this section.

The Davis-Bacon Act of 1931 has been estimated to raise the cost of federal construction by an average of 5–15%. This outdated law will needlessly waste more than $3 billion in federal taxpayers' dollars over the next five years. Clearly, if Davis-Bacon is not applied to projects funded under S. 1513, a greater number of schools could be built or improved.

Under S. 1513, the federal government would give grants to local educational agencies to improve their school facilities. However, in many cases the state or locality would pay for the bulk of the project and the federal contribution would be nominal. Regardless of the amount the federal government contributes, all laborers and mechanics performing the construction would have to be paid the inflated Davis-Bacon wage. This often would virtually nullify the federal contribution.

Requiring that the inflated Davis-Bacon wage rate be paid on projects funded in whole or in part under S. 1513 is in effect an unfunded federal mandate on states and localities. Davis-Bacon is a federal law which was meant to apply to federal construction projects; school construction is clearly under the states' domain.

Eighteen states—including Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, South Carolina, South Dakota, Utah, Vermont and Virginia—have seen fit either to repeal or never have a state prevailing wage statute. Arkansas, Kentucky and New Mexico have specifically exempted school construction from their law and Maryland requires that the project be at least 75% state-funded for prevailing wage to apply to school construction. Despite these states' clear choice on this issue, S. 1513 would require the federal prevailing wage law to apply to primarily state and locally funded school construction.

Because the application of Davis-Bacon would further limit the number of projects which could be performed under this bill and would burden financially-strapped states and localities, we strongly urge you to support any amendment to either strike or limit this language in S. 1513.

REPEAL OR MODIFY THE DAVIS-BACON ACT

Savings from CBO baseline	Annual savings (millions of dollars)					Cumulative 5-year savings
	1995	1996	1997	1998	1999	
Repeal the Davis-Bacon Act:						
Budget authority	500	510	520	540	550	2,620
Outlays	160	500	700	810	910	3,080
Raise the threshold to $1 million:						
Budget authority	160	170	170	180	180	860
Outlays	40	130	180	220	240	810
Raise the threshold to $250,000:						
Budget authority	70	70	70	70	80	360
Outlays	20	50	70	80	90	310
Change from weekly to monthly wage reporting:						
Budget authority	70	70	80	80	80	380
Outlays	10	50	60	70	70	260

Note.—The conference report on the 1994 appropriation for the Department of Labor prohibits the department from implementing certain changes in the "helper" regulations during 1994. The estimates presented here are based on the assumption that this prohibition will not be extended. If it was extended, savings from either repealing the Davis-Bacon Act or raising the threshold would be greater.

Since 1935, the Davis-Bacon Act has required that "prevailing wages" be paid on all federally funded or federally assisted construction projects with contracts of $2,000 or more. The procedures for determining prevailing wages in the area of a construction project, as well as the classifications of workers who receive them, favor union wage rates in some cases.

The federal government could reduce outlays for construction by repealing the Davis-Bacon Act or by modifying it. Repealing the act would reduce outlays by about $160 million in 1995 and by about $3.1 billion over the 1995–1999 period. Raising the threshold for determining which projects are to be covered by Davis-Bacon from $2,000 to $1 million would exclude about 27 percent of the value of all contracts currently covered by the act. Savings in that case would total about $40 million in 1995 and about $810 million over the five-year period. Raising the threshold to $250,000 would exclude about 11 percent of the value of all contracts and save about $310 million over the five-year period. Changing the requirements for wage-and-hour reporting for contracts covered by Davis-Bacon from a weekly to a monthly basis would reduce compliance costs for contractors by about $260 million over the five years. Each of these estimates assumes that the Congress would reduce federal appropriations for agencies to reflect the anticipated reduction in costs.

Repealing Davis-Bacon or raising the threshold for projects that it covers would reduce the cost of federal construction. In addition, either action would probably increase the opportunities for employment that federal projects might offer to less skilled workers. Such changes would, however, lower the earnings of some construction workers. Opponents of these options also argue that eliminating or relaxing Davis-Bacon requirements could jeopardize the quality of federally funded or federally assisted construction projects. Reducing the requirements for wage-and-hour reporting would lessen the paperwork required of employers, but at the same time it might diminish the effectiveness of the Davis-Bacon Act by reducing the government's ability to detect noncompliance.

Craig office note, based on conversations with CBO:

The above "Budget Authority" figures do not include non-BA spending authority from certain trust funds; the full amount of savings for all such authority would be called the "Authorization Level"; savings for repeal would range from about $800 million to $900 million a year, for a 5-year total above $4 billion.

If the currently-legislated "helper" ban were assumed to extend permanently, savings from repeal would be approximately doubled. The above CBO figures are based on the "current law" assumption that the ban on 1992 DOL "helper" regulations will expire, on schedule, on September 30, 1994. The regulation provides for a semi-skilled "helper" classification in areas where the use of such a classification is locally prevailing. Congress has enacted annual helper bans in Labor/HHS/Education appropriations and the same ban is included in both the House-passed and Senate-Committee-reported versions for FY 1995.

Mr. CRAIG. Mr. President, let me also ask unanimous consent that additional cosponsors, Senator SIMPSON of Wyoming, Senator NICKLES of Oklahoma, Senator THURMOND of South Carolina, Senator BROWN of Colorado, and Senator KEMPTHORNE of Idaho be added to the amendment.

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

Mr. CRAIG. Mr. President, I retain the remainder of my time.

Mr. JEFFORDS. Mr. President, will the Senator yield?

Mr. CRAIG. I am happy to yield to the ranking member 5 minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Vermont for five minutes.

Mr. JEFFORDS. Mr. President, I have been involved over the years of my public life with the Davis-Bacon Act. I would just mention that the Davis-Bacon Act was actually a Republican proposal which was made back in the early thirties by two Republican men, Davis and Bacon, who were deeply concerned about what was happening in this Nation at that time, which, of course, was the beginning of the Great Depression. At that time, we were beginning to see the incredible difficulties being brought upon our local communities in the fight for jobs, and bands of organized groups of workers would be going from one area to the other undercutting whatever bids would occur at the local level, thus disrupting the ability of people in those local areas to be able to survive.

After it was originally put in, then we had the huge influx of money coming in from the Federal Government to take in, to try to create jobs, and at the same time these jobs were being taken by people who were coming in the other areas.

The sound basis for law was there during the Great Depression, and it worked very well. It has worked well since then. However, there is no question but that after time moves on things change, and we should change the law. I think this is one of the areas that we are in where there should be a change.

But I would also point out that few subjects generate more controversy than the proposals to change the Davis-Bacon Act. That statute which we just discussed is some 60 years old but has been largely unchanged since the time it was written.

There are three schools of thought on Davis-Bacon; repeal it, leave it alone or reform it.

I count myself as one who sees the need for reform.

I support the Davis-Bacon Act, and its basic purpose—that the Federal Government should not undercut local wages and working conditions.

Today, however, there are times when the act turns that purpose on its head by preventing the prevailing local wage rates and wage structures from being employed on federally funded construction projects.

The primary example of this is the ongoing battle over the helper regulations, which has been going on for the last decade.

Because of my views on what the Davis-Bacon Act is and should be, I am not inclined to vote for the repeal of Davis-Bacon or a blanket waiver of that act under ESEA.

However, it is consistent with my views on the need for a greater Federal stake in school funding to support measures which encourage that funding.

Here, if the Federal Government wants to mandate Davis-Bacon standards for school construction, I think it quite fair to require Federal funds to comprise a substantial percentage of funding for that construction.

The 25 percent proposal made by this amendment seems fair and is consistent with the standard reportedly included in the crime bill conference report with regard to prison construction.

Therefore, I will support that amendment.

Further, the amendment granting authority for the Secretary to waive Davis-Bacon requirements in the event that it will create undue hardship or lead to discrimination on racial or other grounds also presents a valid point for consideration.

Therefore, Mr. President, I intend to support the Senator's amendment, and I yield whatever time I have not used.

Mr. THURMOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to support the amendment offered by my friend and colleague, the distinguished Senator from Idaho [Mr. CRAIG]. I was pleased to join him as a cosponsor on this bill.

Mr. President, this amendment is designed to help our States lower construction costs when they identify the need to build or repair a school facility. This amendment will simply allow the States to be exempt from Federal Davis-Bacon laws if the State funds 75 percent of an education construction project.

As you know, the Davis-Bacon Act requires the Secretary of Labor to set wage rates and prescribe work rules for every category of worker employed on Federal and federally assisted construction, alteration, and repair projects. The wage rates are supposed to be based on the locally prevailing wages. Often these rates are significantly higher than the actual averages for the locality.

The result of applying the Davis-Bacon Act is to discourage poor rural and urban schools from building or contracting for much-needed repair or construction because they have to pay the "prevailing wage," which is the same as the union wage.

Mr. President, Wednesday, July 27, 1994, the Labor and Human Resources Committee, of which I am a member, held a hearing on Davis-Bacon reform. We were fortunate to have Ms. Cindy Athey, president of Precision Wall Tech, Inc., testify on the effects of Davis-Bacon laws on her business. I ask unanimous consent that her statement be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I would like to highlight a few parts of her statement. First, Ms. Athey testified that she pays her painters an average rate of $14 an hour, 40 hours a week. With a 2-week vacation, that is approximately $28,000 a year. However, painters on Federal projects is $21.24 per hour. With a 2-week vacation, this is approximately $42,000 a year. That means that a painter earns about $14,000 a year more if they simply work on a Federal construction project. This is outrageous.

Ms. Athey also testified that:

> A task requiring 5,000 hours to complete now takes the employee, who is earning more because of the inflated Davis-Bacon wage rate, approximately 6,000 hours to complete. This makes sense—why would anyone want to complete a project that is almost doubling their paycheck?

I believe Ms. Athey's testimony is representative of much of the waste of taxpayer's dollars due to the requirements of Davis-Bacon laws.

Mr. President, the Davis-Bacon Act was passed before most of the basic worker protection laws in effect today, including the Fair Labor Standards Act of 1938 and the National Labor Relations Act of 1935. Another protection exists in the elaborate Federal procurement process which requires a contractor to meet a number of prequalification requirements as well as meet a determination of contractor responsibility in order to bid on Government contracts.

With these worker protection laws in place, the Davis-Bacon Act is antiquated and costly. Davis-Bacon laws discourage small and minority-owned businesses from bidding on Federal projects. This results in a loss of competition and increased construction costs.

With its application to the Elementary and Secondary Education Act it will now discourage our local education agencies from providing education infrastructure.

This amendment will allow our States a little more freedom over what is predominantly their spending money. This amendment confronts what is another underfunded Federal mandate.

Mr. President, I urge my colleagues to vote to allow their States to have more control over their spending. Therefore, I strongly urge my colleagues to support this amendment.

EXHIBIT 1

TESTIMONY OF CINDY ATHEY

Thank you Mr. Chairman and members of the committee. My name is Cindy Athey and I am President of Precision Wall Tech, Inc., a painting and wallcovering contractor. Precision Wall Tech, Inc. has been performing work in the D.C. Metropolitan area for over 11 years and is classified as a small business woman-owned, open shop company. Precision Wall Tech, Inc. is also a member of the Associated Builders and Contractors, who I am here representing today.

My experiences, as well as my beliefs, about the Davis-Bacon Act are that the Act

discriminates against small companies by limiting their ability to compete on an even plane with larger companies. The Davis-Bacon Act hinders and restricts all phases of performing a government contract with the wage regulation. It begins with the actual bidding process.

Bid price increases due to the increase in the required wage. My painters average at least 40 hours per week at a rate of $14.00 an hour. Scale for painters on federal projects (i.e. NIH, NASA, Navy Yard, etc.) is $21.24 per hour. My labor cost on a federal project is 50 percent higher than a non-regulated scale project. In addition to the increase in labor costs, the labor burden (workers' comp, unemployment, liability insurance, etc.) also increases.

If a small company is awarded a government contract of substantial size which will extend over a period of months, the additional capital required to carry the increased payroll and taxes limits their ability to solicit other contracts. The majority of small companies are not financially able to meet the additional costs of doing government contract work, therefore, the Davis-Bacon wage scale discourages small companies from participating in government contracts. Regardless of the prompt pay regulation, most government agencies DO NOT pay within 30 days.

Precision Wall Tech, Inc. invests time and money into training and educating its employees. Our painters are paid well above the private industry's prevailing wage rate and have the ability to perform all projects in an efficient and professional manner. This enables us to complete work on schedule and within the budget of our clients. However, the Davis-Bacon Act reduces productivity, thus exposing the small contractor to still more additional costs.

A task requiring 5,000 hours to complete now takes the employee, who is earning more because of the inflated Davis-Bacon wage rate, approximately 6,000 hours to complete. This makes sense—why would anyone want to complete a project that is almost doubling their paycheck? The Davis-Bacon wage scale is a deterrent for workers to be productive and efficient. It also creates a problem when these workers go back to performing private work and I am forced to lower their wages back to the true market rate.

Employees often require retraining once they complete a government project. My once motivated employees are now earning the same weekly pay by working on a scale job 26 hours per week instead of the normal 40 hours. This tends to lead to absenteeism.

The administrative costs to conform to the Davis-Bacon Act regulations are also increased. Certified payrolls are time consuming, as well as confusing. I have performed numerous scale regulated contracts at the same time and depending on the location, I will have to pay different wage rates. For example, the scale for a painter in Washington, D.C. is different than the scale for a painter in Maryland or Virginia. Different counties within a state also require different wages.

Classifications within a trade create many restrictions. The Davis-Bacon Act requires that any person who holds a tool of the trade be paid at that trade classification. There are many individuals who are able to hold a paint brush or a pipe wrench, but could not be classified as a painter or even a plumber. However, these individuals are required to be paid the rate of a painter or plumber by the Davis-Bacon Act. This Davis-Bacon classification requires companies to use either over qualified employees for menial tasks or overpay inexperienced employees. This inequity creates tremendous friction among employees working on a scale regulated project. For example, a qualified painter who has worked many years in the trade is not happy to be earning the same as an employee who just entered the trade one month ago with limited knowledge, but is able to hold a tool of the trade.

The Davis-Bacon Act was intended to protect employees from discriminating employers. However, the Davis-Bacon Act today is discriminating against small employers and their employees, who are trying to compete for federal contracts. The Act requires small companies, such as mine, to incur additional costs, many of which are passed on to the government, but many of which we must bear ourselves. This often results in small companies deciding federal work is just not worth the trouble.

When I learned about the provisions in S. 627, I was gravely concerned that Congress would even consider expanding this burdensome, costly law. The expansion of the law to off-site suppliers and manufacturers, lease agreements and independent contractors will dramatically add to the confusion, litigation and costs which are associated with Davis-Bacon. Any small benefit which would be gained from the increased threshold and reduced paperwork would be nullified by these expansion provisions. I may also point out that these benefits would indeed be small, particularly because the threshold would be different for new construction and for alteration or repair work.

The fact that S. 627 would virtually abolish the "helper" classification is also of chief concern. This relates to having to pay lesser skilled workers the high journey-level wage rate. Without the helper classification, my choice is between causing resentment among my higher skilled workers or not hiring lesser skilled workers for jobs they clearly could perform in a safe and efficient manner. While the helper classification has not yet been implemented on Davis-Bacon projects due to a ban on funding contained in the FY94 Labor, HHS, Education Appropriations bill, we hope that the Department of Labor will move forward with that process when that legislation expires. Helpers are widely used in the private sector.

If Congress wants to reform the Davis-Bacon Act in a positive manner, I suggest they adopt legislation such as S. 916 offered by Senator Larry Craig. S. 916 would raise the threshold to $500,000 for all types of construction, reduce paperwork from weekly to quarterly, and allow the unlimited use of helpers.

I thank the Labor and Human Resources Committee for this opportunity to testify and I am happy to answer any questions you may have.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I think we were attempting to follow what had been agreed on and that was the time limit for an hour. We were supposed to have the 15 minutes. I would yield myself now 7 minutes of that time.

Mr. President, we have heard a good deal about the history of the Davis-Bacon Act, the circumstances that led to the enactment of that statute in 1931, and the continuing need for the act's protections coming through the Depression and into modern times. I think we can add to that history with some evidence of what is occurring in the construction industry right now.

I ask unanimous consent that there be printed in the RECORD an excellent article that appeared in the Wall Street Journal that describes the devastating effect that more than a decade of wage cutting in the construction industry has had on wages and benefits in the industry and the supply of skilled craft workers.

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

[From the Wall Street Journal, Jan. 27, 1994]

WITH HOUSING STRONG, BUILDERS OFTEN FIND SKILLED HELP LACKING

CONTRACTORS COMPETE KEENLY FOR AVAILABLE TRADESMEN IN PLACES LIKE PHOENIX—A PROBLEM FOR LOS ANGELES?

(By Robert Tomsho)

PHOENIX.—These should be the best of times for Gilbert Plumbing Co.

With home building booming here, the company expects to install plumbing in about 3,000 homes this year—far more than the 500 homes a year it did in 1988 and 1989, the trough of the recent recession here. In the company's back lot on a recent afternoon, dozens of plumbers scrambled to load trucks with faucets, toilets and pipes for the next day's work.

Yet, as he paced the bustling yard, C.A. Gilbert, the company's 64-year-old founder, wore the steely grimace of a besieged general. With his 96 employees already working six-day, dawn-to-dusk weeks to keep up with demand, Mr. Gilbert is struggling to recruit 30 more plumbers by, among other things, advertising in newspapers as far away as New York, Minneapolis and Bismarck, N.D.

UNPRODUCTIVE ADS

He isn't very hopeful. A blitz of help wanted ads in major California newspapers last fall drew only 20 phone calls, and just one plumber was hired. Meanwhile, local competitors, offering an extra dollar or two an hour, recruit Gilbert plumbers as they leave the company lot at night.

"It's just a nightmare," Mr. Gilbert laments. "We can't get people."

Many contractors around the country have the same problem. "There is a critical need for skilled workers," says Rick Harris, a spokesman for the Home Builders Institute, an industry research group. "It's a national problem."

As the industry rebounds from a withering downturn, the problem has so far been most acute in residential construction, where the recovery has outpaced the commercial and industrial sectors. With low interest rates and moderating prices unleashing pent-up demand for homes, contractors in dozens of markets are having trouble finding skilled carpenters, plumbers and electricians. The shortage also is spawning concern about work quality as desperate contractors settle for less-reliable help. Meanwhile, projects are delayed and costs increased as workers demand higher wages.

In Kansas City, Mo., a shortage of skilled workers has added as much as two months to the time required to build a home. Oklahoma City bricklayers are charging as much as 50% more than a year ago for their services. Frustrated Denver home builders are preparing to hold a series of "job fairs" in other cities.

And with the prime summer building season approaching, the massive effort to rebuild Los Angeles is likely to aggravate the problem. "The earthquake is going to further put a squeeze on the manpower situation nationwide," says Peter Cockshaw, publisher of an industry newsletter. "And I don't know that they are going to get all of the skilled people that are needed."

Construction has always gone through boom-and-bust cycles that drove workers from region to region in search of jobs. As the demand for skilled labor revived in an area, pay rates rose and the workers returned. But that isn't happening now. Instead, regional building booms are exposing long-festering industry problems.

LOSING GROUND

Between 1983 and 1992, the nation's work force increased about 17%, to 103.7 million workers, but the number of construction workers rose only about 10%, to 4.5 million. Moreover, industry executives say fewer and fewer of those workers are the well-trained journeymen of a generation ago. "We can always find enough people to slam together some forms and do the grunt work," says Dan Bennett, executive vice president of Associated Builders and Contractors, a trade group based in Rosslyn, Va. "It's the skills where we are going to have a problem and already do."

Those growing shortages are the culmination of more than a decade of turmoil within the industry. In some families, generation once followed generation into the construction trades. Such jobs usually paid better and were more challenging than manufacturing work, and they offered broad opportunities for people to start up their own businesses.

But during the 1970s and 1980s, those traditions began eroding as major corporations and other customers, in a quest for lower building costs, awarded more jobs to nonunion contractors. As unions' market share dwindled, cutthroat competition among such firms drove down wages.

By 1988, according to the Bureau of Labor Statistics, manufacturing workers were earning more—about $16.26 an hour in total compensation, compared with $16.23 for construction workers. By 1993, the gap had increased, with manufacturing workers pulling down $20.09 an hour total compensation, compared with $19.71 in construction. In some regions, especially the right-to-work Southwest, construction wages fell even further for experienced workers, into the $12-to-$15-an-hour range with no benefits.

Older craft workers retired, and many younger journeymen left the industry. "And we can't rely on the people we have lost coming back," says John Heffner, training director for the Associated General Contractors of America, which represents many large commercial and industrial contractors. "I think they have just had it with a lack of benefits and guaranteed hours; they have just had it with being treated as a cost rather than an asset."

For a time, nonunion contractors still could find enough skilled help from the ranks of former union members, but they weren't replenishing the supply by recruiting and training young workers.

But while experienced people might still earn $12 to $15 an hour, potential recruits from the baby-bust generation began finding that starting wages for new trainees had slid as low as $5 an hour in some trades and that they could earn nearly as much manning a fast-food counter or stocking store shelves. And the difference wasn't enough to make up for construction's dirt, danger and few benefits, plus the uncertainty of an unemployment rate that regularly was double the national average.

By last year, even the Associated Builders and Contractors, whose members are primarily nonunion, was sounding the alarm. In one newsletter, Mr. Bennet, the trade-group executive, wrote that many construction workers could no longer afford homes or health insurance. He added that according to one survey, young people considered a career in construction only slightly more appealing than migrant farm work. "When you squash down, year after year, on wages, you don't attract a good person into the industry," he observes.

Stephen Gubin, chief executive of Phoenix-based Wilson Electric Co., which has 400 employees, couldn't even persuade his own son to learn the trade. "The labor supply isn't there because the kids haven't accepted this industry as a viable place to go for their careers," he says.

Those who have find training in short supply. Hundreds of vocational schools have abandoned construction programs in favor of high-tech fields. One 1990 study by the Construction Labor Research Council estimated that the industry was training only about two-thirds the number of workers it would need in the 1990s.

Union apprenticeship programs, long the industry's primary training and recruiting ground, have shriveled as the unions themselves have lost work. "The employers demand a skilled work force, and that is our product," says Ray Robertson, who oversees apprenticeship programs for the AFL-CIO's Building Trades Council. But while the unions' training apparatus remains in place, the system took on only about 170,000 new trainees last year, down from some 200,000 annually in the early 1980s. Says Bill Muns, director of training for Ironworkers Local 75 in Phoenix: "It does no good to train people if you don't have the jobs."

Moreover, most contractors provide only minimal on-the-job training. To speed up production, many have broken down the crafts into dozens of repetitive tasks and teach a worker only to install toilets, hang doors or build chimneys.

"In many cases, you are no longer a carpenter, you are a 'cutter'; you cut boards all day," says David Wilkinson, executive director of the Phoenix ABC office, who has been struggling to persuade local nonunion contractors to fund a better training program. Most have balked, fearing that competitors won't contribute and thus will gain a cost advantage in bidding. "If you throw two contractors off a bridge, they will scratch, kick and gouge each other all the way to impact, even though they know they are going to die at the bottom," he says.

The Phoenix market strikingly illustrates the fruits of such ruthless competition. Strewn across a vast desert valley, Arizona's largest city is virtually exploding with construction activity around its edges. Home builders' billboards line the highways, and acre after acre of former cotton fields and desert has come alive with bulldozers grading lots and construction crews wrestling up the frames of new homes. A near-record 22,652 new-home construction permits were issued in the Phoenix market last year, up 23% from 1992 and nearly double the 1990 total. "And had it not been for a shortage of construction labor, we would have exceeded that," says R.L. Brown, a local industry analyst.

That shortage is pushing the building time for the average Phoenix home toward 180 days from the traditional 75 to 90 days. Amid fluctuating lumber prices and interest rates, such delays have made it difficult for builders to estimate prices and for home buyers to lock in loans.

Schuck & Sons Construction Co., which specializes in putting up house frames for other contractors, has been trying to add about 150 framing carpenters to the 535 it already employs. The company keeps running newspaper ads as far away as Seattle, Salt Lake City and Denver, but so far the response has been sparse.

Last summer, a series of ads in the Los Angeles area drew 300 calls, but only 12 people showed up to work in Schuck's Phoenix operations and, after a week of raids by labor-hungry competitors, only two were still on the job. "Their choice, not ours," grumbles Craig Steele, Schuck's executive vice president, who is still advertising in the local paper though admitting that "it's just to let the builders know that we are still trying."

Growing desperate, contractors are advertising full health benefits, paid vacations and profit-sharing plans. A few have offered employees $50 for every new hire they bring in. For a time last year, Del Webb Corp., a major home builder here, ran ads on a local rock station offering to top any framing carpenter's last pay stub by $2 an hour.

Meanwhile, recruiters turn up on construction sites, hiring away tradesmen. "Guys are jumping ship left and right for 50 cents an hour," the local ABC's Mr. Wilkinson says. "You don't know who's going to show up on the job from one day to the next."

Or how good they will be. While there have been no scandals or major accidents, complaints about building quality and timeliness to the Arizona Registrar of Contractors, a state consumer agency, have risen by 3% to 4% in each of the past five years. Area contractors admit that they have to redo a lot of their crews' work and that concern about their workers' skills has spurred them to hire more superintendents and internal inspectors. "They are just not up to the caliber that they used to be," says Kim Bannister, a Del Webb executive.

Asked to move a gas line that he had misinstalled, one recent hire at Gilbert Plumbing simply revved up his chain saw and cut a broad gash into the drywall and studs of a newly built home. "You hire them and take your chances," says Mr. Gilbert, a blunt-spoken man who is struggling to reconcile the current turmoil with a work ethic forged long ago on his parent's North Dakota wheat farm.

Since arriving in Phoenix in 1969 with enough money to buy two second-hand trucks, he has built a booming plumbing business with 66 trucks, a computerized business office and revenue of about $9 million last year. All three of his adult children have joined him at Gilbert Plumbing; a daughter does the billing, one son is a superintendent, and another oversees the business operation. Mr. Gilbert still knows the vintage and mileage of all his trucks, which are washed weekly. His backlot is a sprawling but immaculate collection of bins filled with plumbing fixtures.

Although Mr. Gilbert's pay of $10 to $14 an hour for experienced plumbers isn't the most generous in the market, he proudly notes that he kept his core group of some 30 plumbers employed during the recession. Nevertheless, some of his most loyal employees say the business has changed. Journeymen plumbers such as Karen Schweigart, whose husband is a company superintendent, say the quality of the work force has

dropped, health benefits and paid vacations are still hard to come by, and wages haven't kept pace with inflation. "There's nothing at the end of the rainbow in construction anymore," she says, adding that she has discouraged her children from entering the business.

Meanwhile, the relatively low pay and a lack of benefits have driven away plumbers such as Louis Leyba, who quit Gilbert Plumbing five months ago. "I worked for a few shops, and they are all the same," grumbles the 48-year-old Mr. Leyba, who says his current job as a groundskeeper for a suburban government offers better benefits than any he ever got in plumbing.

Another former Gilbert plumber, Ralph Naylor, says no amount of money could persuade him to pick up his wrenches again. "I had to borrow money to make house payments," says Mr. Naylor, who became a building appraiser. Construction companies "are saying that they want skilled labor, but they don't want to pay for it."

Oddly enough, Mr. Gilbert acknowledges that navigating through the downturn wasn't nearly as hard as dealing with a market where some general contractors, desperate for his services, have told him to name his price. Tripling his work force to handle the load has been a nightmare. Many plumbers, hired in the afternoon, continue to shop for better-paying jobs and never punch in the following morning. On any given day, a dozen or so of his workers don't show up, and most don't call in. Eight quit for other jobs one recent week. One asked for—and got—a $450 advance the day before he disappeared.

"We've had some employees whose fathers have died three times," grumbles Mr. Gilbert, who hesitates to criticize, punish or fire workers, knowing they can get another job in half an hour. "You got to be careful how you talk to them."

Desperate for help, Mr. Gilbert allows his secretaries to make hiring decisions if company executives aren't available to interview walk-ins. He even has taken on plumbers who, having lost their drivers' licenses because of speeding or drunken-driving convictions, need a driver to ferry them from job to job.

Recruiting is never far from Mr. Gilbert's mind. As he and one of his sons were driving back to the office one recent afternoon, Mr. Gilbert suddenly perked up. "Steve, there are two plumbers' trucks up ahead of you," he said. "Speed up and see if you can catch 'em."

Mr. KENNEDY. The article shows that because of the decline in wages and benefits in the industry, builders are no longer able to find skilled workers. Experienced workers are leaving the industry, young people no longer want to enter the industry, and apprenticeship programs capable of providing workers with high level skills are disappearing. And with that deterioration of skills has come a deterioriation in quality.

The Wall Street Journal's findings are similar to the findings in a study done by three economists at the University of Utah, who looked at what has occurred in the construction industry in Utah since the State repealed its State prevailing wage law in 1981. The researchers found that competition in wages occuring as result of the repeal of the prevailing wage law drove down average wages in the industry, caused experienced workers to leave the industry, and led to a severe decline in the number of apprentices being trained through union apprenticeship programs—which had traditionally been the primary source of skilled workers for the industry. The decline in union-sponsored apprenticeship programs has not been offset by increased training efforts in either the public sector or the non-union sector.

If the State of Utah wants to repeal its prevailing wage law as it applies to projects funded with State dollars, that's the State's prerogative. But we are talking here about Federal taxpayers' dollars, and making sure that those funds are not utilized to drive down community wage standards for construction workers.

What wages does the Davis-Bacon Act require to be paid to construction workers? All that the act requires is that workers be paid the wage that is prevailing in the locality in which the work is being performed. And if there is no single wage that is being paid to 50 percent or more of the workers in that area performing that type of work, then the prevailing wage is computed as the average of the wages paid in that community for that type of work.

If the majority of work in that community is under union contracts, then the prevailing rate may turn out to be the union rate. But if the majority of work is nonunion, then the prevailing rate is going to be the nonunion rate or an average rate.

So if you have construction in northern Idaho, and the majority of workers in that area are being paid a lower wage than what would be considered to be the union wage, then the lower rate is what Davis-Bacon says must be paid. So the suggestion that the Davis-Bacon Act somehow requires contractors on Federal construction projects in remote areas where wages are typically low to pay a higher wage, or the union wage, just does not hold water. That is not an accurate reflection of how the act's prevailing wage requirement works.

Just last week, the Labor and Human Resources Committee had a hearing on the issue of Davis-Bacon reform, and we were happy to welcome Senator CRAIG, who came over and gave testimony at that hearing. The administration has endorsed a very reasonable package of Davis-Bacon reforms, which we are considering in the committee, which would raise the threshold for Davis-Bacon coverage to $100,000 on contracts for new construction and to $50,000 on contracts for repair and maintenance of existing structures. This legislation would also substantially simplify the paperwork and the reporting procedures as they apply not just to federally funded construction under the Davis-Bacon Act, but also to federally assisted construction performed under the more than 50 different statutes—that are currently on the books which require Davis-Bacon protections on federally assisted construction projects.

The way to deal with they many issues that have been raised over the years regarding Davis-Bacon is through comprehensive reform of the type we are considering now in the Labor Committee. That is the way we ought to deal with it. We are glad to try and accommodate and deal with the particular concerns raised by Senator CRAIG and others through the committee process.

I say, finally, Mr. President, that I am really constantly surprised about what opponents of the Davis-Bacon Act have against hardworking men and women in the construction industry who are working hard to try to provide for their families. The average worker in the construction industry works about 1,400 to 1,600 hours a year. The rate of unemployment for the construction industry is double the national average. In many different areas, it is three or four times as much. What are we talking about in terms of average yearly income? We are talking about construction workers, in general, making between $20,000 and $23,000 a year. You are talking about workers doing carpentry and floors making $20,000 to $23,000. Workers in plumbing, heating, and air conditioning, $21,000 to $24,000 a year. Electrical workers, $22,000 to $25,000 a year. Painting and paper hanging, $18,000 to $21,000 a year. These are the average annual wages for workers in the construction industry.

What in the world do we have against these hardworking men and women? We are not talking about the CEO of Pizza Hut that is making more than $1 million a year. We are not talking about the top CEO's of the major companies with their golden parachutes to protect them if they make mistakes that cause their companies to do poorly. We are not talking about people with these kinds of privileges. We are talking about hard working people that are trying to make a living in the construction trades and are prepared to do the hard work. Many in the construction trades in my city of Boston drive all the way up to Alaska to look for work, and they are separated from their families. These are the people that supposedly are making too much money. That is unfair.

Mr. President, we are committed to moving forward on the issue of Davis-Bacon reform, in the areas which have been outlined. We are serious about trying to accommodate the need to rationalize and streamline the Federal procurement process. But we must remember the men and women whom the Davis-Bacon Act is intended to protect. It is a tough economy out there. In many of the trades in my State—generally, throughout New England—you

are talking about 50 or 60 percent unemployment that is still as high as 50 or 60 percent. So let's not talk about nickel and diming these people.

If you are going to invest taxpayers' money in constructing public buildings, you want to have the best skilled men and women that are available to do it. As John Dunlop, the leading construction economist in the country and a former Republican Secretary of Labor has pointed out, lower wage costs do not necessarily translate into lower overall project costs, because higher paid, better trained workers may be significantly more efficient on the job and do higher quality work, which means lower maintenance and repair costs in the future. Maybe you pay $1 or $2 more in wages to the workers, but you save more in the long road savings because of the efficiency and skills of the workers and the quality of work they perform.

So, Mr. President, I give the assurance to our friend and colleague that we are prepared to come to grips and deal with this issue. We have legislation before us. We have a very significant and major initiative by the administration in dealing with many of these provisions. We are committed to try to get that out, hopefully, perhaps before the end of the year. We are glad to do that. Hopefully, we will be able to get legislation out of our committee with support on different measures, and we would welcome the opportunity to do so.

But it seems to me that this trying to effectively flyspeck a particular legislation on this that is dealing with a very, very small amount—I mean $100 million is a significant amount, but you are talking about schools across the country that it is going to. I want to make sure that when the funds are used in terms of trying to do something for the school facilities that it is going to be done well.

You know, it is interesting that this is targeted on the rehabilitation of schools for the poorest children. This is wonderful, is it not? It is schools for the poorest children, and that has been in the crosshairs of this amendment. Why is it not on some other kind of a project? It is schools for the poorest children in America.

We give the assurance that we will have legislation. We will get it out as early as possible. Then we will debate it, and I think we will be able to craft it in ways that will deal with some of the worthwhile points that have been raised, but do it in a responsible way.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. While there is not a unanimous-consent request, we are operating under a gentlemen's agreement at this time. I ask how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has approximately 10 minutes.

Mr. CRAIG. Mr. President, let me respond only briefly to what the chairman of the committee has just said.

First of all, we are not talking about history. I am not interested in history. I am interested in what one-half billion dollars today will do for poor kids. You are darn right this will go to the poorest kids in the poorest school districts, and it is the poorest school districts that cannot afford that extra 30 or 40 or 50 percent cost in wages that the chairman is talking about.

If we are talking about education, let us spread that education dollar and build those facilities in the poorest districts instead of having school districts walk away because they cannot meet that standard. That is what we are talking about here.

Now, the chairman said it was only a small amount of money. In my State, one-half billion dollars is half the State's budget for an entire year. I think to the average taxpayer listening one-half billion dollars is an awful lot of money.

Mr. KENNEDY. If the Senator will yield, the provision is $100 million for construction.

Mr. CRAIG. It is $100 million, plus $400 million out of the HHS budget. It is a combination of the total of the two that this provision applies to in the total grant program.

Mr. KENNEDY. Some is out of Energy. I will put the exact figure in the RECORD.

I thank the Senator.

Mr. CRAIG. Fine.

Let me correct myself, because the chairman is right on the $100 million. It is a $400 million total. It is a $400 million total that applies to this provision that we are talking about.

I do not think anyone, Mr. President, is interested and wants to undercut the construction worker, but let me give you an example of what we are talking about.

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

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

JUNE 11, 1993.

Re Davis-Bacon Act.

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

DEAR SENATOR CRAIG: With the recent emphasis on spending cuts, I would like to offer my opinion as to the easiest way to save money; repeal the Davis-Bacon Act.

This act sets a wage and benefits rate for various construction trades that must be paid on all public works jobs. This rate is directly decided by trades national union. It needlessly increases the cost of labor and gives an unfair advantage to union shops.

To show you just how much money is wasted, my father-in-law is an electrical contractor in Los Angeles County, California. In his office the highest paid electricians wage is $15.00 per hour. This same employee is paid $33.38 (wage plus benefits) when working on public jobs. That is over 200% more per hour.

I'm sure you are aware of the trade unions' opinions on setting wage bases and standards, I just wanted you to know how I feel.

Please cut spending by repealing the Davis-Bacon Act.

Thank you.

NICCOLE MOYLE FERGUSON.

Mr. CRAIG. Mr. President, it is a letter from a young lady in Star, ID. This does not appear to apply to Idaho, but she references her father-in-law who is an electrical contractor in Los Angeles County, CA. In his office the highest paid electrician's wage is between $15 and $18 an hour. Now, on non-Federal jobs that is what the prevailing wage is. That is pretty good money. That means that those electricians can provide for themselves and their family. That is not a great living, but in today's effort where we are trying to get people to work, $15 to $18 an hour is pretty good money.

If he works a private job on one side of the street that is what he gets paid. If he works a Federal job on the other side of the street the prevailing wage is $33.38 an hour, a 200 percent increase.

In this particular area, Mr. President, we are talking about local school districts. We are not talking about huge Federal construction projects. We are talking about blending small amounts of grant money, 25 percent or less, to local units of school districts and a State's money, and that 25 percent or less should not be the tail that wags the dog.

That is why I am not interested in the history of Davis-Bacon. I do not want to debate it here today. I want to talk about how we are going to spread our Federal tax dollars today in a responsible way, just like the majority of Congress decided they are going to do in the crime bill. It is identical to the provision now in the crime bill.

If the chairman of the committee votes for the crime conference, he is going to vote for this provision. So I ask him to join me and join the rest of the Senators and spread this across educational dollars.

I withhold the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

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

Mr. KENNEDY. Mr. President, the Senator does not state accurately whether or not it is in the crime bill. The provisions in the crime bill have absolutely no relationship to the construction of the prisons, absolutely none.

The only provision where this was included is the Conyers amendment, which lists a range of different programs, in which there may or may not be construction, and if it is considered within those areas, then that provision will apply. But there should be no suggestion in this debate that the provision that the Senator has identified is

going to be applicable to the building and construction of prisons.

Mr. CRAIG. Mr. President, I do not believe I mentioned construction of prisons. I said in construction programs in the crime bill.

Now, the dollars in the Conyers amendment would go to enhance facilities for both criminal and noncriminal. We are talking about facilities in the neighborhoods for midnight basketball, and those kind of things. We are talking about that combination of expenditures.

This amendment does apply, and I think the chairman recognizes that. I am not suggesting that in major Federal prison construction programs this would apply.

Mr. KENNEDY. Mr. President, I am glad the Senator clarified it because I think most Members would feel this applies to the crime bill, which has billions of dollars in there for prison construction. The provision that he has identified has absolutely nothing to do with that. He is correct on the Conyers basic preventive programs that talk about Head Start programs, that talk about education programs, continuing education programs. If there has to be some adjustment to existing facilities in a limited provision in terms of any kind of construction it would be applicable in those areas.

I doubt if we will have the kind of even amount of construction that we have talked about in this bill that would be $100 million.

Whatever time remains I yield to the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for the remaining time of 9 minutes.

Mr. METZENBAUM. Mr. President, I have a lot of respect for my friend from Idaho. But I have to tell him he is too late. We have had this amendment on the floor in various forms and fashions. I do not know how many times, maybe 40, maybe 50, maybe 60 times. It is regularly voted down because the majority of the Members of this body recognize the legitimacy of the Davis-Bacon Act.

When he says that he does not think anyone wants to undercut construction workers' wages, let me just say he may not think that anyone wants to undercut them, but the reality is that this amendment would undercut them. If you take away the Federal protection that is provided under the Davis-Bacon Act, then you are effectively slashing the wages of construction workers. Construction workers are not paid that well. Yes, they get a pretty fair hourly wage, and nobody will argue that. But they do not work a full 52 weeks, due to weather conditions and economic conditions. Sometimes you get a job and you work on it for 6 weeks and you do not get another job for a month's time.

I have a man who helps us at our home who was a construction worker, but now there is no work for him, so he comes and does some handiwork around the house.

That is the transient nature of construction work. You do not go into one plant and just work there day in and day out. You find the jobs as they move around, and if the contractor does not get the job, you do not have any work.

So an average worker who does find 9 months of work during a given year makes maybe around $22,000 a year, hardly a high wage, certainly not one that we here in the Senate would want to cut.

Let me make one other point. Construction work is one of the most dangerous occupations in this country, and construction workers regularly face substantial safety risks on the job. It really would not be right to take away from them the decent wages that they are presently making.

Now let us take a look at our actual experience under this act. In 1971, President Nixon suspended the Davis-Bacon Act during the wage and price freeze. Over 1,000 contracts that had already been put through the bidding process were rebid. Do you know how much they saved? Oh, it was magnificent. It was a great savings because the Davis-Bacon Act did not apply. On average, the rebid contracts cost only six-tenths of 1 percent less than they had when they were bid under Davis-Bacon. And even that paltry difference may be due to factors other than the absence of Davis-Bacon protections.

So I say that the evidence shows that exempting projects from the Davis-Bacon Act really does not save any money. The fact is that the cost-savings estimate underlying this amendment represents nothing more than wishful thinking. We here in the U.S. Senate should stand up and say we are not going to be a party to cutting the wages of decent men and women who are trying to earn a living in the construction trades. And, effectively, if the Craig amendment were to pass, that is exactly what we would be doing.

I am confident the amendment will not pass. We have defeated it time and time and time again, and I believe we will defeat it again today.

I yield back the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Idaho.

Mr. CRAIG. I yield 4 minutes to my colleague from Idaho.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

I would like to add my support to the amendment that is before us. I would like to reference this idea that if we really want to help the poor areas, in this case with reference to poor schools, that we should reject this.

Last year I went to Philadelphia. I went to meet with the mayor of Philadelphia, Ed Rendell, who is doing a tremendous job as mayor of Philadelphia, and who I consider a friend. I asked him to show me the neighborhoods in Philadelphia where they truly have problems of massive unemployment, security problems, where the kids are having a hard time.

We went to some of these neighborhoods where there was graffiti everywhere, where there were bars on the windows of all the homes, the shops, churches. The churches and the hospitals in this particular neighborhood were also covered with graffiti—I could not believe that even churches were covered—and where it was a dangerous area.

But in the center of this was a new housing unit that had been built by those people in that area. I met with the construction supervisor, whose name was Carlos. Carlos, in his discussion with me—in showing me the quality of the workmanship that they were so proud of, and the fact that this was one island in that neighborhood that was totally unmarked by graffiti, it did not have bars on the windows—he brought up and volunteered—I did not even bring up the topic—but he said, "Please, do something about Davis-Bacon because, if we could remove Davis-Bacon provisions on these types of projects, we could build more of them and employ more people. It is what my people in this neighborhood of Philadelphia need to have happen so that we can bring about some better quality housing and bring about dignity into that area."

Carlos said to me, "Please, do something about the Davis-Bacon Act." This is a first step.

I would not say that my colleague from Idaho is late in bringing this up. Thank goodness, he is persistent, like a number of people are going to be persistent until finally we do something with the Davis-Bacon Act.

Mr. President, I yield my time back to the senior Senator from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. In keeping with the understanding I had with the chairman, I think I have about a minute remaining. I will make a few concluding statements, and then I will ask for the yeas and nays on this amendment.

Mr. President, the Senator from Ohio said we were too late. You are never too late with a good idea. And, by the way, this amendment has never been offered on the floor of the Senate before. This is the first time we have attempted to take these small grants —in other words, that tail that wags the dog—and say it should not be doing this, and exempt that.

Of course, my colleague from Idaho just gave a perfect example. When we

are talking about minorities today, we are talking about locking them out of the process, locking them out of their ability to blend with Federal dollars, and do for themselves what they so desperately want to do.

Mr. President, I ask unanimous consent that a statement from the National Association of Minority Contractors be printed in the RECORD.

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

THE DAVIS-BACON ACT—SUMMARY OF NAMC'S POSITION

The National Association of Minority Contractors (NAMC) supports legislation to significantly reform the Davis-Bacon Act of 1931. The Act seems benign in requiring contractors to pay locally "prevailing wages" to their workers on federally financed construction contracts exceeding $2,000. However, it discriminates against small and small disadvantaged construction firms, as well as lower skilled construction workers, by effectively prohibiting wages competing with union rates on federally financed projects.

Minority-owned firms and minority construction workers are particularly impacted by Davis-Bacon's onerousness due to being disproportionately represented among smaller firms and lower skilled workers, respectively. But Davis-Bacon's onerous impact on small and minority firms and workers does not end there. The Act also raises the costs of federally financed construction by as much as $900 million annually, and therefore makes little sense in light of President Clinton's efforts to reduce the national deficit and streamline the federal government.

While commending Vice President Gore's National Performance Review (NPR) in identifying recommendations for cutting costs and streamlining the government, NAMC holds that the specific NPR proposal to raise the current $2,000 Davis-Bacon threshold to $100,000 will do little to lift the Act's unfair burden on minority-owned firms and minority construction workers. A $100,000 Davis-Bacon threshold would conform cosmetically with the "simplified acquisition threshold" currently under consideration by the Clinton administration, but would nonetheless fall short of the urgent need for fairer treatment of small business concerns, and the more efficient use of taxpayers' dollars in the federal procurement process.

NAMC stands against the leading proposal for implementing the NPR Davis-Bacon proposal, H.R. 1231/S. 627, and, instead, advocates H.R. 2042/S. 916 which has been introduced by Representatives Charles Stenholm (D-TX) and Harris Fawell (R-IL), and by Senator Larry Craig (R-ID), respectively. The Stenholm/Fawell/Craig "Davis-Bacon Reform" bill not only raises the Davis-Bacon threshold to a realistic $500,000, but also includes provisions going a lot further toward correcting the onerousness of Davis/Bacon than H.R. 1231/S. 627.

WHY THE DAVIS-BACON ACT SHOULD BE REFORMED

The Davis-Bacon Act poses an historical burden on minorities in the construction industry which continues to this day. The Act has not only kept minorities from advancing as construction contractors and laborers, but has also cost the government huge amounts in excessive federal spending on construction for far too long. The reasons that merit significantly reforming Davis-Bacon are longstanding and agreed upon by most firms in the construction industry, minority and white-owned alike.

1. The Davis-Bacon Act is legally and morally obsolete. Legislative history shows that the Davis-Bacon act was passed during the Depression-era primarily to keep Southern black construction workers from competing with white construction unions on public works projects. The Act's discriminatory origins have effectively blocked minority participation in the construction industry for over 60 years.

Today, Davis-Bacon has the effect of preventing small and minority-owned firms from bidding on public works contracts which comprise at least one-fifth of all construction in the U.S. Davis-Bacon also has the effect of freezing out lower-skilled minority workers from job opportunities in the public works arena, not only at the federal level, but also at the state level, where many "Little Davis-Bacon" Acts are currently in effect.

The constitutionality of Davis-Bacon as it stands is extremely doubtful at best. The Act's original discriminatory intent, coupled with its continuing discriminatory impact, merits repeal by Congress, if not significant anti-discriminatory reform.

2. The Davis-Bacon Act curbs free market competition by effectively eliminating small and disadvantaged firms from bidding on federal construction work. Defenders of Davis-Bacon argue that the Act is necessary to protect local contractors and local labor markets from unfair, itinerant competition. However, the facts do not bear this out. Rather than protecting local contractors from unfair competition, Davis-Bacon has practically fostered a closed group of large contractors who follow federal and federally financed construction work around the country to the exclusion of smaller, local contractors.

Smaller, local contractors who typically cannot pay their workers union-scale are discouraged from bidding on Davis-Bacon work for a number of reasons. First, being forced to pay union-scale on Davis-Bacon work compels smaller contractors to either maintain unreasonably high rates when bidding on private work, or jump back and forth between union and market wage rates, neither approach making good sense in the running of a small business. Second, small local contractors are discouraged from employing lower-skilled workers (often young minorities) for on-the-job training because they cannot justify the rates which they must pay these workers. Third, small local contractors are pressured to keep bidding on Davis-Bacon work to the exclusion of private contracting opportunities because of the cycle of high operating costs into which they are locked after getting into Davis-Bacon work. In short, Davis-Bacon works against small local contractors by effectively removing labor from the competitive bidding process typical of most construction projects. Davis-Bacon creates a two-tiered industry in which small and minority-owned firms are forced to stay away from bidding on federal contracts because of the unnecessarily high business risk involved.

Davis-Bacon not only fails in its claim of protecting local contractors and workers, but also fails in its historical justification of this claim. As mentioned earlier, the Act should properly be recognized as curbing economic liberty for reasons originally having less to do with economics than with racial animus. Even today, minorities remain grossly underrepresented in the unions protected by Davis-Bacon, a fact which many attribute more to the legacy of racism than to the inability of minorities to compete for union positions. It is roughly estimated that the typical construction union minority worker is lucky to be employed more than five or six months out of the year.

3. The Davis-Bacon Act fails to reflect the cross-disciplinary approach to work in today's construction industry. Davis-Bacon requires work assignments and payroll reporting along rigid craft-by-craft lines reminiscent of the 1930s. It fails to reflect industry practice in private sector construction today. The only firms equipped to meet Davis-Bacon's outdated "work rules" are typically large, unionized contractors who, over time, have carved out special departments within their operations specifically tailored for Davis-Bacon work.

Minority-owned firms are particularly affected by Davis-Bacon's outdated work rules because they are typically too small in size and too limited in capital to adjust their operations merely for compliance purposes. Lower skilled minority construction workers also suffer because they are prevented from advancing through on-the-job, learning since they required to be rigidly locked into limited, inflexible scopes of work at the bottom of the employment ladder.

4. The Davis-Bacon Act overburdens the federal government by requiring the Department of Labor to undertake the impractical task of issuing and maintaining accurate wage determinations in numerous localities nationwide. Davis-Bacon has been described as a "Prolific artificial numbers factory." Objective observers, including the General Accounting Office (1979 Study), have found that the sheer volume of administrative work involved in pursuing wage determinations creates an overwhelming burden on the Department of Labor. It is widely assumed that DOL Analysts use or approximate union rates in coming up with ten to twenty thousand wage determinations annually, a significant percentage of which fail to reflect actual prevailing market conditions. Davis-Bacon should be reformed to allow wages to reach equilibrium at realistic rates reflecting true market conditions in the construction industry.

5. The Davis-Bacon Act has an unwarranted negative impact on the federal budget. The Congressional Budget Office estimates that Davis-Bacon adds as much as $900 million a year to federal construction costs. This level of federal spending is an unjustifiable waste of taxpayers' dollars. Davis-Bacon is a wasteful law which should be reformed to save significant tax dollars and free up funding for other pressing federal procurement needs.

WHY NAMC SUPPORTS THE DAVIS-BACON REFORM BILL

NAMC supports H.R. 2042/S. 916 which has been introduced in the House by Representatives Charles Stenholm (D–TX) and Harris Fawell (R–IL), and in the Senate by Senator Larry Craig (R–ID), respectively. The result of a bi-partisan effort, this "Davis-Bacon Reform" bill promises modifications to the Davis-Bacon Act removing its most onerous elements. While many of NAMC's members advocate the outright repeal of Davis-Bacon, NAMC acknowledges that repeal would be unnecessary if Congress would take the kinds of corrective action so urgently needed. The following specific items supported by NAMC are included in the Davis-Bacon Reform bill.

1. The Davis-Bacon Reform bill would increase the Davis-Bacon threshold to contracts involving more than $500,000. The

Davis-Bacon Reform bill exempts from Davis-Bacon federal and federally assisted projects for construction, alteration or repair valued at $500,000 or less. It also proposes a prohibition on contract-splitting to safeguard against potential abuse of this higher threshold.

The $500,000 threshold is significantly better than the bifurcated threshold proposed under H.R. 1231/S.627 (discussed further below). It is not only less confusing, but would open up relevant numbers of small contract opportunities for those small and minority-owned businesses which have typically avoided Davis-Bacon because of its costly and anti-competitive impact.

2. The Davis-Bacon Reform bill would expand the use of helpers in public works contracts. The Davis-Bacon Reform bill opens the door for the expanded use of helpers in federal and federally assisted construction work. The bill defines "helpers" as a separate class of workers for whom the DOL must make appropriate prevailing wage determinations. The bill essentially codifies DOL regulations which have withstood more than ten years of judicial and administrative review. It potentially opens up entry-level opportunities at competitive wage rates not only for minorities but for all lower-skilled workers seeking jobs on federal and federally assisted projects.

3. The Davis-Bacon Reform bill would reduce burdensome paperwork requirements by cutting back on Copeland Act mandated weekly payroll reports. Under the Davis-Bacon bill, current Davis-Bacon requirements for weekly submissions of complete, certified payroll records would be significantly reduced. The bill proposes amending the Copeland Act to require contractors to submit payroll statements "no less often than every 3 months."

The Davis-Bacon Reform bill goes significantly further than H.R. 1231/S. 627 in relieving small and minority-owned businesses from the overwhelming burdens of excessive paperwork.

4. The Davis-Bacon Reform bill would allow for determining "prevailing wages" more accurately to reflect private sector wage rates. The Davis-Bacon Act currently does not define "prevailing wages," but the Davis-Bacon Reform bill codifies a definition that would bring DOL wage determinations more accurately in line with the private sector wage levels of localities nationwide. By requiring the Secretary of Labor to exclude wage rates under federal contracts from its prevailing wage determinations, the Davis-Bacon Reform bill ensures that these determinations will reflect real private sector market rates. Having wage determinations that fall in line with real market rates would allow nonunion and small contracting firms to bid for federal contracts in fair competition with the large unionized construction firms.

5. The Davis-Bacon Reform bill exempts federal prevailing wage requirements from primarily local projects. The Davis-Bacon Reform eases the burden of federal prevailing wage requirements on state and local construction projects by proposing a formula which would apply DOL wage determinations only where federal funding covers at least 25% of a project's cost. This addresses the problem of federal wage rate interference in state and local projects involving low amounts of federal funding.

6. In addition to the above, the Davis-Bacon Reform bill eliminates the current prohibition on the use of volunteers on federally funded projects; reduces the disruptive impact of prevailing wage determinations on contractors in rural areas; and codifies regulations repealing the 30% rule requiring contractors to pay wages at the same rate paid in an area by large union contractors. The combined package offered by the Davis-Bacon Reform bill is significantly more responsive to the needs of small and minority-owned businesses and minority workers than H.R. 1231/S. 627, discussed below. At the same time, the Davis-Bacon Reform bill shows promise of being more palatable to the large, powerful union contractors than the outright repeal of Davis-Bacon.

WHY NAMC OPPOSES H.R. 1231/S. 627

H.R. 1231/S. 627 has been introduced by Representatives Austin Murphy (D–PA) and Bill Ford (D–MI), and by Senator Ted Kennedy (D–MA), in the House and Senate respectively. While the bill appears on its surface to reduce the onerousness of Davis-Bacon by raising the compliance threshold from $2,000 to $100,000, it in fact creates increased burdens on minority-owned companies and workers by expanding the scope of the Act. Following are specific reasons why NAMC opposes H.R. 1231/S. 627.

1. H.R. 1231 proposes a bifurcated increase in the Davis-Bacon threshold which would provide little relief from the Act's currently unfair burden on small and minority-owned businesses and minority workers. Section 2(b)(1) of H.R. 1231 proposes increasing the Davis-Bacon threshold from $2,000 to $100,000 for new construction, and $15,000 for building alternations, repairs, renovations, etc. The potentially positive effect of this new, bifurcated threshold is unfortunately lost on its problematic drawbacks.

In the first place, the new threshold still falls far short of what would be necessary to open up relevant opportunities for market participation by small and minority businesses and lower-skilled workers in government construction. A more realistic, single threshold of $500,000 would allow small businesses to sustain real growth without the drawback of unfair prevailing wage and other burdensome Davis-Bacon requirements. It would also create job openings for lower-skilled workers on construction work funded by the federal government. Such a threshold has been introduced under H.R. 2042/S. 916 proposed by Representatives Charles Stenholm (D–TX) and Harris Fawell (R–ID), and by Senator Larry Craig (R–ID), respectively.

A second reason why the new threshold is a problem is that bifurcation creates a likelihood of high administrative costs both to the government and Davis-Bacon contractors, as well as increased litigation and plain confusion regarding which federal contracts will and will not be affected by Davis-Bacon. A single threshold set reasonably high (e.g. at $500,000) would not only be less confusing than a bifurcated threshold, but would also reduce administrative costs to the government and small businesses along lines tying in to recommendations currently under consideration by the Clinton administration (in the Federal Acquisition Streamlining Act of 1993) regarding contract cost principles and cost and pricing data.

A third reason why the new threshold is a problem is that the "contract bundling" rules written into Section 2(b)(3) of H.R. 1231 could be used by government departments and agencies to combine federal contracts in ways that would make the bifurcated threshold inapplicable. As a result of contract bundling, many small and minority-owned firms could continue to be blocked from taking on Davis-Bacon work otherwise within their capabilities.

A final reason why the new threshold is a problem is that any minor gains by small and minority-owned firms and workers through prevailing wage exemptions under the bifurcated threshold would be practically negated by other, related provisions of H.R. 1231 discussed in items 2 through 7 below.

2. H.R. 1231 practically guarantees prohibitive minimum wage requirements for small and minority-owned businesses by excluding contracts under $100,000 from the Secretary of Labor's prevailing wage determinations. Section 3(b)(1) of H.R. 1231 requires the Secretary of Labor to consider private and government construction contracts alike in making prevailing wage determinations. It further requires the Secretary to exclude contracts below the new bifurcated threshold in its wage determinations. Since smaller, private contracts tend to involve lower wage rates, Section 3(b)(1) requirements would have the effect of driving up the wage levels found to be "prevailing" in any given area.

Small and minority-owned firms currently unable to afford Davis-Bacon rates would continue to be frozen out of the Davis-Bacon market because of unreasonably high DOL prevailing wage rate determinations.

3. H.R. 1231 curbs minority business development and raises federal government costs by eliminating the "site of work" restriction currently in effect under Davis-Bacon. The "site of work" limitation in Davis-Bacon was recently upheld in *Building & Construction Trades Dept. v. Dept. of Labor (Midway Excavators)* 932 F.2d 985 (D.C. Cir. 1991). It ensures that prevailing wage requirements apply only to onsite construction within the geographical confines of a federally financed project. It currently serves to hold back an explosion of litigation regarding the extent to which a wide range of off-site businesses are impacted by Davis-Bacon.

By eliminating the "site of work" limitation, H.R. 1231 risks extending the burden of Davis-Bacon to all kinds of off-site workers tangentially involved in federal construction projects. Small and minority enterprises seeking business opportunities in such areas as manufacturing, material supplies and deliveries would effectively be overwhelmed by the burdens and potential risks of being deemed a falling under Davis-Bacon. The federal government would also be forced to endure an unreasonable and unjustifiable growth in construction costs as a result of excessive prevailing wage requirements spreading to industries (such as steel manufacturing or truck deliveries) never intended by Congress to be covered by Davis-Bacon.

4. H.R. 1231 unduly restricts the use of "helpers" on Davis-Bacon work, thereby freezing lower-skilled workers out of the public works job market. Under Section 2(c)(4), H.R. 1231 defines Davis-Bacon "helpers" as "separate and distinct" from laborers and mechanics, and restricts their use in such a way as to effectively prevent their ability to get hired on Davis-Bacon work, or to advance through on-the-job training if hired.

The effect of H.R. 1231 would be to discourage minority workers, many of whom are unskilled and non-union, from seeking entry level positions in federal construction work. The lower-skilled minority worker unable to command union pay (due to lack of apprenticeship training), and willing to offer services at below-union rates, would be preempted from seeking work altogether for two reasons. First, potential employers would be hard-pressed to find a position for such worker entailing duties completely "separate and distinct" from duties traditionally undertaken by laborers and mechanics. Second, even if such a worker could get

hired, he or she would soon be discouraged upon learning that the law prohibited advancement through on-the-job learning. In the long run H.R. 1231 would entrench unemployment at the lowest rungs of the economic ladder by removing labor from the competitive bidding process on public works contracts. Helpers exist for a legitimate economic purpose well-recognized in the construction industry, and should not be forced by Congress out of the competitive process merely to protect unionized labor.

Congress' recent action prohibiting the DOL from implementing helper regulations promulgated under the Reagan administration would seem to suggest a lack of sensitivity to, or understanding or, the truly harmful effect which Davis-Bacon has had and continues to have on minority businesses and workers. NAMC urges Congress to rigorously review the issue of helpers before taking further steps entrenching Davis-Bacon's onerous effects on minorities and the national economy as a whole.

5. H.R. 1231 fails to rigorously address the paperwork burden imposed by Davis-Bacon on small businesses. The Copeland Anti-Kickback Act of 1934 requires employers on Davis-Bacon contracts to submit complete, certified payroll records to the Department of Labor or its contracting agencies every week. Complying with this requirement mandates significant adjustments for small firms which typically operate on a two-week payroll cycle. The Davis-Bacon paperwork requirement poses an especially harsh burden on minority contractors lacking the required staff or capital needed to ensure compliance.

While H.R. 1231 attempts to alleviate the paperwork burden by requiring monthly rather than weekly payroll reports, this step falls far short of the kind of reform needed for genuine paperwork reduction. The paperwork reduction proposal offered under H.R. 2047 (mentioned earlier) requiring payroll statements "no less than every three months" would address existing Davis-Bacon paperwork burdens more efficiently.

6. H.R. 1231 unnecessarily expands the scope of Davis-Bacon to contracts on leased government facilities, a step which would deter small and minority contractors otherwise seeking to compete for such contracts. Section 2(b)(4) of H.R. 1231 proposes expanding Davis-Bacon to cover construction, renovation, alteration or other work on buildings leased by the federal government under lease agreements requiring such work. By expanding Davis-Bacon to cover such facilities, H.R. 1231 would negatively impact small and minority firms, as well as the federal government. Davis-Bacon currently poses sufficient hardship to small and minority contractors without being extended to contracts involving leased government facilities.

7. H.R. 1231 leaves the door open for abuse and costly litigation by expanding Davis-Bacon's scope and coverage without rigorously addressing the Act's overly harsh impact on small and minority-owned firms and minority workers. By expanding the already overly burdensome Davis-Bacon Act, H.R. 1231 would most likely create a climate of legal and regulatory noncompliance by firms incapable of meeting its requirements. Furthermore, cumbersome provisions in Section 4 allowing laborers, mechanics and "interested persons" to file challenges against the DOL and/or Davis-Bacon contractors would encourage all kinds of costly litigation on provisions in Sections 2 and 3 of the bill relating to such issues as state wage law preemptions, wage/fringe benefit combinations, ERISA preemption, multiple contract bundling, and helper classifications. The potential costs of such litigation far outweigh any possible benefits which H.R. 1231 could have as it currently stands.

CONCLUSION

While many of NAMC's members advocate repealing the Davis-Bacon Act, NAMC supports H.R. 2042/S. 916 because of the serious effort this bill makes in addressing the most onerous aspects of Davis-Bacon. The Davis-Bacon Reform bill is significantly more tolerable than H.R. 1231/S. 627, which, for the most part, attempts to expand Davis-Bacon without paying sufficient attention to the harmful effects this would have on the economy as a whole, and on small-business concerns and minorities in particular.

Congress' recent vote prohibiting the DOL from implementing helper regulations promulgated under the Reagan administration would seem to suggest a lack of information or real understanding of the truly harmful effect which Davis-Bacon has had, and continues to have, on small and minority-owned businesses and minority workers. NAMC calls on President Clinton and Congress to conduct a rigorous review of the plight of all small and minority-owned construction firms and minority construction workers before taking steps further entrenching Davis-Bacon's onerous effects on the national economy.

Mr. CRAIG. Clearly, Mr. President, that is what we are talking about in part here.

But let us back up and remember what we are saying here. We are talking about around $400 million of Federal grants to improve educational facilities in limited ways, to maximize and leverage local dollars, school board dollars, State tax dollars, to make sure that poor kids and not-so-poor kids can have the very best educational facilities available, and why should we penalize them by an antiquated law. That is what we are talking about.

Recognizing that my time is probably very nearly up, as we vote on this, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in opposition to the amendment introduced by my colleague from Idaho. This amendment, which the Senate Labor and Human Resources Committee defeated by a vote of 12–5 on June 15, 1994, would weaken the fair wages provision in title XV of S. 1513—the Improving America's Schools Act.

Mr. President, title XV would authorize the Secretary of Education to allocate $400 million directly to local school districts in fiscal year 1995 for the repair, renovation, alteration, and construction of public elementary and secondary school facilities.

In order to ensure that workers on these federally funded projects receive at least the prevailing wage in their locality for their kind of work, this title includes a fair wages provision that would direct local school districts to meet the requirements in the Davis-Bacon Act.

I support the fair wages provision in title XV of S. 1513 not only because it protects workers, but also because it provides important safeguards for businesses, taxpayers, and the Federal Government.

The Davis-Bacon Act has enjoyed strong bipartisan support since its enactment in 1931. While many of the act's most ardent supporters have traditionally been Democrats, this legislation was originally introduced by a Republican Representative from New York, Robert Bacon, and signed into law by a Republican President, Herbert Hoover.

Contracting practices in the 1930's required Federal projects to accept the "lowest responsible bid." The concept of responsibility, however, did not include the consideration of wages and working conditions. Thus, the question arose as to whether the Federal Government was "willing for the sake of the lowest bidder to break down all labor standards and have its work done by the cheapest labor that can be shipped from State to State."

During the debate on the Davis-Bacon Act, the Secretary of Labor, William Doak, noted that contracting practices in 1931 were "not only disturbing to labor but disturbing to the business community as well."

In the committee report on the Davis-Bacon Act, Robert Lafollette, Republican Senator from Wisconsin, stated that:

> The measure does not require the Government to establish any new wage scales in any portion of the country. It merely gives the Government the power to require its contractors to pay their employees the prevailing wage scales in the vicinity of the building projects. This is fair and just to the employees, the contractors, and the Government alike.

A similar report was filed by Richard Welch, a Republican Representative from California, for the House Committee on Labor.

Mr. President, as I have already said, the Davis-Bacon Act not only protects workers, it also protects businesses, taxpayers, and the Federal Government.

By promoting fair wages, the Davis-Bacon Act ensures that the workers on federally funded projects receive at least the prevailing wage in their locality for their kind of work.

By promoting fair wages, the Davis-Bacon Act gives local businesses a fair chance to compete for Government projects on the basis of skill and efficiency, rather than losing this work to disreputable competitors who would underbid by paying substandard wages.

By promoting fair wages, the Davis-Bacon Act protects taxpayers and the Federal Government from fly-by-night contractors whose substandard wages

would attract substandard workers and result in shoddy construction work, requiring still more tax dollars for higher repair costs and additional maintenance over the life of the project.

Mr. President, the Davis-Bacon Act is as important in the 1990's as it was in the 1930's. Last year, three researchers at the University of Utah found that the repeal of the Utah State prevailing wage law "accelerated the decline in the union share of the State's construction labor market, drove down average construction wages in the State, and decreased union apprenticeship training for construction"—a decrease which was not offset by other public or private training funding.

The NAACP recognized the importance of the Davis-Bacon Act last year by passing the following resolution at its annual convention:

Whereas, people of color have entered the construction industry in increasing numbers in the past. Today, they are threatened with the loss of many of the economic and social gains made over the last several years; and,

Whereas, the Davis-Bacon Act of 1931 protects the wages of all construction workers, including minorities and women, who are particularly vulnerable to exploitation; and,

Whereas, shocking examples of the exploitation of minorities and female workers on the construction site, even in the face of the Davis-Bacon Act, the law designed to prohibit such exploitation, are legion; and, therefore, be it

Resolved, that the NAACP supports the Davis-Bacon Act, takes steps to strengthen its enforcement, and supports the creation of opportunities through training and apprenticeship programs.

I would also like to submit a letter from the AFL–CIO in support of the Davis-Bacon Act.

Mr. President, Senator KENNEDY recently introduced S. 627 which includes a comprehensive series of amendments to the Davis-Bacon Act. This bill presents a fair and balanced approach to the issues that have been raised in the course of our debates over this important statute. I firmly believe that the amendment offered today by my colleague from Idaho regarding the Davis-Bacon Act should be considered during the debate on S. 627 and not during the debate on the reauthorization of the Elementary and Secondary Education Act [ESEA].

Mr. President, I would like to conclude my remarks by urging my colleagues to support fair wages for the men and women who build our bridges, our highways, our hospitals, and our schools by opposing this amendment.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, July 29, 1994.

DEAR SENATOR: It is our understanding that sometime later today Senator Larry Craig (R–ID) will offer a very damaging amendment to remove the Davis Bacon provisions that are contained in the infrastructure education portion of S. 1513. Improving America's Schools Act of 1993. The construction authorized by Senator Carol Moseley-Braun language is very important to the infrastructure needs of American education system. The David Bacon language that Senator Craig is attempting to remove from Senator Moseley-Braun amendment is the normal Davis Bacon language that applies to federal construction. It is the same Davis Bacon language that exists in over 60 other federal states that provide federally funded construction monies.

It should be noteworthy for those Senators who are interested in across-the-board Davis Bacon reform that just today the Senate Labor Committee held a hearing on legislation to provide across-the-board Davis Bacon reform. It is our hope that across the board Davis Bacon reform legislation can hopefully move to the Senate floor in the near future. In summary, we urge the defeat of the Craig amendment and we urge the retention of the traditional Davis Bacon language that has been incorporated into S. 1513.

Sincerely,

ROBERT M. MCGLOTTEN, *Director, Department of Legislation.*

Mr. SIMPSON. Mr. President, I rise in strong support of the Craig amendment. This amendment, Mr. President, merely ensures that Federal dollars spent on improving our Nation's schools will be spent as wisely as possible. It is designed to enable our schools to get the most for the dollars they spend.

In many rural areas, Davis-Bacon adds extra costs to public works construction. That, in turn effectively keeps smaller contractors from competing with larger operations. In addition, the Davis-Bacon requirements increase construction costs in disadvantaged communities. This is blatantly unfair.

During consideration of the safe drinking water bill, I offered an amendment exempting disadvantaged communities from Davis-Bacon. It was simply an attempt to level the playing field for contractors from small communities, who so often cannot afford to meet expensive wage requirements. This includes communities in both rural and urban locations.

In the bill we are debating today, educational grants are destined to go to the local educational agencies with the greatest needs. These tend to be extremely rural and extremely urban areas. These truly are our disadvantaged communities.

When it comes to rural areas, Davis-Bacon is a plain raw deal. Nationally, Davis-Bacon adds 3.1 percent to total construction costs. But in rural areas, Davis-Bacon increases construction costs by nearly 40 percent. This is true because of the wage differentials. It should surprise no one that in the most rural sections of this country, wages are not as high as they are in the rest of the country. Wages don't have to be as high and there are many good reasons for that.

I hope that my colleagues from agricultural and rural States will understand that every time a Senator representing an "Ag State" votes to strengthen or to preserve Davis-Bacon, that Senator is also voting to injure the competitive position of small contractors in the disadvantaged communities at home.

Davis-Bacon has been harshly criticized by most rural and inner-city groups. Among such critics is the National School Boards Association. Others include the U.S. Hispanic Chamber of Commerce, National Center for Neighborhood Enterprise, National Association of Counties, National League of Cities, National Association of House and Redevelopment Officials, National Taxpayers Union, and the American Farm Bureau.

The Congressional Budget Office has told us on more than one occasion that Davis-Bacon has an inflationary effect on private construction costs, not to mention Federal spending. Moreover, the Government Accounting Office has called for a complete repeal of Davis-Bacon, because we waste a billion bucks each year as a result of this law.

This amendment, however, doesn't even come close to repeal. I think it is so important to point out that under this amendment, only those projects that receive more than 25 percent of their funding from the Federal Government would be subject to Davis-Bacon.

Mr. President, this is a fairness issue. At a certain point, even supporters of Davis-Bacon must realize that applying it to financially strapped schools is counterproductive. Schools in disadvantaged areas cannot even afford textbooks and pencils for every student, yet some think it is just fine to spend 40 percent more than we have to on school construction. It truly defies common sense.

Why should we penalize those communities that most need financial relief? If we want to give them more bang for the buck, we should exempt them from Davis-Bacon requirements as another means of financial assistance. These communities need our help.

So, with that in mind, I would hope that each and every Senator will find it very easy to support this reasonable and modest attempt to do more to improve our Nation's deteriorating school systems and provide a much-needed dose of economic stimulus to our disadvantaged communities.

Mr. KOHL. Mr. President, I rise today in opposition to the amendment to the Improving America's Schools Act proposed by the Senator from Idaho. The Davis-Bacon Act has successfully protected construction workers from exploitation for over 60 years. During this time, Congress has considered many proposals to amend the Davis-Bacon Act. The current proposal put forth by the Senator from Idaho merely represents a piecemeal approach to reforming the act. While I believe that the Davis-Bacon Act needs

to be reformed, I cannot support a piecemeal approach to this objective.

During the tenure of the Davis-Bacon Act, many working-class families in this country have come to depend upon this law to protect their wage standards; any legislation which seeks to compromise this protection would compromise their well-being. Also, by paying the prevailing wage, the Federal Government is able to hire skilled workers, workers whose competency results in higher quality construction and thus, long-term savings.

If we are going to reform the Davis-Bacon Act, we should do it right. We need broad-based, concrete Davis-Bacon reform. Reform that will modernize the application of the act, improve the administration and enforcement of the act, and most importantly, ensure continued prevailing wage protection for construction workers. The piecemeal amendment proposed by the Senator from Idaho merely seeks to circumvent the principles prescribed by the Davis-Bacon Act.

When considering Davis-Bacon reform, we must look at the whole picture and address the areas in need all at once. It is for this reason that I rise in opposition to this amendment.

Mr. CRAIG. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. KENNEDY. Mr. President, I again want to thank the Senators from Idaho for their courtesy and their accommodation of working this amendment through, and their willingness to enter into a time agreement. Important hearings are taking place and the Senator has been extremely cooperative in being willing to permit the vote on his amendment.

We will have a vote, up or down, on the amendment, hopefully, after the Senate has had consideration of the Kassebaum amendment that is going to deal with the vocational education regulations. We want to give the assurance that we will have it, hopefully, in a timely way.

What we are trying to do, at least in spirit, is to conform to what was agreed to by the two leaders last evening, and that is to address these remaining items during the course of the morning and permit the hearing process to move through.

So I am very grateful to them for that. I want to give the assurance that, no matter how this comes out, we will be, I am sure, working with the Senator from Idaho and others who are concerned about this.

Mr. JEFFORDS. May I inquire of the Senator, what is the Senator's intention? Are we going to lay this aside?

Mr. KENNEDY. We would then lay this aside. I understand Senator KASSEBAUM will be on the floor momentarily and we will address her particular amendment, and then we will consult with her, as well as Senator CRAIG, and work out the time for the resolution of both of those amendments, which I suspect will be later in the morning.

The PRESIDING OFFICER. Is there objection to laying the amendment aside?

Mr. CRAIG. Reserving the right to object, would the chairman yield?

Mr. KENNEDY. Yes.

Mr. CRAIG. My understanding is the Kassebaum amendment will be debated, and then you will stack these votes together, both this amendment and the Kassebaum amendment?

Mr. KENNEDY. Yes.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

Mr. KENNEDY. Mr. President, what basically we are looking at is the Kassebaum amendment. I have been informed by Senator HUTCHISON that she will introduce an amendment dealing with the Women's Equity Provisions that are included in the legislation. We will come back at some time in the later morning to the Smith amendment that has been amended and will be open, as I understand it, to additional potential amendments.

So we again invite our colleagues—we are not inviting them to submit more amendments, but we do indicate, at least from the floor managers' position, that is the way we are going to proceed. We are going to try to do that in as expeditious a way as possible so the Senate can move on to a very important appropriations bill and other business.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2438

(Purpose: To temporarily prohibit the promulgation of new regulations to carry out the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 2438.

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

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

The amendment is as follows:

At the end of title IV of the bill, insert the following new section:

SEC. . CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Notwithstanding any other provision of law, beginning on June 1, 1994, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the Secretary shall not issue any new final regulations to implement such Act.

Mrs. KASSEBAUM. Mr. President, I am offering this amendment to avoid an unnecessary, premature, and potentially devastating change in policy for vocational education programs by the Department of Education. The amendment prohibits the Secretary of Education from issuing any new final regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act until the completion of the reauthorization of that law.

If I may just explain for a moment what brings me to this point—I think it is of concern to some of my colleagues who will wish to speak to it briefly.

When the vocational education law was reauthorized in 1990 there was substantial debate over the degree to which special population students should have access to vocational education. Some wanted to mandate that these students have access to these programs and be provided the supplementary services that they would need to participate fully.

The Department interpreted the law to require States to provide services to special population students in federally-funded programs. This was consistent with my position on this issue and, I think, that of a number of others. I believe States should not be required to offer the full range of services across all vocational education programs, but only those programs that were federally funded should offer full access.

The Department is now facing a lawsuit by several groups that represent special populations who allege the current regulations prohibit equitable participation for them. Department officials have indicated that they hope to settle the lawsuit if they change their interpretation of these regulations to require that States provide these services in all programs, not just federally funded programs.

However, changing the regulations at this time, I would argue, is inappropriate for several reasons.

First, we will reauthorize the Perkins Act next year and will look at this issue more comprehensively during that process. The issue of whether disabled and disadvantaged students have access to quality vocational education programs and whether they have the support they need to succeed in these programs will certainly be examined in detail during that reauthorization. It simply does not make sense, I believe, Mr. President, to make a change of this magnitude—and it is significant—through the regulatory process when the law may change in a year.

Second, this change would represent a new unfunded Federal mandate on States which will have to use State

funds to supplement insufficient Federal funds to provide these services. This is a violation of the President's Executive Order 12875 on Enhancing the Intergovernmental Partnership, since it would impose a regulatory change on States without providing the funds necessary to pay direct costs incurred by the State or local governments in complying with the mandate.

The Department has asserted that these costs could be supported by other Federal programs, such as the Individuals with Disabilities Education Act [IDEA], or the Elementary and Secondary Education Act that we are debating now. This is a rather presumptuous claim, I think, since our promise to fund 40 percent of IDEA costs has never been fulfilled either. So to assume there would be more money there, I think, adds insult to injury.

Third, the National Assessment of Vocational Education indicates that:

> Special population students * * * are overrepresented in secondary vocational education. In 1992, the 34 percent of all high school graduates who were members of special population groups earned 43 percent of all vocational credits. Special population students are a somewhat larger proportion of all vocational students now than they were 10 years ago, and higher achieving students are a smaller proportion.

It seems the Department's premise that disabled and disadvantaged students do not have access to vocational programs has been discounted by the Department's own report. While overall vocational enrollments have declined, the percentages of special population students enrolled in these programs have increased.

Fourth, States have just turned in their State plans under Perkins. The deadline was May 1. The State review and approval process is extensive and requires evaluation of the State vocational technical system, 60-day reviews by interested organizations and public hearings before the plan is forwarded to Washington. A change in the regulations now would require each State to submit revised plans. The State Directors of Vocational and Technical Education estimate that the additional review, revision and public comment periods will cost each State $100,000, or $5 million across the country. These funds would be much better spent on providing program and student services.

Fifth, this change would cause unwarranted confusion and program disruption at the local level.

Mr. President, I am a strong supporter of vocational education programs. I am a strong supporter of making certain that access is available to all. But I think allowing these regs to go forward at this time, without giving the necessary thought to the reassessment costs, when we will be reauthorizing the Carl Perkins legislation next year, is the wrong step to take. I hope my colleagues will join me in support of this amendment.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, this amendment is an amendment that would effectively prohibit the Department of Education from issuing any new final regulations on the Perkins Act. The issue is that after the last reauthorization in 1990, the Bush administration issued regulations that did not include the participation of special needs children in the program and the Clinton administration is issuing regulations to correct the situation. So Senator KASSEBAUM, I believe on behalf of herself and Senator COCHRAN, is offering this amendment. They will call it, effectively, an unfunded mandate.

I will oppose the amendment. I will refer in just a moment to the Department of Education's letter expressing their strong opposition. This amendment would interfere with the Department's authority to carry out the provisions of the Perkins Act as intended by the Congress.

The regulations themselves are in no way an unfunded mandate. They are, rather, the steps the Department is taking to make sure that special populations have access they need to the Perkins-funded programs. In the funded programs, we want to make sure the special needs children are going to have access to those programs.

The legislation of 1990 was very clear about its intention, having all students included in these programs. The evidence we have shows that they are left out. So there was a clear intention they be included in the program and clear evidence they are not participating in the program, and it justifies the reasons for the regulations themselves.

The most recent National Assessment of Vocational Education report shows the problem is most serious at the secondary school level, where the special needs and limited English proficient students are not being included in the technical careers.

I will include in the RECORD the list of the various groups, the 30 organizations representing students and educators, who oppose the regulations as proposed by the Department of Education in 1991.

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

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

Alternative Schools Network.
American Association of University Women.
American Foundation for the Blind.
The Arc (formally the Association for Retarded Citizens).
ASPIRA Association, Inc.
American Occupational Therapy Association.
Center for Law and Education.
Center for Law and Social Policy.
Council for Exceptional Children.
Division on Career Development, Council for Exceptional Children.
Education Law Center—New Jersey.
Education Law Center—Pennsylvania.
Epilepsy Foundation of America.
Learning Disabilities Association.
Mexican American Legal Defense and Educational Fund.
National Association for Bilingual Education.
National Association of Developmental Disabilities Councils.
National Association of Vocational Assessment in Education.
National Association of Vocational Education Special Needs Personnel.
National Coalition of Title I/Chapter 1 Parents National Council of La Raza.
National Head Injury Foundation.
National NAACP.
National Puerto Rican Coalition.
National Rehabilitation Association.
National Urban Coalition.
National Urban League.
Spina Bifida Association of America.
The Association for Persons with Severe Handicaps.
United Cerebral Palsy Association.
Vocational Evaluation and Work Adjustment Association.

Mr. KENNEDY. Mr. President, these are some of the groups who have been most involved in terms of the development of the legislation and the approach of Congress.

I will just reference the letter from Secretary Riley. I ask unanimous consent it be printed in the RECORD.

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

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
July 13, 1994.

Hon. NANCY LANDON KASSEBAUM,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meetings with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students. Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable

opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

As you know, representatives of members of special populations have filed suit against the Department, challenging the current regulations governing full participation and supplementary services as denying special populations access to high-quality vocational education programs. *National Puerto Rican Coalition v. Riley*, Civ. Action No. 92-2905 (D.C.C. filed Dec. 30, 1992). We believe that the statute is ambiguous and the current regulations are legally supportable. However, we are concerned about the policy embodied in the current regulations governing full participation, whether that policy best carries out Congressional purpose, and how that policy may contribute to some of the problems with access and success in vocational education for special populations.

Under the revised provision being considered, the requirement that a recipient of funds under Title II, Part C of the Perkins Act provide for the full participation of members of special populations, including the provision of supplementary services, would apply to the recipient's entire vocational education program, not merely its projects funded by the Perkins Act. This possible change is consistent with one of the Congressional purposes in enacting the Perkins Act—namely, assuring that students who are economically disadvantaged, students of limited English proficiency, students with disabilities, and women have access to vocational education and any special services they need in order to succeed. The change being considered would address concerns that special population students are poorly served in many vocational education programs. I believe that changes to address these concerns should be considered before the reauthorization takes effect, which is likely to be more than two years away.

We are very sensitive to the issues expressed in your letter. As a former governor, I am aware of and share many of the current concerns about "unfunded mandates." In that regard, we have been careful to ensure that changes under consideration are consistent with the Executive Order on unfunded mandates and will not create a new civil right, in the sense that there will not be a new individual entitlement to services. We fully share your concern that any change be consistent with the statute and minimize disruption to the program. I hope that you will carefully review the changes, if they are proposed, and consider how they address the needs of students, as well as the concerns expressed in your letter.

We initiated the meetings with Congressional staff and other interested parties to ensure that we had public input on these important issues before we finally decide whether to propose changes to the regulations. We have carefully considered the comments we received, including your letter, before transmitting the possible changes to the regulations to OMB for review. If we decide to propose changes to the regulations, we will particularly invite public comment on the important issues you and others have raised. Section 504 of the Perkins Act required regional meetings and a negotiated rulemaking process only for the issuance of initial regulations issued under the Perkins Act, and we do not anticipate conducting negotiated rulemaking on the possible changes described above. The consultative process that we have initiated and the opportunity for public comment will serve similar purposes. Moreover, through public comment, we will ensure that we have heard from all interested parties before any final decision is made to change the regulations. I can assure you that any rulemaking process we conduct on this matter will be meaningful, and that all comments received will be carefully reviewed and considered.

Thank you for sharing your views on these important issues with me. If I can provide further assistance to you, please contact me.

Yours sincerely,

RICHARD W. RILEY.

Mr. KENNEDY. Mr. President, I will just read part of the letter. It says:

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meetings with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students.

This is the important part:

Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

The letter continues with the reasons for that particular conclusion.

I hope after we do have an opportunity to hear from Senator HARKIN, who is our chairman of the committee dealing with special needs, that this amendment will not be accepted.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I join Senator KASSEBAUM in urging the Senate to approve this amendment. She has very adequately stated the reasons for adopting the amendment. I simply want to add a word of support for the effort she is making by offering the amendment and calling the attention of the Senate to this important need. It is a need to come to the rescue of local administrators who are wrestling with the challenge of trying to spread too few dollars over too many needs at the local level.

What the Department of Education is purporting to do by issuing these regulations is to put another mandate, another requirement, another directive on the backs of local administrators to tell them how to use their money. There is no Federal funding that goes along with this new regulation that is proposed to be implemented, but there is the force of law that would require them to channel their funds into yet another Federal program.

The Federal effort is, of course, to make available to disadvantaged populations, or so-called special populations, the benefits of vocational education.

One thing needs to be pointed out, though. Local administrators and local officials have made giant strides to make accessible and available to these special populations the benefits of vocational education. GAO, for example, in a 1993 report says that 60 percent of those in vocational education programs now come from these special populations.

So the question has to be asked today: If the purpose of the new Federal regulation that is being proposed is to encourage more participation, it seems that local administrators have done a great deal to achieve that goal. Of course, we hope that more can be achieved, but to impose a new affirmative action requirement from the Federal Government at this time in an area of the law that comes up for reauthorization next year seems to be getting the cart before the horse.

If we have a reauthorization program approved by the Congress next year which has new requirements in it, then, of course, the Department is going to have to implement those requirements through regulations. What the Senator from Kansas is saying is, why saddle the local and State officials now at this late hour in the life of this Perkins vocational education bill with a new requirement that is unfunded when we are just about to begin hearings in the Labor and Human Resources Committee to determine what changes need to be made in the law?

If these changes need to be made, let us reauthorize it, let us spell it out in the law, but let us not sit back while the Department overregulates the State administrators with requirements that will cost them money. It will make them less able to deal with the challenges that they face in other areas in vocational education.

I know others know more about this subject than I do. It seems to me to make perfectly good sense to adopt the amendment of the Senator from Kansas, and I hope the Senate will do so.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I regret that I must oppose the amendment offered by the Senator from Kansas. Senator KASSEBAUM's amendment would preclude the Department of Education from issuing any new final regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act.

Mr. President, the Department has proposed changes in Perkins Act regulations pertaining to services for special populations. These regulatory changes are urgently needed to ensure that students with special needs have access to vocational and applied technology programs in our Nation's schools. I commend the Secretary for taking the initiative to pursue these changes. They are necessary changes and I wholeheartedly support them.

When we reauthorized the Perkins Act in 1990, we gave particular attention to enhancing services for special populations. Indeed, both houses of Congress included language to accomplish this critical objective in their respective bills. For instance, the House bill contained requirements for State level assurances and for local assurances that special populations would be served. Further, the House bill required State Boards to assure that such populations have access to programs and that individuals with handicaps be served in conformity with the Education of the Handicapped Act and section 504 of the Rehabilitation Act. The House bill required that each school district and institution of higher education assure that the special needs of students would be met in an integrated setting. The Senate agreed to include these requirements in the final bill.

The Senate bill specified that the special populations to be served include: The economically disadvantaged, individuals with disabilities, individuals who participate in programs designed to eliminate gender bias and stereotyping in vocational education, students of limited-English proficiency, economically disadvantaged adults, and criminal offenders—both juveniles and adults—who are serving in correctional institutions. The House agreed to include this definition of special populations in the final bill.

Mr. President, I could go on at great length describing the additional provisions we included in the 1990 reauthorization measure to ensure that special populations would have access to vocational and technical education services. The legislative history on this question is clear: Congress intended that individuals with special needs be served.

Unfortunately, the Perkins Act regulations developed under the previous administration do not adequately address the needs of these special populations. For this reason, this administration appropriately seeks to change the regulations.

As Secretary Riley wrote in his letter of July 13 to Senator KASSEBAUM,

> * * * we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provision on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

Clearly, we cannot permit this deplorable situation to continue.

As Secretary Riley points out in his letter, the Department initiated meetings with congressional staff and other interested parties to seek input prior to deciding whether to propose changes to the regulations. The Department is continuing to solicit comments on its proposed regulations prior to developing final regulations. The regulatory process is proceeding as it should and I see no reason for Congress to interfere in that process.

Mr. President, I ask unanimous consent that the full text of Secretary Riley's letter to Senator KASSEBAUM be printed in the RECORD.

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

U.S. DEPARTMENT OF EDUCATION,
Washington, DC, July 13, 1994.

Hon. NANCY LANDON KASSEBAUM,
Ranking Republican, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meeting with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students. Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

As you know, representatives of members of special populations have filed suit against the Department, challenging the current regulations governing full participation and supplementary services as denying special populations access to high-quality vocational education programs. *National Puerto Rican Coalition v. Riley*, Civ. Action No. 92-2905 (D.D.C. filed Dec. 30, 1992). We believe that the statute is ambiguous and the current regulations are legally supportable. However, we are concerned about the policy embodied in the current regulations governing full participation, whether that policy best carries out Congressional purpose, and how that policy may contribute to some of the problems with access and success in vocational education for special populations.

Under the revised provision being considered, the requirement that a recipient of funds under Title II, Part C of the Perkins Act provide for the full participation of members of special populations, including the provision of supplementary services, would apply to the recipient's entire vocational education program, not merely its projects funded by the Perkins Act. This possible change is consistent with one of the Congressional purposes in enacting the Perkins Act—namely, assuring that students who are economically disadvantaged, students of limited English proficiency, students with disabilities, and women have access to vocational education and any special services they need in order to succeed. The change being considered would address concerns that special population students are poorly served in many vocational education programs. I believe that changes to address these concerns should be considered before the reauthorization takes effect, which is likely to be more than two years away.

We are very sensitive to the issues expressed in your letter. As a former governor, I am aware of and share many of the current concerns about "unfunded mandates." In that regard, we have been careful to ensure that changes under consideration are consistent with the Executive Order on unfunded mandates and will not create a new civil right, in the sense that there will not be a new individual entitlement to services. We fully share your concern that any change be consistent with the statute and minimize disruption to the program. I hope that you will carefully review the changes, if they are proposed, and consider how they address the needs of students, as well as the concerns expressed in your letter.

We initiated the meetings with Congressional staff and other interested parties to ensure that we had public input on these important issues before we finally decide whether to propose changes to the regulations. We have carefully considered the comments we received, including your letter, before transmitting the possible changes to the regulations to OMB for review. If we decide to propose changes to the regulations, we will particularly invite public comment on the important issues you and others have raised. Section 504 of the Perkins Act required regional meetings and a negotiated rulemaking process only for the issuance of initial regulations issued under the Perkins Act, and we do not anticipate conducting negotiated rulemaking on the possible changes

described above. The consultative process that we have initiated and the opportunity for public comment will serve similar purposes. Moreover, through public comment, we will ensure that we have heard from all interested parties before any final decision is made to change the regulations. I can assure you that any rulemaking process we conduct on this matter will be meaningful, and that all comments received will be carefully reviewed and considered.

Thank you for sharing your views on these important issues with me. If I can provide further assistance to you, please contact me.

Yours sincerely,

RICHARD W. RILEY,
Secretary.

Mr. JEFFORDS. Mr. President, I rise in support of the amendment offered by my colleague from Kansas. The amendment before us is very simple. It precludes the Department of Education from issuing new regulations before Congress reauthorizes the Carl Perkins Vocational and Applied Technology Education Act.

Let me briefly explain the reasons for my support. The current vocational education regulations require federally funded vocational programs to provide services to special populations. These regulations have been in effect since the 1990 law was enacted. The administration is now proposing to change those regulations and require that all vocational programs, regardless of whether they receive Federal funds, provide services to special populations.

Clearly, it is important that special populations be accommodated in every school and in every program. There is no question but that we must provide all populations with equal opportunities.

However, there are three sound reasons why changing the regulations is not a good idea at this time.

First, the Perkins Act is due to be reauthorized next year. That is an appropriate vehicle on which to debate and analyze the issue and determine whether a change in policy is necessary at that time. Changing the policy in midstream after the States just submitted their May 1 plan is both unfair and unwise public policy.

Second, the change represents a stretch of Federal authority into the locally controlled school policy. We may be able to govern the way in which Federal funds are used but we should not be in the business of dictating to local educational agencies how to spend their own funds or how to structure their own programs.

Finally—and this is the most important one—there is no evidence that the policy needs to be changed or that special needs populations are left out of vocational programs. It is quite the contrary. In a recent report by the National Assessment of Vocational Education, it states that "At the local level the evidence strongly suggests the Perkins funding improves service provision for vocational special needs students." The report provides every indication that special needs populations are being adequately, if not overly, served in vocational programs. The report cautions against making Perkins the dumping ground for special needs students and instead encourages a stronger emphasis on guidance and counseling for these students. There is a tendency, unfortunately, in many areas to overly use Perkins for this purpose and not allow the special needs students to get better training for their purposes than perhaps the Perkins program may provide. So clearly changing the policy at this time does not make sense.

For these reasons and the others stated by my colleague from Kansas, I urge my colleagues to support the Kassebaum amendment.

Mr. SIMON. Mr. President, my colleague from Vermont says changing the policy at this point does not make sense. And if we were changing policy, I would agree. What the Secretary of Education is doing is to bring the policy in the regulations in line with the law that we passed.

In 1990, special populations—specifically economically disadvantaged students, students of limited English proficiency, women, men, and women who sought education and training opportunities in areas previously stereotyped as women's programs or men's programs, and finally students with disabilities—were a major focus.

After the Secretary of Education from your State, Mr. President, Lamar Alexander, issued the regulations, six of us wrote a letter to him protesting those regulations, that they did not do what the law required. Congressman FORD, Congressman MARTINEZ, Congressman MILLER, Senator KENNEDY, Senator PELL, and I sent this letter. I ask unanimous consent that the letter be printed in the RECORD.

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

COMMITTEE ON EDUCATION AND LABOR,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 10, 1991.

Hon. LAMAR ALEXANDER,
Secretary, U.S. Department of Education, Washington, DC.

DEAR MR. SECRETARY: We are writing regarding the recently published proposed regulations on the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. We have several concerns regarding the regulations which we wish to bring to your attention.

While Congress significantly changed the mechanism by which vocational education is delivered, the focus of the Act remains the same: to make program improvements in vocational education and to provide effective equal access to special populations in vocational education programs.

In the 1990 amendments to the Perkins Act, Congress intended that equal access to vocational education programs must be ensured for special populations in part by reenforcing and augmenting the provisions of the Individuals with Disabilities Education Act (IDEA), Section 504, nondiscrimination under Federal grants to the Rehabilitation Act of 1973, the Civil Rights Act of 1964, and Title IX of the 1972 Education Amendments. These laws entitle students to equal access to the full range of education programs, regardless of the sources of funds. This same principle applies to vocational education programs. Students must have the opportunity to access any vocational education program with the support necessary to function equally, regardless of who pays for those supportive services.

The Perkins law assures that individuals who are members of special populations will be provided with equal access recruitment, enrollment, and placement activities and will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis on their status as members of special populations.

With regard to the specific uses of the Federal Perkins vocational program funds, the Act requires that these funds be used in programs that integrate academics with vocational education, offer coherent sequences of courses, are of sufficient size, scope, and quality as to be effective, and that serve the highest concentrations of individuals who are members of special populations. These programs are required to provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps (A) curriculum modification, (B) equipment modification, (C) classroom modification, (D) supportive personnel, and (E) instructional aids and devices. Federal Perkins funds cannot be used in programs that do not meet these criteria.

A related issue raised by the regulations is the use of the term "project". The Act uses the term program; we believe that regulations should be consistent with the Act and, hence, the term "program" should be used throughout.

As already noted, the Act requires that funds must be used to integrate academic and vocational education through "coherent sequences of courses" so that students achieve both academic and occupational competencies. The Act also seeks to require institutions to provide programs "of such size, scope, and quality as to be effective." Yet, the proposed regulations permit a single adult course to qualify as a sequence of courses. This is patently incorrect, and a clear misinterpretation of the statute. Coherent series of courses and sequential course of study should both be interpreted as a "series of courses" and a single course is not in compliance with the law.

While we agree with the Department's regulations in applying evaluations to an entire program of an institution receiving funds, particularly in view of the fact that we have not had desirable data from States in the past, we believe that because of the expense involved and the potential of this provision resulting in some school districts and institutions rejecting Perkins' funds, we believe that evaluations could be conducted on a sampling basis or some other method to minimize the burden.

The proposed regulations increase the frequency of reporting and other accountability requirements of programs funded under the

Act. In the preamble to the regulations, there is also a reference to America 2000 and the Secretary's support for increased accountability. Although we concur in terms of accountability in education programs, we do not agree that the regulations should expand on the law and require more paperwork for many of the programs, (e.g. Indian Vocational Education Program, Native Hawaiian Vocational Education Program, National Tech Prep Education Program, etc.).

Also, as part of the Department's accountability and evaluation activities, we urge the Secretary to provide resources and participate in conducting the pilot project utilizing wage and other records authorized under Section 408(c)(1)(A) of P.L. 101-392 to provide high quality longitudinal data on a cost-effective basis with minimum administrative burden.

As regards the National Center or Centers for Research in Vocational Education, the proposed regulations allow up to five preference points in the competition for the research and development center and up to five preference points for the dissemination and training center if an institution or consortium demonstrates that it can effectively carry out both the research and development and dissemination and training activities of the Center. We believe that only allowing five preference points is a minor consideration and not the major consideration that Congress intended for an institution or consortium which demonstrates that it can effectively carry out both activities. If all activities can be carried out at one center, that is obviously a desirable objective; and therefore the law meant to encourage funding one center if it could perform all these tasks.

It also appears to us in terms of the manner in which the proposed regulations are written, that two competitions would be held for the National Center or Centers for Research in Vocational Education. Two competitions, in our view, could result in a process which could be awkward and extremely time-consuming. It is Congress' intent that all applicants could submit three applications in one competition. If after applications have been reviewed for one center, none of the applicants demonstrate the capability of effectively carrying out both the activities, then the Department could proceed to the consideration of separate applications without an unnecessary delay or request for another competition.

Thank you for your consideration of these views. We know that the Department had a difficult task in writing these proposed regulations, and you have performed it quite ably.

Sincerely,

WILLIAM D. FORD,
Chairman, House Committee on Education and Labor,

MATTHEW G. MARTINEZ,
Chairman, House Subcommittee on Human Resources,

GEORGE MILLER,
Chairman, House Committee on Natural Resources,

EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources,

CLAIBORNE PELL,
Chairman, Senate Subcommittee on Education, Arts, and Humanities,

PAUL SIMON,
Chairman, Senate Subcommittee on Employment and Productivity.

Mr. SIMON. What we will do if we pass this amendment by my colleague from Kansas—and I have great respect for her, not only for her work here but her interest in Africa and other things. She is one of the finer Members of this body. But I think we would send the wrong signal if we accepted this. This amendment is strongly opposed by the administration, and I hope it will be strongly opposed by the Senate.

Senator KASSEBAUM says it would, nationwide, cost us $5 million to implement. Compare that $5 million to what we do for disadvantaged students. The Center for Law and Education says—and I am quoting them—

The futures of millions of students will be jeopardized if remedy is delayed until reauthorization of the Perkins Act.

Now, let us face it. That is an exaggeration, and I am sure Senator KASSEBAUM would say that is an exaggeration. And I would agree with that. I think it is fair to say the futures of tens of thousands of students will be jeopardized. When you compare that $5 million with the chance to make productive taxpaying citizens out of people, I think we will save many, many times that $5 million.

So I hope the amendment will be rejected. It sends the wrong signal at the wrong time. What the Secretary of Education is simply doing is implementing the law that we passed. Frankly, the previous Secretary of Education—and I have great respect for him, but Secretaries of Education work with OMB and work with others, and sometimes they make political decisions. The previous Secretary of Education, I think, made a political decision and watered down what we passed, which was strong legislation. My hope is that the amendment will be defeated.

Mr. President, if no one else seeks the floor, I question the presence of a quorum.

Mrs. KASSEBAUM. Mr. President, will the Senator withhold?

Mr. SIMON. I withhold that.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I might just respond briefly because I know others wish to speak.

I should like to have made a part of the RECORD the support for my amendment by the American Association of School Administrators, the National School Boards Association, the American Vocational Association, and the State Directors of Vocational Education. All are in support of the amendment that I have offered.

In response to the Senator from Illinois, I would suggest that as we have worked on the Labor and Human Resources Committee, we have wanted to address the concerns of special population students to make sure that their access to and participation in these programs was assured. I think the regulations that have been put forward now, however, have gone beyond the law. As I said in my opening remarks, this would be an unfunded mandate that is going to cause some serious problems for us, particularly when by next year we will have looked at it in ways that better assess the problems that need to be addressed, rather than doing it rather peremptorily with new regulations by the Department of Education.

I yield the floor, Mr. President.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I have just been handed a statement by David Evans, who helps our subcommittee and who has been the right arm to Senator CLAIBORNE PELL and to all of us. It says:

The Department of Education is expressing serious concern that the Kassebaum amendment would preclude the issuance of final regulations to implement both School-to-Work regulations pertaining to the tech prep and other Perkins Act programs and a provision adopted last year as part of the '93 Technical Amendments to the Higher Education Act. The latter provision is essential to a number of rural community colleges that have formed consortia for the purposes of qualifying for Perkins Act program funds.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, may I ask the managers of the bill if this would be an appropriate time to lay aside an amendment and offer a short amendment which we will seek a rollcall vote on?

Mr. KENNEDY. If I could have the attention of the Senator, we want to address the Senator's concerns, which we are going to accept. But what I would like to do, if it is agreeable, is to permit Senator HARKIN to speak for 10 minutes, and if the Senator wants an additional 10 minutes, we would so include it. Then after that we would conclude the debate on Senator KASSEBAUM's amendment. Then we would consider Senator PRESSLER's amendment with a 10-minute time limitation, 5 minutes to each side, and then we would vote on all three amendments. That way it would be the least disruptive in terms of the Senate proceedings. It would give a sense of predictability to the Members in terms of their going ahead. That would be enormously helpful in terms of the floor managers.

So I hope now that we can hear from the Senator from Iowa, and then if the Senator from Kansas needed additional time, she would take it. Then we would move on into the consideration of the Pressler amendment. Following that, we would move toward the three votes.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I object to the Kassebaum amendment. I would like to take a few minutes to explain why. This amendment goes really against the wishes of Congress, which have been stated many times, in terms of overturning Grove City, the Civil Rights Restoration Act, in terms of IDEA, the Individuals with Disabilities Education Act, section 504; all of the progress that we have made in terms of reaching out, especially in education to make sure that States meet their constitutional responsibilities to provide equal educational opportunities for all students regardless of whether they are economically disadvantaged or physically or mentally disabled. We have come a long way in this regard. It seems that this would be a terrible step backward.

I think the most important thing, though, Mr. President, is the breadth, the scope, of this amendment. I listened to the Senator from Kansas and the Senator from Mississippi earlier and their arguments. It sounded as if they were talking about some narrow little issue that they were concerned about. While it may be the case that they are concerned about a narrow issue, this amendment, as it is drafted, is extremely broad.

Let me just read it again, Mr. President. It is a very simple amendment. It says:

> Notwithstanding any other provision of law, the Secretary shall not issue any new final regulations to implement such Act * * *.

"[S]uch Act" being the Carl D. Perkins Vocational Act.

That is the amendment. It does not say he shall not issue any new final regulations concerning A, B, C, or D. And it says he shall issue no regulations concerning the Carl D. Perkins Vocational Act.

We passed this act in 1990. It will probably come up for reauthorization in 1995 or 1996. But the amendment of the Senator from Kansas is so broad it covers everything. It says the Secretary "shall not issue any new final regulations" to implement such act. I do not know that we have ever done that around here. I do not think the Senate, this Congress, has ever passed that kind of amendment to say that a Secretary cannot fulfill his constitutional requirements, the requirements to issue final regulations to implement the laws that we pass here.

Let us say, for example, that later this year, or next year, the Secretary deems it important enough to issue a final regulation concerning disability issues under Carl D. Perkins. If we adopt this amendment, the Secretary will not even be able to issue a regulation concerning disability issues or any issues under that, the way the amendment is written.

So it is an extremely broad amendment. As I said, I do not know that we have ever done anything like that here.

We have been through this fight before on whether we cover projects or programs. We had it with the Supreme Court case in Grove City. The Senator from Kansas is very much aware of that decision and what that decision did in terms of programs and projects. We passed the Civil Rights Restoration Act to overturn the Supreme Court's decision in Grove City. The Supreme Court said that it applies to projects. We said no, no. The intent of Congress was to cover programs, not just projects.

So we passed the Civil Rights Restoration Act to reflect that. We had a specific vote on that issue. And the vote was 73 to 24. The Congress said, no; we meant to cover programs, the whole program, and not just specific projects. The Senator from Kansas was one of those voting in the majority of 73 to overturn Grove City to make it clear that we were talking about programs.

Now the thrust of this amendment, as I understand it, while it is drafted so broadly, is to cover the issue of projects versus programs.

Again, this whole issue of unfunded mandates I must speak about. This is not another unfunded mandate. We are not saying that States have to do this or that. We are saying that if a State provides funds for vocational education, it cannot do so in an unconstitutional manner. It cannot say, OK, we will provide vocational funds just for this sector of students but not for this sector. It must provide it and open it to all. That is under the equal protection clause of the 14th amendment of the Constitution of the United States.

What we have said here is that we believe that vocational education is so important that we will provide additional funds to the States to help them meet their constitutional obligations. It is not a mandate. We are just saying we are going to help you out. But in so helping you out, when we give you these funds, you cannot just funnel them all to one project and say, OK, we will provide the supplementary aid and supportive services there but we will not in any of the other projects under the program.

I think that is, quite frankly, unconstitutional. It certainly flies in the face of what we decided in the 73-to-24 vote overturning the Grove City case.

Let me give you some concrete examples of what I am talking about here, Mr. President. When Congress reauthorized the Carl Perkins Act, we said that special populations should enjoy equal access to all the courses of study, and we did it in a meaningful and effective manner. We wanted it to be meaningful and effective. For some special populations, the opportunity can only be meaningful and effective if they receive supplementary aid and assistance.

Let us say a State says: We are going to open up a vocational program to deaf students, but we will not provide interpreters. Well, the deaf student has the right to take that vocational training, but without a deaf interpreter it is meaningless. So we said that you have to provide the supportive services to enable them to do that.

In the same way, equal access to education is meaningless to economically-disadvantaged students unless they get compensatory education. Again, what happened was that Secretary Alexander issued a regulation saying that special populations are entitled to equal access to these vocational programs, but the responsibility to provide the supplementary aids and services only applies to the projects receiving the vocational education funds—right back where we were with the Grove City case.

Thus, for example, Mr. President, if only the culinary arts project in a vocational education program received Federal aid, then the regulations provide that only that project is required to provide supplementary aid. If the computer programming project in the same program did not receive Federal aid, then there was no requirement under the Vo-Ed Act to provide the supplementary aids and services to make the opportunity to participate meaningful and effective.

Again, we have some historical context here. Prior to the 1990 amendments, the Vo-Ed Act included set-asides, or earmarks, for special populations. We said that is wrong, we do not want to have special set-asides and programs. We are going to include them in the broad overall compass, like we have done under the Individuals With Disabilities Education Act, section 504, and everything else; we are going to bring everybody into this, and we will not have special set-asides. But we did it, expecting that all students would be provided with a high-quality program, not just in the project but the entire program. That is what we said. We said "program" and not just "project."

So what we have come down to here is the issuance of regulations, to ensure that the entire program is covered and not just a project. We used the word "program" in the act in 1990. We had already passed the Civil Rights Restoration Act. We knew what we were talking about when we said "program." I believe that Secretary of Education Reilly ought to be given the opportunity to implement the congressional intent.

So I guess my basic argument against the amendment goes down to these fundamental items: No. 1, it is so broad, the Secretary shall not issue any new final regulations to implement the act. Anything. It covers everything.

Second, even if it were more specific and included "project" versus "program," I would argue that this Congress decided that we wanted to cover programs, not just projects, that we wanted to make sure that supplementary aids and devices, whatever assistance was meaningful to students—so that a deaf student would not be just pushed into culinary arts, maybe a deaf student wants to take computer programming but cannot do it, unless they provide a deaf interpreter. But if the decision has been made that the Federal aid is channeled only to culinary arts, then that is the only place where that deaf student could get a deaf interpreter, and he or she could not get that support in computer programming.

So what basically the thrust of this amendment would do would be to continue to try to funnel—and I know this is not the Senator's intention, but I think it is the effect of the amendment—it would be to funnel disadvantaged students, economically disadvantaged students, into certain kinds of dead-end jobs, because they would not receive the compensatory aid and the other types of aid that they need. We would set up almost a dual-track system.

I am sure the Senator, in her remarks, will say, look, this does not cover disability because they are covered under section 504, under IDEA. That is right. So in vocational education we will have one track if you are physically disabled, mentally disabled; but if you are economically disadvantaged, if you come from a poor family and you may need special assistance or services, you are cut out of that. We will put you in the culinary arts program. But you will not be able to take computer programming because they do not receive any Federal aid.

Well, Mr. President, the fact is that we knew what we were talking about in this Congress when we overturned Grove City. The Senator from Kansas voted to overturn Grove City. We knew what we were talking about in 1990 when we said "program," not "project."

Therefore, Mr. President, I think this amendment is one that ties the hands of the Secretary in a way that we have never done it before. Second, it goes against the clear intent of Congress in trying to cover vocational education programs and not just specific projects.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Iowa would yield for a question for a moment. I gather from his closing comments he still would not be supportive if indeed I defined it a bit more narrowly, as has been stated.

What the amendment does is prohibit promulgation of any new final regulations under the Carl Perkins law. But I could change that to apply to only sections 117, 118, and 235 of the implementing legislation, as are under consideration. I gather that the Senator would still not be supportive. That is what the Department of Education is considering in its revision.

Mr. HARKIN. If the Senator will yield, I did say that. I do believe this amendment is drafted too broadly. Obviously, the Senator narrowed it down. In my remarks, I said I would still be opposed because it would set up this dual-track system under vocational education. And I would have to oppose that because I think all of the students ought to be under the umbrella.

Mrs. KASSEBAUM. I wanted to raise that, Mr. President. I feel that we could better analyze what is happening next year when we hold oversight hearings. As I have said before—and I will not spend a lot of time on this again—I believe it is far better to approach this with some caution, particularly when the vocational educators themselves have grave reservations about how they will be able to handle the new regulations and fund these programs.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Kassebaum amendment, No. 2438, be laid aside and Senator PRESSLER be recognized to offer an amendment regarding language proficiency for bilingual teachers; that there be a 10-minute limitation on his amendment; that upon the use or yielding back of his time, the Senate vote on, or in relation to, the Kassebaum amendment, No. 2438; that upon the disposition of that amendment, the Senate vote on, or in relation to, the Craig amendment, No. 2437; that upon the disposition of that amendment, the Senate vote on Senator PRESSLER's language-proficiency amendment; that no amendments be in order to any of these three amendments; that the preceding occur without any intervening action or debate, and that the first vote be the usual 15 minutes, and that the two following votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask that it be in order that the Senator from Wyoming, should he choose, be allotted 5 minutes before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

AMENDMENT NO. 2439

(Purpose: To require that certain applicants for financial assistance for bilingual education employ personnel proficient in English)

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

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2439.

The amendment is as follows:

On page 913, line 13, strike "and".

On page 913, line 18, strike the period and insert "; and".

On page 913, between lines 18 and 19, insert the following:

"(C) provide an assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.".

Mr. PRESSLER. Madam President, I had the amendment read in full so the Senate would have a chance to know what it is.

I rise today to offer a very simple, commonsense amendment to S. 1513. My amendment would merely require bilingual education programs, under title VII of the Elementary and Secondary Education Act of 1965, to employ teachers who are proficient in English, including both written and oral communications skills. In other words, this amendment requires bilingual teachers to prove they can speak and write English well before they can teach English to children whose native language is not English. The amendment also provides for situations where two or more individuals teach the courses together. My amendment requires that, between them, they must be proficient in spoken and written English.

Some of my colleagues may be surprised to learn that currently there is no requirement that bilingual teachers be fluent in English. I was certainly surprised. Bilingual education suggests by its very name that it is conducted in both English and another language. It seems obvious that a bilingual teacher should have to demonstrate proficiency in both languages. However, that is not the case.

Many school districts claim difficulty in finding proficient teachers. We now have a situation where school districts across the country are recruiting bilingual education teachers, recruited from foreign countries, can barely speak or write English. For example, Spanish-speaking teachers are being recruited from Mexico, Puerto Rico, Spain, and elsewhere. They may speak their native language beautifully, but their students will never truly learn English well, and never be able to fully integrate into our society, unless their teacher comprehends the nuances of American English.

Let me add, Madam President, that I think on our Indian reservations in South Dakota the key mobility and opportunity in our society is learning to speak English and to write English well. That may sound a bit arrogant, but as a practical matter, the ladder to

success in America has been proficiency in English. Years ago, I cosponsored an amendment with Sam Hayakawa, then a Senator from California, to recognize English as the national language.

This amendment does not do that, but it does require that bilingual teachers have a capability in English to qualify under this program.

This past April, the Texas Education Agency conducted a review of the Houston Independent School District's Bilingual Education Program. The agency found that some bilingual teachers had a "very limited use of English." In fact, 90 bilingual teachers were found in the city's program that spoke little or no English. Some of these so-called bilingual teachers had been given their required basic skills test in Spanish, rather than in English. These teachers could not speak English themselves. How could Houston expect these teachers to teach anyone else to speak and write English?

In other words, a bilingual teacher should be truly bilingual. In many parts of the United States, that is not the case, and the taxpayers are being misled.

Madam President, I ask unanimous consent to have printed in the RECORD at this point an op-ed piece by Linda Chavez. It appeared in the USA Today on June 15, 1994. The title says it all: "Bilingual Education Gobbles Kids, Taxes—Forget About Multiyear Programs—The Best Way to Teach English in School is to teach school in English."

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

[From USA Today, June 15, 1994]

BILINGUAL EDUCATION GOBBLES KIDS, TAXES—FORGET ABOUT MULTIYEAR PROGRAMS—THE BEST WAY TO TEACH ENGLISH IN SCHOOL IS TO TEACH SCHOOL IN ENGLISH

(By Linda Chavez)

BETHESDA, MD.—If you think bilingual education is a temporary program to help immigrant youngsters learn English, think again. Hispanic students, in particular, are likely to be placed in classrooms where their native tongue, Spanish, is the medium of instruction—and they can end up staying there for years.

Bilingual education began in 1968 as a small, $7.5 million federal program to help Mexican-American students, half of whom could not speak English well when they entered first grade. The idea was to teach these children reading, writing and math in Spanish for a short period while they learned English.

Like so many well-intentioned government programs, however, bilingual education has become an unruly behemoth costing local, state and federal governments billions each year. New York City alone spends $300 million annually on its 126,000-student program. Currently, 2.3 million children are eligible for bilingual programs nationally, the great majority of whom are Hispanic.

And not all of these children are immigrants—or non-English-speaking, for that matter. In one New York City school district, half the Hispanic children in bilingual classes are American-born. And many—if not most—speak English better than they do Spanish. They end up there because New York automatically places in bilingual programs all Hispanic children who score below the 40th percentile on a standardized English test.

But standardized tests are designed so that 40% of all students who take them will score at or below the 40th percentile—even if all of them speak only English.

Bilingual education advocates argue that teaching immigrant children in their native language first is the surest way for them to learn English. In fact, there is virtually no scientifically valid research that this is true.

One much-touted 1991 study for the U.S. Department of Education shows that students in so-called late-exit programs, which last six years, fall well behind other students in the first three years. It's impossible to tell from the data whether this group ever actually catches up during the remaining years in the program.

Yet more school systems are moving to Spanish programs for Hispanic youngsters. In Burbank, Calif., this spring a group of Hispanic parents protested when they found out their children's elementary school program had been converted to a Spanish-only program earlier in the year—without their consent. According to the school's bilingual education director, "What we're doing is being done all over the state."

In May, Denver school officials ordered one local high school to stop teaching 450 Hispanic students in English and suggested the school transfer 51 Asian students so it could concentrate on Spanish bilingual programs.

School systems that insist on Spanish instruction are having difficulty finding qualified teachers. School districts from Los Angeles to Chicago have begun recruiting teachers from Mexico, Puerto Rico, Spain and elsewhere to meet the demand for native Spanish-speakers, with little concern for whether such teachers can speak English.

In April, authorities in Houston launched an investigation when they learned that 90 teachers in the city's "bilingual" program speak little or no English. Many also lack college degrees and some of the foreign-born teachers may have been smuggled into the country illegally.

Despite such problems, Congress appears ready to encourage even more school districts to adopt Spanish-language programs for Hispanic youngsters. The House has already passed its version of a bilingual-education reauthorization bill, and the Senate Labor and Human Resources Committee takes up its own bill this week. Both favor new provisions to encourage native-language instruction and to allow children to stay in the program indefinitely, even if their primary language is English.

The chief lobbyist for bilingual education recently boasted that this reauthorization represents "the biggest shift in federal bilingual education since 1968."

He's right. But it also represents a radical departure from the goal of teaching English to immigrant children.

(Linda Chavez is author of "Out of the Barrio: Toward a New Politics of Hispanic Assimilation" and the forthcoming "A Nation Divided: Multiculturalism and the Politics of Race.")

LEARNING TWO LANGUAGES

States with the most bilingual students in 1992:

California	986,462
Texas	313,243
New York	168,208
Florida	83,937
Illinois	79,291
New Mexico	73,505
Arizona	65,727
New Jersey	47,560
Massachusetts	42,606
Michigan	37,112

Source: The National Clearinghouse for Bilingual Education.

Mr. PRESSLER. Madam President, this article cites several important statistics I shall not go into at this time. However, I urge my colleagues to take the time to read the article.

The scandal in Houston was made a national issue by Education Week on April 6 of this year. Today, we have an opportunity to rectify this ridiculous situation.

Madam President, some may argue that my amendment destroys bilingual education. They may argue that there are not enough teachers who speak both good Spanish and good English out there for bilingual programs to hire. Well, if that is the case, then we should call this program something other than bilingual education. Linguistic separatism perhaps. The American people are tired of being sold something and than unwrapping it and finding the opposite of what they thought they had bought. Maybe this should be called the truth-in-labeling amendment. Bilingual teachers should be truly bilingual.

If there are not enough English-proficient bilingual teachers to go around then we should give the States and localities more flexibility to implement alternative English education programs. But retaining bilingual education teachers who are not truly bilingual does not serve the purposes of title VII and it does not serve the children this program is intended to help.

The real losers in these situations are the limited-English proficient students. I do not think I need to argue that learning English at an early age—as early as possible—is a good thing for children living in the United States. Experts agree that the best time to learn a language is during childhood. Children attending school in the United States have a right to learn our national language, English. The U.S. Supreme Court essentially said so in Lau verses Nichols. The Court did not say that children with limited English skills must be taught bilingually—that is, in their own language—but the effect of Lau is that a school district must do something to assist these children learn English. We are denying innocent children their right to learn English when we allow them to be taught in their native language by someone who is not proficient in English.

These children are being prevented from learning the same English that is taught to every other child in an American public school system. And

not just children in the United States—Japanese, German, and French children are routinely taught English. Parents all over the world want their children to learn English because they know of the limitless opportunities their children will have if they can speak and write English fluently. Increasingly, English is the language of international business. Only in the United States are some kids not learning English because their teachers don't know it very well.

If my amendment is adopted, Madam President, that loophole will be closed. I would note that my amendment does not attempt to define what constitutes proficiency in English. I leave that determination to the local school districts applying for grants under title VII or the Secretary of Education. I do not wish to impose a new burden on our hard pressed States and localities. But under my amendment, grant applicants must provide an assurance that their bilingual teachers can read and write English proficiently.

States and localities could use the same English proficiency tests they currently use to test high school seniors except a higher passing score could be required. If a State does not administer a standardized English achievement test to their high school seniors, it could use any other State's test. The Secretary of Education, or his or her designee, could issue guidelines or promulgate regulations for applicants.

My goal is not to create a new unfunded mandate. But a meaningful assurance of English proficiency must be made. The passage of title VII has evidenced the intent of Congress that bilingual education, first and foremost, should result in a thorough understanding of the English language.

I urge the adoption of this amendment.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. PRESSLER. Madam President, I have asked for a rollcall vote on this amendment so it will stand a much better chance of surviving the conference committee. It is important to send a strong signal to the conferees that this requirement has the full backing and support of the entire Senate.

I thank the Senator from Massachusetts very much and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, very briefly, I thank the Senator from South Dakota for his cooperation with us in developing the language of the amendment.

We have a situation I know in my own State with the number of Cambodians. We have the second largest population of Cambodians in the world outside of Phnom Penh, and they settled initially in different places in the country and came to Lowell, MA, many did. They have three temples there. They are doing extraordinarily well. The community has expanded the school base.

It is one of the very extraordinary stories of acceptability in a difficult economic situation. They have significant numbers of Khmers, for example, children, and they had no help and assistance getting books in the language. They went down to the United Nations. We get the State Department all over the world to try to get both books and also develop skills for communication and working in this area.

They have done an absolutely remarkable job. For example, in my State, they are all moving toward proficiency both in the spoken, the verbal, as well as in the written.

We have also seen significant increases in Armenians. The language problems are not quite as much in my State. But as a result of all the tragedies there, there is under the State the requirement to move for verbal as well as written skills, and they are moving in that direction.

The Senator's amendment recognizes at least some degree of flexibility and ensures those children are going to be exposed if not from that particular teacher, but then in that educational experience, from proficiency in both oral and written works, we will work with him and continue on it.

I agree with the objective of giving at least some degree of flexibility, which has been helpful in dealing with some of the real-life situations we are seeing in a number of different schools.

I thank the Senator. I urge our Members to vote in favor of this amendment. I think it is an important one.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, this is an increasing problem in the United States, which the Senator from Massachusetts just pointed out. It is just amazing how many different languages we have. I know in the last census, I cannot remember the exact number, but I know in my little State of Vermont there are over 50 foreign languages that are spoken predominantly in the home. They are from all over the world.

Yet, even though we get very little, if any, money under the bilingual program, it is important to point out the absolute necessity that we provide teachers that are proficient in English to help those students along, rather than trying to hobble along as we have to do in many cases in this area.

So I commend my friend from South Dakota and will do what I can certainly to try and hold his amendment in the conference, and it makes eminent sense.

I yield the floor.

Mr. KENNEDY. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Pressler amendment.

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

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Kassebaum amendment.

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

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I believe we have asked for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. For the benefit of the membership, will the Chair indicate the order for the votes that we are having at the present time?

The PRESIDING OFFICER. Does the Senator yield back the remainder of the time on the amendment?

Mr. KENNEDY. I do.

VOTE ON AMENDMENT NO. 2438

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Kassebaum amendment No. 2438. On this question, the yeas and nays have been requested, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—63

Baucus	Domenici	Lott
Bennett	Dorgan	Lugar
Bond	Durenberger	Mack
Boren	Exon	Mathews
Brown	Faircloth	McCain
Bryan	Gorton	McConnell
Bumpers	Gramm	Murkowski
Burns	Grassley	Nickles
Byrd	Gregg	Nunn
Campbell	Hatch	Packwood
Chafee	Hatfield	Pressler
Coats	Helms	Pryor
Cochran	Hollings	Roth
Cohen	Hutchison	Sasser
Conrad	Jeffords	Simpson
Coverdell	Johnston	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Danforth	Kerrey	Thurmond
DeConcini	Kohl	Wallop
Dole	Leahy	Warner

NAYS—37

Akaka	Glenn	Mikulski
Biden	Graham	Mitchell
Bingaman	Harkin	Moseley-Braun
Boxer	Heflin	Moynihan
Bradley	Inouye	Murray
Breaux	Kennedy	Pell
Daschle	Kerry	Reid
Dodd	Lautenberg	Riegle
Feingold	Levin	Robb
Feinstein	Lieberman	
Ford	Metzenbaum	

Rockefeller	Shelby	Wellstone
Sarbanes	Simon	Wofford

So the amendment (No. 2438) was agreed to.

VOTE ON AMENDMENT NO. 2437

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2437, offered by the Senator from Idaho. This will be a 10-minute vote.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—44

Bennett	Faircloth	Mathews
Bond	Ford	McCain
Boren	Gorton	McConnell
Brown	Gramm	Nickles
Bumpers	Grassley	Nunn
Burns	Gregg	Pressler
Chafee	Hatch	Pryor
Coats	Helms	Roth
Cochran	Hutchison	Sasser
Cohen	Jeffords	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	

NAYS—56

Akaka	Feinstein	Mitchell
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murkowski
Boxer	Hatfield	Murray
Bradley	Heflin	Packwood
Breaux	Hollings	Pell
Bryan	Inouye	Reid
Byrd	Johnston	Riegle
Campbell	Kennedy	Robb
Conrad	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dodd	Leahy	Specter
Dorgan	Levin	Stevens
Durenberger	Lieberman	Wellstone
Exon	Metzenbaum	Wofford
Feingold	Mikulski	

So the amendment (No. 2437) was rejected.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2439

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from South Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—100

Akaka	Boxer	Byrd
Baucus	Bradley	Campbell
Bennett	Breaux	Chafee
Biden	Brown	Coats
Bingaman	Bryan	Cochran
Bond	Bumpers	Cohen
Boren	Burns	Conrad
Coverdell	Hollings	Murray
Craig	Hutchison	Nickles
D'Amato	Inouye	Nunn
Danforth	Jeffords	Packwood
Daschle	Johnston	Pell
DeConcini	Kassebaum	Pressler
Dodd	Kempthorne	Pryor
Dole	Kennedy	Reid
Domenici	Kerrey	Riegle
Dorgan	Kerry	Robb
Durenberger	Kohl	Rockefeller
Exon	Lautenberg	Roth
Faircloth	Leahy	Sarbanes
Feingold	Levin	Sasser
Feinstein	Lieberman	Shelby
Ford	Lott	Simon
Glenn	Lugar	Simpson
Gorton	Mack	Smith
Graham	Mathews	Specter
Gramm	McCain	Stevens
Grassley	McConnell	Thurmond
Gregg	Metzenbaum	Wallop
Harkin	Mikulski	Warner
Hatch	Mitchell	Wellstone
Hatfield	Moseley-Braun	Wofford
Heflin	Moynihan	
Helms	Murkowski	

So the amendment (No. 2439) was agreed to.

AMENDMENT NO. 2436, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Senate will return to amendment No. 2436 by the Senator from Massachusetts.

The Senator from North Carolina.

Mr. HELMS. Madam President, let me read the amendment which I understand has been submitted as modified by the able Senator from Massachusetts [Mr. KENNEDY].

I feel a little faint as I read this because I agree with this wholeheartedly. It says:

None of the funds authorized to be appropriated under this Act may be used to make condoms available in the public schools.

I ask the Chair if she will inquire of the clerk if that is the way the amendment reads.

The PRESIDING OFFICER. That is how the amendment reads as modified.

Mr. HELMS. Madam President, I feel a little bit like Redd Foxx on television. When something would excite him, years ago he would say, "Elizabeth, this is the big one."

The millennium is here, Madam President.

I ask the Senator from Massachusetts to make me a cosponsor of his amendment.

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senator from North Carolina be added as a cosponsor.

Mr. HELMS. And that this amendment hereafter be known as the Kennedy-Helms amendment.

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

Mr. KENNEDY. Well, now.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JEFFORDS. Madam President, I would say this is sort of an Olympic moment right here, and I think we ought at least for 10 seconds to savor it. It may or may not ever happen again.

Mr. KENNEDY. This, too, shall pass.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2436), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2433, AS AMENDED

The PRESIDING OFFICER. Under the previous order.

Mr. JEFFORDS. Madam President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2433, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 9, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—91

Akaka	Faircloth	McCain
Baucus	Feinstein	McConnell
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Packwood
Brown	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burns	Helms	Reid
Byrd	Hollings	Riegle
Campbell	Hutchison	Robb
Coats	Inouye	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wofford
Durenberger	Mack	
Exon	Mathews	

NAYS—9

Boxer	Gorton	Moseley-Braun
Chafee	Jeffords	Murray
Feingold	Metzenbaum	Wellstone

So the amendment (No. 2433), as amended, was agreed to.

UNANIMOUS-CONSENT AGREEMENT—EXTENSION OF RECESS

Mr. KENNEDY. Madam President, I ask unanimous consent that the majority leader be recognized to speak at 2:15 p.m. and that the period for the recess be extended until that time.

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

Mr. KENNEDY. Madam President, as far as I know, and I believe as far as my friend and colleague, Senator JEFFORDS knows, we do not know of any other amendment dealing with the education provisions of this legislation.

Generally, we try to at least indicate to the body what the other matters would be that we would address. I understand we are not prepared, nor is the leadership prepared, or others, to make a consent request as to the follow-on order of the discussion and debate. Hopefully, we will be able to do it soon.

I, again, thank all of the Members for their cordiality.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Madam President, I ask unanimous consent that no other floor amendments be in order for S. 1513, other than amendments the two managers have cleared and Senator GRAMM's crime amendment.

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

Mr. KENNEDY. Madam President, I thank all the Members for their courtesy and for their cooperation. The Senate will address those particular matters, and then we will move toward a final vote on the elementary and secondary education legislation.

I would like to just speak very briefly at that time and acknowledge the contributions that Members have made both in our committee and also on the floor and the work of the staffs.

I thank my friend and colleague, the Senator from Vermont, Senator JEFFORDS, and Senator PELL who has been here hour in and hour out as chairman of our Education Committee, Senator KASSEBAUM and others for their attention to the work of the Senate on this issue, as with so many other issues.

Madam President, I ask that the Senate stand in recess according to the previous order.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived and passed, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:34 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Wisconsin, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMPREHENSIVE HEALTH CARE REFORM

Mr. MITCHELL. Mr. President, and Members of the Senate, tomorrow I will introduce comprehensive health care reform legislation. Nine months ago, President Clinton sent to the Congress his proposed Health Security Act. Since then, the debate on health care reform has been intense. Consideration of the issue in the Senate has been extensive. The Senate Labor Committee held 20 days of hearings and spent 5 days debating and writing its bill. They completed their work on June 9. Senators have had nearly 2 months to consider the Labor Committee's action.

The Senate Finance Committee held 31 days of hearings and spent 4 days debating and writing its bill. They completed their work on July 2. Senators have had a month to consider the Finance Committee's action. The bill I will introduce is drawn largely from the bills reported by the Senate Labor and Finance Committees. Their chairmen, Senators KENNEDY and MOYNIHAN, and all the members of those committees, Democrats and Republicans, deserve the gratitude of the full Senate for their efforts.

I believe we will enact health care reform legislation this year, and when we do, much of the credit properly will go to Senator KENNEDY and Senator MOYNIHAN for their leadership.

In preparing health care reform legislation, I have been guided by one principle: The purpose of health care reform is the well-being of American families. Health care insurers and health care providers are important parts of the system, but they are means to an end; the end, our true goal, is the well-being and peace of mind that Americans should have with respect to their health care.

Health care reform is a matter of simple justice. It is the fate of human beings to be born unequal in ability, in circumstance, and in physical strength. None of us chooses the family into which we were born. None of us is immune to the whims of fate. We are all susceptible to accident and illness. We all grow old.

Physical ailments should not define our lives, but in our health care system, they often do. Some people cannot get coverage for the health condition for which they most need care. Some people stricken with serious illnesses find that lifetime insurance limits are used up long before their life ends, long before their condition improves. Some families whose children have medical needs find themselves red-lined out of insurance coverage, so a child's healthy brothers and sisters are put at risk. Some families whose parents suffer disabilities as they age face years of providing in-home care or the bankrupting costs of long-term care because there is no affordable alternative.

Health care takes 14 percent of our gross domestic product—more than in any other developed nation. Americans pay the highest medical bills in the world, and the bills keep rising. From 1980 to 1993, the average family's health costs rose from $1,749 a year to $5,190. At that rate, average family cost will be more than $11,000 a year in another 6 years.

All that expense might be worth it if America led the world in the lifespan for adults or in low infant mortality rates. But it does not.

Statistics can guide policy, but people are not statistics. They are human beings who experience illness as individuals and as members of families. The question is whether the money we all pay into our system delivers to those who need it the care they need when they need it at a price they can afford. The answer to that question is, No, our system does not do that.

For people with comprehensive coverage, the system works well. For Members of Congress, Federal workers, State employees, the employees of most large corporations, an accident or illness is compensated by insurance, and the individual is not bankrupted. His or her family does not face the loss of a home or the erosion of a lifetime's savings.

But for many other people, the story is far different. For them, the difference between financial security and financial devastation can be as simple and dramatic as an auto accident or a weak heart valve. That is not fair or right. That is why we need reform.

My proposal builds on the strengths of our system and tries to eliminate its weaknesses. It builds on the existing American system of private insurance. I propose to expand the system to those not now included—Americans who cannot afford insurance, people with an illness that insurance companies will not cover, people between jobs. I propose to place most of the persons now covered under Medicaid into the same system of private insurance and care as the rest of the population.

My bill includes all of the insurance market reforms on which there is broad agreement. Insurance companies will not be allowed to reject applicants for preexisting conditions. Insurance will travel with the person so Americans will not be locked into a job. Policy renewal will be guaranteed so people who fall ill are not cut off from coverage when they need it most.

My bill creates incentives for cost control through the competitive pressures of employers and consumers seeking lower price coverage. Private price competition among insurers is the best way to determine where the fat lies in insurance coverage and where the most cost effective shakeouts can occur. As long as there are incentives to look for price economies, the private system will shake out those who cannot compete by price. My

bill is designed to encourage that process because that is the best way to serve the public.

As a backup mechanism, there is an assessment on high-cost insurance plans whose prices rise too quickly. It will mean that insurance companies will become more price sensitive because high-cost plans will be unattractive to the middle class, which is the principal market for their product. My bill also lays the groundwork for universal coverage through a voluntary system which includes purchasing cooperatives, market incentives and targeted subsidies.

Based on discussions with the Congressional Budget Office, I am confident that its provisions will assure that 95 percent of all Americans will be covered by guaranteed portable renewable insurance over the course of the next 6 years.

I want to repeat that: The Congressional Budget Office's preliminary estimate is that under this plan 95 percent of all Americans will be covered by the year 2000.

I have included a backup mechanism in the bill, if for some unforeseeable reason fewer than 95 percent are covered by then. But I believe the CBO estimate that this bill will achieve 95 percent coverage in a definite neutral way is sound.

Americans pay more for health care than any other people, without getting the universal care commonplace in other countries. That does not have to continue. We can get better care for our health dollar.

All of the plans put forward so far recommend that the reforms be phased in. The President's plan includes a 4-year phase-in period, the House bill 5 years.

My plan phases in even more slowly. That is a realistic recognition of the enormously complex task of modifying the health care system. It makes sense to do this carefully and make certain it is done right.

Health insurance for all Americans is the key to reform. I repeat that. I believe that. It is essential. Health insurance for all Americans is the key to reform. Without it, we face a continuation of cost shifting and other problems. We must assure health insurance for our citizens.

We have a system today where some have coverage and some do not. Everyone who today has health insurance is subsidizing those who do not. That is what is called cost shifting. Doctors, hospitals, clinics, all other health care providers compensate for unpaid care by charging more to the people who have insurance. The added charge is not paid by the insurance companies, it is added to the premiums that are paid by every insured family and individual.

Americans with health insurance pay as much as 30 percent more for their coverage, a hidden tax to pay for cost shifting. The only thing that can cure cost shifting is universal coverage. The claim that we can reach universal coverage with incremental changes in law is wrong. We have to make coverage available. We also have to make it affordable. To make insurance more affordable, my bill provides for the States to create voluntary regional or statewide health purchasing cooperatives. These will be community-rated purchasing co-ops covering no fewer than 250,000 persons. Health insurance purchasing co-ops will not be allowed to turn down qualified applicants, and they will be required to offer a choice of plans to all buyers. So workers in small companies will have the same range of choices as do all others.

Any American in a community-rated insurance pool, in essence any American who does not work for a large corporation that provides health coverage to its workers and who wants to do so, anyone in that situation will be able to enter the Federal Employee Health Benefits Plan. It offers many different plans among which to choose. It is a good system for the insurers and for those who are insured.

If it is good enough for us and for all Federal employees, it is good enough for, and should be available, to all Americans who do not have coverage through their jobs.

My plan will help make better insurance available to those who work and the families who depend on them. In addition to employees, there are millions of Americans who are self-employed and millions more who are out of work or between jobs. In addition, there are those covered by Medicaid, the joint Federal-State system of health care for the poor.

My plan will integrate all of these people into a national system of private insurance. Unless we do so, the cost shifting that has sent insurance costs skyrocketing will continue and working families will pay more and more of the hidden tax of the health care bills of those who are not insured.

Many people will need some subsidy to afford health care coverage. My bill extends those subsidies on a sliding scale to those who qualify. It will include tax benefits for the self-employed beyond what is available to them today. This will not create a new obligation on the Federal or State Government. It will reorganize the obligations that taxpayers are already shouldering through the Medicaid system and through cost shifting to pay for the care of the uninsured.

The current poverty level for a family of four is about $14,800. My bill will provide that by 1997 people at or below the poverty level will be helped to buy private insurance. This will end the acute-care costs of the Medicaid Program, which these people receive today, and will place them into the same systems of coverage and care as the rest of the population. For families with incomes up to twice the poverty level, there will be a sliding scale of subsidies for the purchase of health insurance.

Also beginning in 1997, the medically needy who are subsidized by some States and those between jobs, would have a 6-month transition to the system, during which their premiums would be fully paid. At the end of the 6-month period, they would face the same benefits and costs as others, based on their incomes.

A major strength in our system is the element of choice. It creates incentives for market-driven efficiencies. Employers can choose the plan they offer their workers by shopping among insurers. Individuals can find a personal physician or decide instead on the certainty of coverage under a health maintenance organization. That element of choice spurs health providers to compete by offering better services and a wider range of options at a better price.

My bill will expand those choices and will increase incentives to compete by price and quality to those offering insurance coverage.

Today most people's health care choices are limited to one plan that their employer offers. My bill requires every employer to offer at least three plans. The employer will not be required to pay any part of the costs of coverage, but will be required to make at least three plans available to everyone. That is going to widen choices for a majority of Americans immediately.

At least one plan will have to be traditional fee-for-service. Other plans could be health maintenance organizations or other group practice programs with more flexibility. The goal is to assure that each worker has the choice of a lower cost plan as well as higher cost options.

A lot of attention has focused on the role of employers in our system, particularly small companies.

Most Americans do not work for small companies, but for those who do and for the people who employ them, the current health care system is a nightmare of unfairly allocated administrative costs, unaffordable rates and medical redlining, where all the workers in a company are refused coverage because one of their coworkers has a health condition.

As much as 40 cents of every health insurance dollar paid by a small company goes to administrative costs. Smaller firms face rates 30 to 35 percent higher than larger firms for the same coverage.

By letting every company with fewer than 500 employees—that is every small business in the country—buy insurance through health insurance purchasing cooperatives, my bill gives smaller firms the bargaining strength that only large ones have today. And it

means they can offer their employees the same range of choices that other workers have.

Because I believe primary and preventive care is the key to solving enormous cost problems in our health care system, I have designed my program to focus in particular on pregnant women and on those 18 years of age and younger.

The costs of low-birthweight babies in this country are astronomical. Many infants weighing a few pounds at birth cost all of us hundreds of thousands of dollars for immediate intensive care. They often demand many more thousands of dollars a year throughout their lives for the physical or developmental problems that accompany low birthweight.

Much of this additional care and its costs are preventable if the mothers of these children have decent prenatal care. The General Accounting Office found that 63 percent of women who are on Medicaid or have no insurance do not get proper prenatal care. About ⅛ in eight has a low birthweight baby as a result. The annual cost was estimated to be $3.3 billion 10 years ago. It is higher today and it will climb even higher if we do nothing.

So my bill focuses on this need, because correcting the lack of preventive care for young pregnant at-risk women is the right thing to do, and is cost-effective.

Mr. President, and Members of the Senate, I have a daughter of child-bearing age. Were she to become pregnant, it would be unthinkable for me that she would not be able to see a doctor during her pregnancy, and I know in my heart and soul that it would be unthinkable for every Member of this Senate. If a daughter of any Member of this Senate became pregnant, it would be unthinkable that she should not see a doctor. And yet, what is unthinkable that she should not see a doctor. And yet, what is unthinkable for us is the reality for thousands of young at-risk women. We cannot let this situation continue. We can do the right thing and save our society billions of dollars.

In addition, because preventive and primary care reduces costs for everyone, my bill's benefits package will not require copayments for preventive care. It creates an incentive for persons to have regular annual checkups and to seek early care.

My bill is intended to integrate everyone into a system where everyone who uses a service pays some part of the cost. That way, all of us have an incentive to find ways to reduce these costs. It is an incentive for greater responsibility. It will not work with all people. It is not foolproof. But it will help because it rests on the common sense and self-interest of ordinary people.

The keys to health care reform today are access, affordability, and universal coverage. Those who say the problem is access, not price, are mistaken. It is both access and price.

Senator BOXER described an all too common occurrence, one that happened in California. She told of a young man, 19 years old, a high school football star, who was stricken with cancer. His only chance of overcoming the cancer was a bone-marrow transplant. But his health insurance did not cover it.

Sick, dying of cancer, he and his family were forced into the all-too-common spectacle of advertising their need and raising money to meet the costs.

Sick people and their families should not have to make a public appeal for money so they can have the medical treatment they need.

Americans are generous and these fund-raising appeals often succeed. But I ask each Senator to ask himself or herself what price do they demand of the sick people forced to undertake them? High health care costs are driving Americans to choices that none of us should have to make.

A great deal of attention in this debate has focused on employer mandates—the requirement that in the future, all employers provide what the majority of workers enjoy today—health insurance coverage through the workplace.

Argument against employer-provided health insurance are the great smokescreen in the health care debate. I have visited with and spoken with the owners of small businesses all across this country. If there is one thing most of them would like to do it is to offer health insurance to their employees. They know them. They know their families.

Most businesses want to provide coverage and will, when they can afford it. It has been an American tradition for half a century. It is something working people expect and employers understand.

My bill provides a system of subsidies and of community-rated insurance that makes it possible, for the first time, for companies to challenge insurers to come down in price for their coverage. It will enable companies to offer health benefits. For companies just starting up or operating with very low profitability, it will permit their employees to select an affordable program to cover their needs.

The politics of health care reform are confusing to most Americans. Much of the confusion is intentional. Those who do not want reform have a stake in confusing the issues and making the idea of reform frightening to as many people as possible.

But what should frighten people—and what does frighten a lot of Americans—is not the change that may come. It is the reality they live with today, where health coverage can be abruptly terminated for a whole family because one child suffers an illness, where a whole firm can be denied affordable coverage because one worker has a health condition, where a breadwinner does not dare to look for new job, for fear that health coverage will not be available. That is what should, that is what does scare most people.

Health care reform is much more than a political debate. It is about a fundamental reality in every human life.

If the States can demand that auto insurers cover the risks resulting from bad driving behavior—behavior that can be controlled and influenced and prevented—it is not beyond our ability to require health insurance companies to cover those whose conditions often do not rise from their behavior but from circumstance and just plain bad luck.

My bill will do this. Insurers will not be able to reject a person because the person had the bad luck to be born with a physical malfunction or to contract a disease in childhood, or to suffer an accident with long-term effects, or for any other reason.

There is a crisis in American health care. It is a crisis of affordability and access. It has to change. I have proposed legislation which I believe will meet the need, and which will make the change with the least disruption to the parts of the system that work well for millions of Americans.

Our country has too many people who are victims of disease but who are much more victimized by the system of insurance and health care than they ever could be by their medical condition.

Human beings can fight disease and often do. What people cannot fight are rules and regulations and policies driven by a desire to avoid risk and cost, and directed at the most vulnerable persons among us—those who are sick. We should not ask Americans to fight this system any longer. We have it within our ability to correct what is wrong. We have it within our ability to create a system whose focus is on people.

We have the ability and today, thanks to President Clinton's efforts, we have the public's attention as well.

It is time to act. The bill I will introduce is a good starting point for action. I look forward to the debate. I welcome constructive suggestions and alternatives. Let us debate and amend. But in the end, let us do what is right for the American people.

Mr. President, I ask unanimous consent that two documents, one entitled "Sources of Mitchell Health Care Reform Bill," 2 pages in length, and one entitled "Mitchell Health Care Legislation, Executive Summary," 21 pages in length, be printed in the RECORD immediately following my remarks.

Mr. President, I thank my colleagues for their attention.

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

SOURCES OF MITCHELL HEALTH CARE REFORM BILL

1. FINANCE COMMITTEE

The following provisions are taken directly, or with minor modification, from the Finance Committee bill:

1. Medicaid/Medicare.
2. Financing Mechanisms.
3. Cost Containment.
4. Subsidies for Low-income Pregnant Women and Children.
5. Benefit Approach.

2. LABOR COMMITTEE

The following provisions are taken directly, or with minor modification, from the Labor Committee bill:

1. Public Health Infrastructure.
2. Workforce Priorities.
3. Quality Improvement.
4. Consumer Protections.

3. FINANCE AND LABOR COMMITTEES

The following provisions are blended provisions based on the Finance and Labor Committees bills:

1. Insurance Market Reforms.
2. Health Insurance Purchasing Cooperatives.
3. Low-income Subsidies.
4. Federal Employees Health Benefits Program.
5. Long-Term Care.
6. Academic Health Centers/Graduate Medical Education.
7. Fraud and Abuse Program.

4. OTHER PROVISIONS

The following provisions were not included in either Committee, or if included, have been subject to modification.

1. Medicare Prescription Drug Benefit.
2. Expanded Coverage:

Additional Coverage for Pregnant Women and Children.

Coverage for Temporarily Unemployed, Uninsured Workers.

Incentives for Employers to Expand Coverage to Additional Workers.

3. Backup Mechanism to Enable Coverage of the Remaining Uninsured.

MITCHELL HEALTH CARE LEGISLATION—EXECUTIVE SUMMARY AUGUST 2, 1994

1. EXPANDING COVERAGE

The objective of this health care reform plan is to provide universal coverage through a system of insurance market reforms, voluntary purchasing cooperatives, and incentives and subsidies to those who need them.

The Congressional Budget Office's preliminary estimate is that, if this plan is enacted, 95 percent of all Americans will have health insurance by the year 2000 with no increase in the federal deficit. The plan will further establish a procedure to provide thereafter health insurance to all Americans.

A. *Subsidies Under a Voluntary System.*—Targeted subsidies will be available to encourage certain low income individuals and some firms to purchase insurance. These subsidies would be targeted to people who do not have health insurance coverage today.

For low income individuals:

Low-income families. Beginning in 1997, low income individuals and families will receive a subsidy worth a fixed percentage of the average premium in a health care coverage area. For those below 100 percent of the Federal poverty level, the subsidies will cover the full cost of health insurance coverage. The value of the subsidy will be phased out between 100 percent and 200 percent of poverty.

Low income pregnant women and children. Beginning no later than 1997, pregnant women and children under 19 with incomes up to 185 percent of poverty will be eligible to receive subsidies equal to 100 percent of the premium. The subsidies will be phased out between 185 percent of poverty and 300 percent of poverty. Community rated health plans will be required to offer two additional categories of coverage: single child and multiple child, so that child only policies are available in the market.

Cash assistance recipients. Beginning with the January 1, 1997 abolishment of the acute care portion of Medicaid for AFDC, all AFDC cash assistance recipients will receive subsidies equal to 100 percent of the premium.

Former non-cash Medicaid eligibles. Beginning in 1997, individuals who would be medically needy or other non-cash recipients under the current Medicaid program (except pregnant women, infants and children) will receive subsidies covering 100 percent of the premium for six months, then will be treated the same as others based on income.

Outreach and enrollment. To maximize health insurance coverage, low income individuals eligible for full subsidies (below 100% of poverty generally, and below 185% of poverty for pregnant women and children) will be permitted to enroll in a health plan at any time of the year (others may enroll only during the 30 day enrollment period). Any pre-existing exclusion rules that apply to the newly insured will be waived for these individuals, and a new system will be developed to sign up such individuals for health insurance coverage when they seek health care service at a hospital or clinic.

Temporarily unemployed, uninsured. Beginning in 1997 individuals who were full time employees, insured for at least six months will be eligible for enhanced income protection subsidies to purchase insurance. Under this program, unemployment insurance benefits and wages earned in a month up to 75 percent of the poverty level, will be disregarded for purposes of determining eligibility for low income subsidies. Individuals will be eligible for this program for up to six months or until they find other full time work. This assists temporarily unemployed individuals purchase insurance by disregarding a portion of their income for the year so that they are eligible for the low income subsidies.

For employers:

Employers who expand coverage to additional workers. Beginning in 1997, employers who expand coverage to all their employees in a specific class (i.e., full time, part time) will receive subsidies to make their employees' premiums more affordable. Employers will pay the lesser of 50 percent of the premium or 8 percent of each newly insured employee's wages. The employee will pay 50 percent of the premium. Workers with incomes under 200 percent of poverty eligible for the individual subsidies described above. This subsidy will be available to employers for a maximum of five years.

B. *Trigger to a Requirement.*—On January 15, 2000, the National Health Care Cost and Coverage Commission will determine whether the voluntary system has achieved 95 percent coverage.

First Alternative—Coverage Target Achieved. If the Commission determines that, on a nationwide basis, at least 95 percent of all Americans had health coverage, it will send recommendations to the Congress on how to insure the remaining uninsured individuals. Congress will consider legislation to insure the remaining uninsured under an expedited process that requires committees to discharge by a certain date and that limits its floor debate. The legislation will be fully amendable and require the President's signature. No further action is required.

Second Altenative—Coverage Target Not Achieved. If coverage is below 95 percent, the Commission will send to Congress by May 15, 2000 one or more legislative proposals on how to insure the remaining uninsured individuals. Congress will consider legislation to insure the remaining uninsured under an expedited process that requires committees to discharge by a certain date and that limits floor debate. The legislation will be fully amendable and will require the President's signature. If universal coverage legislation is not enacted by December 31, 2000, an employer requirement will go into effect on January 1, 2002 in those states with less than 95 percent coverage.

C. *Nature of Requirement.*—If a requirement is triggered, employers with 25 or more employees will have to pay 50 percent of their employees' premium costs, with the employee paying the remainder. Firms employing fewer than 25 workers will be exempt from an employer requirement. Individuals will be required to have health insurance. Under a requirement, the targeted subsidies available under the voluntary system will be replaced with general subsidies designed to make insurance costs affordable.

Employees with Adjusted Gross Income under 200 percent of poverty will be subsidized on their 50 percent share of the premium on a sliding scale basis, so that those with incomes up to 100 percent of poverty will pay no more than about 4 percent of income, rising to no more than 8 percent of income by 200 percent of poverty. No family, regardless of income, will pay more than 8 percent of income on their 50 percent share of the premium.

Non-workers and those in exempt firms will receive the same subsidies for their 50 percent share of the premium as employees in covered firms. Those below 200 percent of income will receive additional subsidies (on a sliding scale) to make the remainder of the premium affordable.

2. CONTROLLING HEALTH CARE COSTS

A. *Premium Assessment.*—A 25 percent assessment would be imposed on "high cost" health plans to the extent their costs exceed a target cost. The initial target for community rated plans would be based on average per capita health care costs in the particular community rated market area for 1994 trended forward at the rate national health expenditures increase. The target rate of growth thereafter would be CPI plus 3.0 percent for 1987, 2.5 percent for 1988 and 2.0 percent thereafter. The initial target for experience rated plans would be based on each plan's actual experience from 1997–1999, and then will increase generally by the same target growth rate that applies to community rated plans.

Plans in a community rated area where the average premium is less than the target would not be subject to the assessment. The health plan would pay half the assessment and collect the other half from providers in reduced reimbursements. The Secretary of the Treasury will have the authority to adjust the reference premium to reflect changes in demographic characteristics and health status. The tax would apply to community-rated plans after 1996 and to experience-rated plans after 1999.

B. *National Health Care Cost and Coverage Commission.*—A National Health Care Coverage and Cost Commission will be established to monitor and make recommendations with respect to trends in health insurance coverage and costs. The Commission

will consist of seven members to be appointed by the President and confirmed by the Senate.

Beginning in 1998, the Commission will issue annual reports detailing trends in health care coverage and costs, broken down nationally, by state, and by health care coverage area.

Among other things, the Commission will report on:

Demographics and employment status of the uninsured and reasons why they are uninsured;

Structure of health delivery systems;

Status of insurance market reforms;

Development and operations of health insurance purchasing cooperatives;

Success of market mechanisms in expanding coverage and controlling costs among employers and households;

Success of high cost health insurance premium tax in controlling costs;

Success and adequacy of subsidy program in expanding coverage through employers and households;

The Commission will also issue findings on the per capita cost of health care, including the rate of growth by type of provider, by type of payor, within States and within health care coverage areas. Such findings will also include the expected rate of growth in per capita health care costs, the causes of health care cost growth, and strategies for controlling such costs.

Beginning on January 15, 1999, the Commission will report each year on the affordability of coverage for families and employers and on the success of market incentives and other provisions of this legislation in achieving cost containment. If the Commission finds that coverage is unaffordable or that cost containment efforts are unsuccessful, it will make recommendations for improvements.

If the Commission finds that fewer than 35 percent of those eligible to enroll in the community-rated health plan are able to enroll in a plan with a premium at or below the target premium for the area, then the Commission will consider and recommend to Congress a means of controlling health care cost growth to the target set in this legislation or to an alternative target if the Commission determines that would be more appropriate. Congress shall consider such Commission recommendation under the same expedited procedures as it considers the Commission recommendation for achieving universal coverage. Consideration of such recommendations under such procedures will not occur more than once in a Congress.

3. INSURANCE MARKET REFORMS

A. *Market segments and boundaries.*—Firms with fewer than 500 workers and individual purchasers (self-employed, nonworkers, AFDC-eligibles) will be in the community rated pool. Firms with 500 or more workers, as well as Taft-Hartley plans and rural cooperatives with 500 or more members, will be permitted to self-insure or purchase experience-rated coverage.

B. *Community rating requirements.*—Community-rated plans could modify their rates based on coverage category (e.g., single, family, etc.), geography, and age (with 2:1 band for population under 65 years of age until 2002). Each community-rated health plan will be required to establish a single set of rates for the standard benefits package applicable to all community-rated eligible individuals and groups within the community rating area.

States draw boundaries for community rating areas. In drawing such boundaries, states cannot subdivide metropolitan areas and must assure that a community rating area contains at least 250,000 individuals.

C. *Guaranty fund.*—States shall be required to establish guaranty funds for all community-rated health plans and in-state, self-insured plans based on federal standards. The Department of Labor would establish standards for and operate a guaranty fund for multi-state self-insured plans.

D. *Health Insurance Purchasing Cooperatives (HIPCs).*—The plan allows for multiple, competing, voluntary HIPCs. States certify HIPCs to serve state-established community rating areas. States may certify more than one HIPC for each such area. HIPCs must be non-profit. States and local governments will be allowed to sponsor or establish HIPCs. If a HIPC is not available in a community rating area, the Federal Employees Health Benefits Program (FEHBP) will be required to establish or sponsor HIPCs in such unserved areas (see FEHBP below).

HIPCs will be responsible for entering into agreements with plans and employers; enrolling individuals in plans; collecting and distributing premium payments; coordinating out-of-coverage with other HIPCs; and providing consumer information on plans' quality and cost.

HIPCs must accept all eligible individuals and firms; provide enrollees a choice of at least 3 plans, including 1 Fee For Service (FFS), 1 Point of Service (POS), and 1 HMO. Requirement of 3 plans could be waived by Governor in rural areas, but FFS must always be available. The Secretary of Health & Human Services will set fiduciary standards for HIPCs. HIPCs will be permitted to negotiate discounts with plans reflecting economies of scale in administration and marketing.

E. *Employer Responsibility.*—Small employers (firms with less than 500 workers) must offer to their employees a HIPC. They may also offer a choice of at least three plans (including an FFS, POS, and HMO) to their employees. These small firms could choose from among the HIPCs in their community rating area.

In order to qualify for an employer premium contribution, employees will be required to purchase health insurance through the three plans or the HIPC chosen by their employer. If an employer chooses to offer an HIPC that is not the FEHBP HIPC in the area, that employer's employees also could choose from the plans offered by the FEHBP HIPC and still qualify for any employer premium contribution.

Large employers (firms with 500 or more workers) must offer a choice of at least three plans (including an FFS, POS, and HMO) to their employees. Large employers can purchase experience-rated health plans or self-insure. Large employers can join together to form large employer purchasing groups, but cannot join HIPCs.

F. *Self-insured plans.*—In general, self-insured plans must comply with the above responsibilities and reforms, including employer and individual premium contribution requirements, coverage of a comprehensive package of benefits, guaranteed issue and renewal, and pre-existing condition limits.

G. *FEHBP.*—The Office of Personnel Management will designate a state-certified health insurance purchasing cooperative in each area as the FEHBP HIPC. If a state-certified HIPC is not available, OPM will be responsible for setting up an HIPC. An HIPC run by OPM would have all of the powers of a state-certified HIPC.

Federal workers will select plans through their local FEHBP HIPC. Premiums for federal workers will be based on the current methodology and will not be age-adjusted. OPM will implement rules to blend premiums for federal workers with premiums for non-federal individuals over time. Federal workers and non-federal individuals will pay the same community-rated premium upon the phase-out of age-rating in 2002.

Workers in firms with less than 500 workers, nonworkers, AFDC recipients, the self-employed can also purchase coverage from the same plans as federal workers through the FEHBP HIPC, but at the age-adjusted community rate. National employees plans (e.g., Treasury) will have a one year transition before they are opened to non-federal individuals.

The federal government and employee and retiree representatives will negotiate to decide whether the federal government will offer and contribute towards supplemental benefits above the standard benefit package for federal workers.

H. *Risk Adjustment.*—Risk adjustment will occur between community-rated health plans to account for differences in health costs that result from differences in their enrollees' health status, demographics, socioeconomic status, and other factors. Community rated health plans must also participate in a mandatory reinsurance program run by the states.

In addition, experienced rated plans will be required to make transfers to the community rated plan pools to adjust for the increased costs in the community rated pools.

I. *Family Coverage for Individuals up to Age 25.*—To further maximize coverage, health plans must allow unmarried children to be covered under parents' policies until they turn 25.

4. NATIONAL HEALTH PLAN STANDARDS

A. *State Certification of Plans.*—States will certify health plans based on federal guidelines. Health plans will be subject to the following market reforms: guarantee issue and renewal, open enrollment, limit pre-existing condition exclusions to six months, and exit from market rules. Supplemental health benefits plans must be priced and sold separately from the standard health plan.

B. *Any-Willing-Provider.*—The plan does not include "any-willing-provider" provisions. The anti-discrimination provision prohibits a provider network from discriminating against providers on the basis of their profession as long as the state authorizes that profession to provide the covered services. However, this provision does not require standard health plans to include in a network any individual provider or establish any defined ratio of different categories of health professionals.

C. *Balance Billing.*—Each standard health plan must have arrangements with a sufficient number and mix of health professionals that will accept the plan's payment rates as full.

D. *Access to Specialized Treatment Expertise.*—Standard health plans that use gatekeeper or similar process must ensure that such a process does not create an undue burden for enrollees with complex or chronic health conditions. Each standard health plan must demonstrate that enrollees have access to specialized treatment expertise.

E. *Utilization Management.*—Each standard health plan must disclose the protocols and financial incentives which they are using to control utilization and costs.

5. BENEFITS PACKAGE

A. *The Benefit Package.*—There are 16 legislatively-defined categories of covered services in a "standard" benefits package, including:

1. Hospital services;
2. Health professional services;
3. Emergency and ambulatory medical and surgical services;
4. Clinical preventive services;
5. Mental illness and substance abuse services;
6. Family planning and services for pregnant women;
7. Hospice services;
8. Home health services;
9. Extended care services;
10. Ambulance services;
11. Outpatient laboratory, radiology and diagnostic services;
12. Outpatient prescription drugs;
13. Outpatient rehabilitation services:
14. Durable medical equipment, prosthetics and orthotics;
15. Vision, hearing, and dental care under 22 years of age;
16. Investigational treatments.

The scope and duration of services are not specified in legislation, but will be defined by a National Health Benefits Board. For mental illness and substance abuse, the board is instructed to seek parity (same copays, coinsurance, deductibles). If the Board cannot initially design a benefit package with parity, it is permitted to place limits, first on hospitalizations and subsequently on outpatient psychotherapy for adults. No copayment will be required for clinical preventive and prenatal services.

B. *Cost sharing schedules.*—The value of the standard benefits package will be equivalent to the actuarial value of the Blue Cross/Blue Shield standard option under FEHBP. The Benefits Board will specify three cost sharing schedules:

A low cost sharing schedule, resembling an HMO.

A high cost sharing schedule, resembling fee-for-service.

A combination cost sharing schedule, resembling a point-of-service plan, in which in-network services would have lower cost sharing schedules similar to an HMO or PPO, and out-of-network services would have higher cost sharing schedules like fee-for-service.

C. *The "alternative standard" benefits package.*—Individuals will have the option of purchasing an alternative benefits package. With a higher deductible, this plan will be offered at a lower actuarial value than the standard plan. While it resembles a catastrophic plan in the size of the deductible, it differs in that it must cover all 16 categories of services. It will not be offered through employers, and supplemental policies will not duplicate services or pay for cost sharing below the deductible. Enrollees selecting this plan will be included in the community rating pool. These provisions are designed to limit the potential for risk selection.

D. *National Health Benefits Board.*—The seven member National Health Benefits Board will determine the scope and duration of services and the details of each cost sharing schedule. In addition, the Board will develop criteria and procedures for defining medical necessity and appropriateness. Members will be appointed by the President, with the advice and consent of the Senate, to staggered six year terms.

E. *Cost Sharing Subsidies.*—AFDC recipients enrolling in a lower or combination cost sharing plan at or below the average premium in the area will pay on 20 percent of the regular cost sharing schedule (e.g., instead of a $10 copay, they pay only $2). If no such plan is available, they can get a cost-sharing reduction in a higher cost-sharing plan (e.g., instead of a 10 percent copay on a doctor's visit, they pay only $10).

For people who are under 150 percent of poverty and are not receiving AFDC, cost sharing is only available if they cannot buy a lower or combination cost sharing plan. If such a plan is unavailable, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

For people under 150 percent of poverty and not working, cost sharing is only available if they cannot buy a lower or combination cost sharing plan. If such a plan is unavailable, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

For people under 150 percent of poverty who enroll in a plan through an experience-rated employer, no cost sharing is available if the person can enroll in any lower or combination cost sharing plan offered by their employer through which they enroll. Otherwise, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

6. EXPANDED BENEFITS FOR THE ELDERLY AND DISABLED

A. *Long Term Care.*—The plan includes several new initiatives to provide long term care services to the elderly and disabled. New programs include:

New Home and Community Based Care Program. The plan provides a capped federal entitlement to states to provide home and community-based services to individuals with 3 or more deficiencies in Activities of Daily Living (ADLs), severe mental retardation or severe cognitive or mental impairment regardless of age or income. Funding over the 1995–2004 period totals $48 billion.

Long Term Care Insurance Standards. Private long term care insurance policies will be subject to Federal model standards to be developed by the Secretary of HHS in consultation with the National Association of Insurance Commissioners within one year of enactment.

Tax Clarification for Long Term Care Insurance. Expenses for long term care services and insurance premiums shall be treated as medical expenses. Other tax clarifications are also included.

Life Care Program. The plan establishes a voluntary public insurance program to cover the costs of extended nursing home stays. Individuals will be given the option of purchasing coverage when they reach the age 35, 45, 55, or 65. The program is self-financed and pre-funded.

PACE Program. The plan expands Medicaid's Program of All-Inclusive Care for the Elderly (PACE), increasing authorized demonstration sites from 15 to 40. The Secretary of HHS is required to develop provider and service protocols.

B. *Medicare Drug.*—This initiative gives Medicare beneficiaries three drug benefit options: a fee-for-service plan, a Prescription Benefits Management (PBM) option, and an HMO option—all effective January 1, 1999. Under this new program, beneficiaries will have an annual deductible to be determined by the Secretary of HHS; a 20 percent copay; and an annual out-of-pocket limit of $1,275 in 1999. Medicare Part B premium would be increased by 25 percent of the cost of the drug benefit estimated to be about $10 in 1999, with Medicare paying the remaining 75 percent.

Drug manufacturers will sign rebate agreements with HHS in exchange for no formulary under the fee-for-service option. Drugs used as part of HMOs or capitated drug plans and drugs for the working aged will not be subject to rebates.

Rebates for single source and innovator multiple source drugs will be 15 percent; rebates for generic drugs would be 6 percent; the Secretary could establish a sliding scale from 2 percent to 15 percent for generic drugs as long as the effect was equal to a 6 percent. From 1999–2004, this program will cost $94.4 billion.

C. *Enrollment of Medicare Beneficiaries into Managed Care Plans.*—Individuals who become eligible for Medicare may choose to remain in their current health plans if such plan is a Medicare Risk Contracting plan under section 1876 of the Social Security Act, or is eligible to become such a risk contract. Payments will be made beginning in the first month in which the individual is Medicare eligible. Payments under this provision shall be the sole Medicare payment to which the beneficiary is entitled.

7. MEDICAID PROGRAM

A. *Integration of Medicaid Recipients.*—(See Coverage section above) Under this plan, the AFDC and non-cash population will be integrated into the general health care reform program and treated like other low-income people eligible for federal subsidies and enrollment in certified health plans. States will be required to make general maintenance of effort payments for services covered under the standard benefit package.

AFDC. Cash Medicaid recipients (AFDC) will be eligible for full premium subsidies as will other families with incomes less than 100 percent of poverty;

Non-cash. Full premium subsidies will be available to all pregnant women and children up to age 19 with incomes up to 185 percent of poverty.

B. *Cost sharing for Integrated Medicaid recipients.*—AFDC recipients in HMOs will pay only 20 percent of the cost sharing amount otherwise required. If no HMO is available, AFDC recipients will pay the cost sharing amount that would apply in an HMO, but not reduced to 20 percent. Noncash recipients will receive cost sharing subsidies like all other low-income individuals—up to 150 percent of poverty.

C. *State and Federal Premium Payments for Integrated Recipients.*—The federal government will pay all of the premium subsidies for integrated Medicaid recipients. States will pay the federal government maintenance of effort payments for these integrated recipients. Specifically:

Cash: States will be required to pay an amount equal to: (1) the adjusted, fiscal year 1994 per capita cost of services covered (based upon the state's current Medicaid payment rates) under the standard benefits package for AFDC recipients multiplied by (2) the number of AFDC recipients receiving a subsidy in a given year. Disproportionate Share (DSH) payments attributed to Cash recipients are not included in the calculation of a state's per capita cost of covered services. The per capita cost of services in fiscal year 1994 will be adjusted for future years by the growth in per capita national health expenditures.

Non-cash: States will be required to make general maintenance of effort payment for services (based upon the state's current Medicaid payment rates), in fiscal year 1994, covered under the standard benefits package for non-cash recipients. State DSH payments which are attributable to the noncash population will be included in the calculation of general maintenance of effort payment. Such MOE payments will increase at the same growth rate as national health expenditures.

D. *SSI/Disabled Medicaid Recipients.*—SSI/Medicaid recipients will not be included in

the community rated market. Medicaid will be retained as a separate program, with current rules, for SSI and long-term recipients. States will have the option to pay a per capita amount for each SSI/Medicaid recipient (who is not enrolled in Medicare) that chooses to enroll in a certified health plan. States shall negotiate with certified health plans for rates for the SSI population that are separate from the community rate. No certified plan can have more than 50 percent of its enrollment composed of SSI/Medicaid recipients.

E. *Dual Eligible Recipients.*—Dual eligibles—persons eligible for Medicare and Medicaid—will remain under Medicaid and not be enrolled in health plans.

F. *Non-SSI, Non-Dual Eligible Recipients aged 18-64 years.*—These individuals will remain under Medicaid, but as the low-income subsidies phase-in (e.g., 100 percent to 125 percent), these recipients (currently about 240,000) shall be integrated and treated like other low-income individuals.

G. *Supplemental Services.*—Current Medicaid rules governing covered services and recipient eligibility will be retained to cover services not otherwise provided through certified health plans. The current flexibility provided to States to determine the optional services and groups it will cover will also be retained.

H. *Miscellaneous Medicaid.*—In addition, the plan:

Allows states to expand eligibility for home-based Medicaid long term care services for single persons by increasing the asset limit from $2,000 to $4,000 for services including personal care attendant services, the Sec. 1915 waiver programs, and the frail elderly home care option.

Eliminates the institutionalization requirement as a condition of eligibility for habilitation services under a home and community based waiver.

Eliminates the "cold bed" rule for home and community based waiver programs.

Requires State Medicaid programs to reimburse directly for services by certified registered nurses and anesthetists or clinical nurse specialists that are authorized to practice under State law, whether or not they operate under the supervision of a physician or other health care provider.

8. HEALTH WORKFORCE AND EDUCATION/RESEARCH

A. *Graduate Medical Education/Graduate Nurse Training/Academic Health Centers/Medical Schools*

Creation of an all-payer account. Currently, only Medicare supports graduate medical education. By supplementing this with a 1.5 percent premium assessment, and allocating the total pool to residency training programs and academic health centers, this plan spreads medical education costs across all of the insured.

Health professional workforce policy. This initiative consists of: (1) phasing in primary care residency positions from 39 percent in 1998 to 55 percent in 2001; (2) reducing the number of total residency positions from 134 percent of US medical school graduates in 1998 to 110 percent in 2001; (3) creating a National Council on GME to implement these policies and modify the goals beginning in 2001; and (4) providing transitional funding to residency programs which reduce their number of residency positions.

Creation of funding accounts. Funding by account is as follows:

GME Account: $27 billion over 5 years;

AHC Account: $42 billion over 5 years;

Medical School Account: $2 billion over 5 years;

Graduate Nurse Training Account: $1 billion over 5 years;

Dental School Program: $250 million over 5 years;

Public Health School Program: $150 million over 5 years.

B. *Biomedical and Health Services Research Fund*

Creation of Biomedical and Health Services Research Fund. This fund is designed to supplement National Institutes for Health and Agency for Health Care Policy and Research funding, which is currently sufficient to finance only a fraction of the peer-reviewed grant submissions.

Funding levels. The plan's premium assessment will provide additional funding for the NIH and AHCPR.

9. HEALTH INFRASTRUCTURE

A. *Public Health Service.*—To strengthen our public health infrastructure, the following programs receive new or additional funding:

Core Public Health. Grants to states to improve and monitor the health of population.

Health Promotion and Disease Prevention. Grants to eligible providers to develop and implement innovative community-based strategies to provide health promotion and disease prevention activities.

Mental Health and Substance Abuse. Grants to help integrate state MH/SA services with those provided by health plans.

Comprehensive School Health Education. Grants to state education agencies to integrate comprehensive education programs in schools.

School-Related Health Services. Grants to develop school-based or school linked health service sites.

Other initiatives. Other initiatives include domestic violence and womens' health; occupational safety and health; and border health improvement.

B. *WIC.*—The bill supplements existing appropriations for the supplemental food program for women, infants and children (WIC) with $2.4 billion in direct appropriations which will allow the program to serve all of the pregnant women, infants and children eligible for WIC benefits.

C. *Indian Health Service.*—The programs of the Indian Health Service are strengthened with grants and loans to improve and expand services. Greater flexibility allows the programs of the IHS to contract with health plans to provide services and receive third party reimbursement. Furthermore, IHS health programs are eligible to apply and receive funding under the public health programs.

10. UNDERSERVED/ESSENTIAL COMMUNITY PROVIDER

A. *Access to Care for the Underserved Population*

Community Health Plan and Network Development. Grants and contracts are awarded to eligible health providers to develop community health groups to provide the standard benefit package in health professional shortage areas or directly to medically underserved population. Grants and contracts are also made to expand existing health delivery sites and services, and to develop new ones.

Capital Development. Grants and loans are awarded for the capital costs of developing community health groups and expanding or developing new health delivery sites.

Enabling and Supplement Services. Grants and contracts are awarded to eligible entities to assist in providing enabling and supplemental services to the underserved population.

B. *Essential Community Providers.*—Designed to ensure that vulnerable populations enrolling in health plans have access to traditional, safety-net providers (e.g. community health centers and AIDS providers), the essential community provider provision requires that health plans offer a contract or agree to pay essential community providers in their service area.

The plan creates two categories of essential community providers and requires all plans to contract with every essential community provider listed in Category I and one from each category listed in Category II.

Category I include Migrant Health Centers, Community Health Centers, Family planning grantees, Homeless Program Providers, Ryan White grantees, State HIV drug programs, Black Lung Clinics, Hemophilia Centers, Urban Indian programs, STD and TB Clinics, Nonprofit and public DSH hospitals, Native Hawaiian Health Centers, School Based Health Service Centers, Public and nonprofit mental health/substance abuse providers, Runaway homeless youth centers and transitional living programs for homeless young Public and nonprofit Maternal and Child Health providers, Rural Health Clinics, and Programs of the Indian Health Service.

Category II providers include Medicare dependent small rural hospitals and Children's hospitals.

In 5 years, the Secretary will make recommendations to Congress on whether or not the program should continue; and if so, with what changes. Congress would then vote up or down on the recommendation.

11. STATE OPTIONS

States that want to move ahead early with the implementation of Federal health care reforms will be allowed do so on a fast track. The bill will also allow states to implement a single payer system. Existing state waivers will be grandfathered.

12. QUALITY AND CONSUMER PROTECTION

A. *Quality*

National Quality Council. This 15 member Council, comprised of consumers, health plans, purchasers, States, health care providers and quality researchers, will set national quality goals/standards and establish regional and State-based organizations to implement the goals.

Performance Measures for Health Plans. The National Council will establish performance measures for health plans, including measures of access (waiting times, patient/provider ratios), consumer satisfaction, health plan report cards for consumers and quality improvement. The Council will conduct surveys of consumers and develop quality reports.

Research in quality improvement. The Council will make research recommendations to the Agency for Health Care Policy and Research for outcomes studies and guideline development.

Quality Improvement Foundations. These non-profit, non-governmental, regional or State-based organizations will get federal grants for quality improvement (involving health plans and practitioners) on the local level. QIFs will look at practice variations between health plans and different geographic regions. They will engage practitioners in lifetime learning techniques and provide technical assistance to health plans to develop their own quality improvement programs.

Consumer Information and Advocacy Centers. These State-based, non-profit, non-governmental organizations will disseminate consumer report cards about health plans;

open local offices to hear grievances; and provide consumer education. A National Center for Consumer Information and Advocacy will also be established to train local and State-based consumer advocates.

The National Practitioner Databank. This Bureau of Health Professions databank will be opened for public access.

B. *Simplicity.*—The enormous amounts of paperwork that insurance companies now generate and process will be reduced through streamlined and computerized systems. Many consumers will no longer have to submit claims to their insurance company, but if they did, they could use one, uniform claim form. Insurance companies will be required to use a standard form to inform consumers of their claim status.

Because benefits will be standardized, consumers will be able, for the first time, to easily compare plan prices. To help consumers compare prices, states will be required to distribute easy-to-read and understand report cards on health plans.

Consumers will also have information about the results of health care provided by each provider and plan in their area which can help consumers make informed choices when selecting providers and plans.

C. *Remedies and Enforcement.*—These provisions require health plans to give notice of benefit denial, reduction or termination and to establish an expeditious appeals process within the plan. They will create State-run claims review offices to provide claimants with options for alternative dispute resolution. State and federal judicial review are also possible.

D. *Fraud and Abuse.*—The bill creates an all-payer fraud and abuse program, including State-based fraud control units funded wholly from settlement revenues.

E. *Privacy.*—Consumers are assured that their individually identifiable health information is protected by a law which prevents inappropriate disclosures and punishes unlawful disclosures severely. Consumers have uniform legal rights to inspect, get copies, and make corrections or amendments to their health records. Patients have the right to restrict disclosure of specific health information.

F. *Antitrust.*—Repeal of the McCarran Ferguson Act with respect to health insurance will subject health insurance companies to antitrust actions. The bill does not include increased antitrust exclusions or safe harbors.

G. *Malpractice Reform.*—Malpractice reforms include: mandatory State-based alternative dispute resolution; a certificate of merit requirement; a limitation on the amount of attorney's contingency fees to 33 percent of the first $150,000; and 25 percent above that amount; and periodic payment of awards. Studies and demonstrations are proposed on medical negligence; the use of practice guidelines; and enterprise liability demonstration project.

13. RELATED ISSUES

A. *Veterans Affairs*

Enrollment. The Department of Veterans may offer a VA health plan to veterans, individuals eligible for CHAMPVA, and their family members.

Eligibility. All compensable, service-connected, disabled veterans, low-income veterans, veterans who are ex-POWs, and veterans who have been exposed to Agent Orange, radiation, or unknown toxins in the Persian Gulf, who chose a VA health plan will receive the standard benefits without a cost-sharing requirement.

Fiscal Matters. VA will continue to receive appropriations to its medical care account. VA will retain the premiums, copayments and deductibles it receives from higher income, nonservice-connected veterans and dependents, the premiums VA collects from the sale of supplemental health plan, and payments it receives from other plans for the furnishing of care to other plans' patients. It also will retain Medicare reimbursement for care furnished to higher-income, Medicare eligible veterans who have no service-connected disabilities, and dependents. (VA health plans will be considered to be Medicare HMOs).

Administration Flexibility. VA health plans will have expanded authorities to enter into contracts and sharing agreements for the furnishing of services to enrollees. VA facilities not operating as part of a VA health plan will continue to furnish health care services under current law.

Note: Because of technical Budget Act requirements, certain VA program changes may have to be made on the floor.

B. *Worker's Compensation.*—The plan creates a Commission on Worker's Compensation Medical Services consisting of 15 members charged to consider a number of issues related to the relationship between health plans and workers compensation medical services. The Commission will report to the President, as well as the House Education and Labor and Senate Labor and Human Resources Committees by October 1, 2000. The plan also authorizes a number of State demonstrations with respect to work related illnesses and injuries.

14. FINANCING

This plan will not increase the federal deficit over the 1994-2004 period.

A. *Medicare.*—Medicare savings total about $54 billion over five years, and $278 billion over 10 years. About $140 billion of that total would finance a new Medicare prescription drug benefit and a long term care entitlement for the elderly and the disabled.

B. *Medicaid.*—The plan eliminates the acute portion of Medicaid and instead provides subsidies for low income individuals to purchase health insurance from private plans (this new subsidy absorbs $387 billion in ten year Medicaid savings). In addition, the plan saves another $129 billion in Medicaid DSH payments by reducing the number of uninsured. Finally, states will be contributing about $232 billion in subsidy payments over the ten year period which represents their existing Medicaid costs, growth each year at national health expenditures. Since states' existing Medicaid costs are growing at a much higher 12 percent, this MOE represents substantial savings for the states.

C. *Revenues*

Increase in excise taxes on tobacco products. The plan will increase the excise tax rate on small cigarettes by 45 cents per pack (for a total of 69 cents per pack), phased in over five years on the following schedule: 15 cents in 1995 and 1996, 25 cents in 1997, 35 cents in 1998, and 45 cents in 1999 and thereafter. The excise tax on other currently taxable tobacco products would be increased proportionately.

Premium assessment. The proposal will impose a 1.75 percent assessment on health care premiums. The net revenues derived from the imposition of this premium assessment would be used to fund the Graduate Medical Education and Academic Health Centers Trust Fund and the Biomedical and Behavioral Research Fund. The assessment would be effective after December 31, 1995.

High cost premium assessment. As discussed earlier, a 25 percent assessment would be placed on health plans to the extent they exceed the target rate of growth.

Cafeteria plans. The proposal will eliminate the exclusion for employer-provided accident or health benefits provided through a cafeteria plan or flexible spending arrangement, effective on and after January 1, 1997, with a delayed effective date for collectively bargained plans.

Finance Committee provisions. The following provisions are taken from the Finance Committee bill.

Additional Medicare Part B premiums for high-income individuals.

Increase excise tax on certain handgun ammunition.

Modification to self-employment tax treatment of certain S corporation shareholders and partners.

Extending Medicare coverage of, and application of hospital insurance tax to, all state and local government employees.

Modify exclusion of employer-provided health care.

Repeal of volume cap for 501(c)(3) bonds.

Self-employed deduction.

The 25-percent deduction for health insurance expenses of self-employed individuals will be reinstated and extended for taxable years beginning after December 31, 1993, and before January 1, 1996. Beginning January 1, 1996, self-employed individuals who are not eligible for employer-subsidized health coverage will be entitled to deduct up to 50 percent of the cost of the standard benefits package. In the case of a self-employed individual with at least one full-time employee who has been employed for at least 6 months, the 50-percent deduction will be reduced based on the contributions the self-employed individual makes with respect to coverage of the individual's employees.

Limitation on prepayment of medical insurance premiums.

Tax treatment of voluntary employer health care contributions.

Tax treatment of organizations providing health care services and related organizations.

Tax treatment of long-term care insurance and services.

In addition, reserves for long-term care insurance contracts that constitute noncancellable accident and health insurance generally will be determined in accordance with the reserve method prescribed by the National Association of Insurance Commissioners (NAIC).

Tax treatment of accelerated death benefits under life insurance contracts.

Definition of Employee.

Increase in penalties for failure to file correct information returns with respect to non-employees.

Nonrefundable credit for certain primary health services providers.

Expensing of medical equipment used in health professional shortage areas.

Tax treatment of funding of retiree health benefits.

Tax credit for the cost of personal assistance services required by individuals.

Disclosure of taxpayer return information for administration of health subsidy programs.

15. CONTROLLING FEDERAL COSTS—FAIL SAFE

The bill's fail safe guards against future unanticipated deficit increases due to this legislation. After enactment, OMB will publish an initial health care baseline including its most up-to-date estimate of the net outlays and revenues from the health reform bill, as well as all Medicare and Medicaid spending. Starting with fiscal year 1997, the President's budget will include an updated version of the initial health baseline. If the

updated baseline (excluding non-health-reform-related differences) exceeds the initial baseline, reform spending (with the exception of the subsidies for pregnant women and children) would be cut back to eliminate the overage. Changes made by the sequester order would not be permanent, and the sequester would be suspended during a recession.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators allowed to speak therein.

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

GENERAL AVIATION REVITALIZATION ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1458) entitled "To amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Aviation Revitalization Act of 1994".

SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitation period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

SEC. 3. OTHER DEFINITIONS.

For purposes of this Act—

(1) the term "aircraft" has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

(2) the term "airworthiness certificate" means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) or under any predecessor Federal statute;

(3) the term "limitation period" means—

(A) 15 years with respect to piston-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft;

(B) 18 years with respect to turboprop-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(C) 22 years with respect to other general aviation aircraft (including jet-powered general aviation aircraft) and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term "type certificate" means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) or under any predecessor Federal statute.

SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.

AMENDMENT NO. 2440

(Purpose: To revise the meaning of the term "limitation period")

Mr. FORD. Mr. President, I move that the Senate concur in the amendment of the House with a further amendment, which I now send to the desk on behalf of Senator KASSEBAUM.

The motion was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table.

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

The amendment (No. 2440) as agreed to, is as follows:

On page 4, strike line 15 and all that follows through page 5, line 3, and insert in lieu thereof the following:

(3) the term "limitation period" means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

PROVIDING FOR THE TRANSFER OF THE OLD U.S. MINT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 508, S. 2185, a bill to require the Secretary of the Treasury to transfer to the Administrator of the GSA the Old U.S. Mint in San Francisco.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2185) to require the Secretary of Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2441

Mr. COHEN. Mr. President, on behalf of Senator MCCAIN, I send an amendment to the desk and ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2441) was agreed to, as follows:

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(a) IN GENERAL.—Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

Mr. MCCAIN. Mr. President, I would like to ask the chairman of the Committee on Environment and Public Works if he would be willing to respond to a question regarding the committee's authorization on June 23, 1994, for

up to $17.9 million in repairs at the Old U.S. Mint Building in San Francisco.

Mr. BAUCUS. I would be pleased to respond to the Senator's question.

Mr. McCAIN. I would like to ask the chairman if the committee's authorization is intended to compel the administration to request funding for repairs to the Mint Building or for the General Services Administration to submit a prospectus if the project is not deemed a priority repair project of GSA.

Mr. BAUCUS. The Committee on Environment and Public Works, which exercises jurisdiction over the GSA Federal buildings program, regularly reviews public building projects. I can assure the distinguished Senator from Arizona that the committee resolution authorizing safety repairs to the Old Mint Building, contingent upon receipt of a prospectus, does not compel the GSA to submit a prospectus for repairs if the agency does not deem the repair project a priority using the appropriate criteria. Furthermore, the committee authorization does not alter the Administration's process for review and submission of a prospectus.

Mr. McCAIN. I thank the Chairman.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading, was read the third time, and passed, as follows:

(The bill was not available for printing. It will appear in a future issue of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

CONSUMER PROTECTION TELEMARKETING ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 868) to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 868) entitled "An Act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact with the consumer. Telemarketers also can be very mobile, easily moving from State to State.

(2) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Federal Trade Commission are not sufficient to ensure adequate consumer protection from such fraud.

(3) Consumers and others are estimated to lose $40 billion a year in telemarketing fraud.

(4) Consumers are victimized by other forms of telemarketing deception and abuse.

(5) Consequently, Congress should enact legislation that will offer consumers necessary protection from telemarketing deception and abuse.

SEC. 3. TELEMARKETING RULES.

(a) IN GENERAL.—

(1) The Commission shall prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices.

(2) The Commission shall include in such rules respecting deceptive telemarketing acts or practices a definition of deceptive telemarketing acts or practices which may include acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.

(3) The Commission shall include in such rules respecting other abusive telemarketing acts or practices—

(A) a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy,

(B) restrictions on the hours of the day and night when unsolicited telephone calls can be made to consumers, and

(C) a requirement that any person engaged in telemarketing for the sale of goods or services shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.

In prescribing the rules described in this paragraph, the Commission shall also consider recordkeeping requirements.

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 365 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(d) SECURITIES AND EXCHANGE COMMISSION RULES.—

(1) PROMULGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under subsection (a), the Securities and Exchange Commission shall promulgate, or require any national securities exchange or registered securities association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by persons described in paragraph (2).

(B) EXCEPTION.—The Securities and Exchange Commission is not required to promulgate a rule under subparagraph (A) if it determines that—

(i) Federal securities laws or rules adopted by the Securities and Exchange Commission thereunder provide protection from deceptive and other abusive telemarketing by persons described in paragraph (2) substantially similar to that provided by rules promulgated by the Federal Trade Commission under subsection (a); or

(ii) such a rule promulgated by the Securities and Exchange Commission is not necessary or appropriate in the public interest, or for the protection of investors, or would be inconsistent with the maintenance of fair and orderly markets.

If the Securities and Exchange Commission determines that an exception described in clause (i) or (ii) applies, the Securities and Exchange Commission shall publish in the Federal Register its determination with the reasons for it.

(2) APPLICATION.—

(A) IN GENERAL.—The rules promulgated by the Securities and Exchange Commission under paragraph (1)(A) shall apply to a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company, or any individual associated with a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company. The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in the preceding sentence.

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) the terms "broker", "dealer", "transfer agent", "municipal securities dealer", "municipal securities broker", "government securities broker", and "government securities dealer" have the meanings given such terms by paragraphs (4), (5), (25), (30), (31), (43), and (44) of section 3(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (25), (30), (31), (43), and (44));

(ii) the term "investment adviser" has the meaning given such term by section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)); and

(iii) the term "investment company" has the meaning given such term by section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)).

(e) COMMODITY FUTURES TRADING COMMISSION RULES.—

(1) APPLICATION.—The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in subsection (f)(1) of section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a).

(2) PROMULGATION.—Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), not later than six months after the effective date of rules promulgated by the Federal Trade Commission under section 3(a) of the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by any person registered or exempt from registration under this Act in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

"(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

"(A) rules adopted by the Commission under this Act provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 3(a) of the

Telemarketing and Consumer Fraud and Abuse Prevention Act; or

"(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.".

SEC. 4. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under section 3, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) or (f)(2) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under subsection (a) or (f)(2) against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

SEC. 5. ACTIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under section 3, or an authorized person acting on such person's behalf, may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under section 3, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(c) ACTION BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no person may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(d) COST AND FEES.—The court, in issuing any final order in any action brought under subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(e) CONSTRUCTION.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

(f) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

SEC. 6. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided in sections 3(d), 3(e), 4, and 5, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EFFECT ON OTHER LAWS.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "attorney general" means the chief legal officer of a State.

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description, or illustration of the goods or services offered for sale,

(B) includes the business address of the seller,

(C) includes multiple pages of written material or illustrations, and

(D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

SEC. 8. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 9. ENFORCEMENT OF ORDERS.

(a) GENERAL AUTHORITY.—Subject to subsections (b) and (c), the Federal Trade Commission may bring a criminal contempt action for violations of orders of the Commission obtained in cases brought under section 13(b) of the Federal Trade Commission Act (15 U.S.C. 53(b)).

(b) APPOINTMENT.—An action authorized by subsection (a) may be brought by the Federal Trade Commission only after, and pursuant to, the appointment by the Attorney General of an attorney employed by the Commission, as a special assistant United States Attorney.

(c) REQUEST FOR APPOINTMENT.—

(1) APPOINTMENT UPON REQUEST OR MOTION.—A special assistant United States Attorney may be appointed under subsection (b) upon the request of the Federal Trade Commission or the court which has entered the order for which contempt is sought or upon the Attorney General's own motion.

(2) TIMING.—The Attorney General shall act upon any request made under paragraph (1) within 45 days of the receipt of the request.

(d) TERMINATION OF AUTHORITY.—The authority of the Federal Trade Commission to bring a criminal contempt action under subsection (a) expires 2 years after the date of the first promulgation of rules under section 3. The expiration of such authority shall have no effect on an action brought before the expiration date.

SEC. 10. REVIEW.

Upon the expiration of 5 years following the date of the first promulgation of rules under section 3, the Commission shall review the implementation of this Act and its effect on deceptive telemarkettng acts or practices and report the results of the review to the Congress.

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee's Consumer Subcommittee, I am extremely pleased to present for full Senate consideration legislation to protect consumers and legitimate businesses from fraudulent telemarketers. Addressing telemarketing fraud has been

one of my legislative priorities since I entered the Senate. I know firsthand from my constituents of the unscrupulous tactics that many of these fraudulent telemarketers employ. I am delighted that our legislative effort, the Telemarketing and Consumer Fraud and Abuse Prevention Act, stands an excellent chance to become law this summer.

In each Congress since I arrived in the Senate, Senator MCCAIN and I have introduced legislation to combat the pernicious problem of telemarketing fraud. I note that in this Congress, our original Senate bill is cosponsored by members of the Consumer Subcommittee—Senators GORTON, BURNS, and DORGAN—as well as Senator BINGAMAN. Our bill unanimously passed the Senate on June 30, 1993, and the text of our bill was substituted for the text of the House-passed telemarketing fraud bill, H.R. 868, sponsored by Congressman SWIFT. House and Senate staff were able to successfully resolve the differences between the two bills. I am pleased that the final version sends a strong message to fraudulent telemarketers that such conduct will not be tolerated and will be subject to swift enforcement action.

While there are, of course, many legitimate telemarketers, the industry has also unfortunately become rife with scam artists and other crooked operators. Some estimates of the costs associated with such fraud are as high as $40 billion per year. In telemarketing fraud, consumers are typically offered goods and services at incredibly low prices, or are enticed into purchases through offers of luxury items or fabulous trips, at little or no cost. Consumers often are required to pay in advance, and are generally asked to pay by credit card.

As we have learned, however, the offer is indeed too good to be true. Sometimes the items are never received, and even when delivered, the consumer discovers that it is not of the promised value. In some instances, persons are promised a valuable prize, if a purchase is made. The make the purchase, but never receive the prize. These fraudulent schemes have involved the sale of vitamins, diet aids, credit card protection programs, luggage, vacations, and office machine supplies, to name just a few.

According to a 1992 study conducted by Louis Harris and Associates on behalf of the National Consumers League, over one in six Americans find it very difficult to resist a telephone solicitation. Coupled with the fact that less than one-third of the people who have been cheated out of money ever report their losses to authorities, it is clear that fraudulent telemarketing has become a lucrative business for unscrupulous operators to prey on innocent victims, especially the elderly.

At a Consumer Subcommittee hearing that I chaired on March 18, 1993, the Federal Bureau of Investigations shared with us the results of a 3 year undercover sting operation that it had conducted, appropriately named "Operation Disconnect." The FBI's successful efforts to target illegal telemarketers were the result of an innovative undercover approach and its ability to use the telemarketer's own greed and desire for quick profits against him. The results of the FBI's efforts illustrate the need to attack this serious and growing problem from a variety of fronts, and to pursue coordinated law enforcement efforts when possible.

Recently, the Committee has seen a new type of telemarketing fraud emerge involving charitable solicitations, often referred to as telefunding. These telefunding schemes often mirror the typical telemarketing prize promotion scheme, in which a caller guarantees that the consumer has won one of several valuable prizes or thousands of dollars in cash. To receive the prize, the consumer need only make a small contribution to a worthwhile charity. The catch, however, is that the consumer does not, in fact, receive a valuable prize. The small contribution is often a thousand dollars or more, and the only people that benefit from the generous contribution are the telefunders themselves!

These schemes are particularly troubling because they play not only upon the consumer's desire to win big, but also appeal to the consumer's generosity and human compassion, taking advantage of the very qualities that should be encouraged and rewarded, not exploited. I have chaired two hearings on telefunding fraud—one on October 11, 1993 in Las Vegas and another on March 24, 1994—and am pleased to note that testimony at those hearings indicated that our telemarketing fraud bill could provide assistance to the Federal Trade Committee [FTC] and the States in their efforts to combat telefunding fraud.

Clearly, the time is right for passage of our telemarketing fraud legislation. Our legislation requires the FTC to promulgate telemarketing rules to prohibit deceptive and abusive telemarketing acts and practices. The FTC shall include in such rules a definition of deceptive telemarketing acts and practices. We also direct the FTC to develop a requirement that the telemarketer may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of his or her privacy rights; restrictions on the hours when unsolicited call may be made to consumers; and recordkeeping requirements

Our bill also requires the FTC to expressly prohibit credit card laundering. Credit card laundering is the practice by which fraudulent telemarketers, sometimes acting in conjunction with third-party intermediaries as brokers, persuade merchants with access to the credit card system to submit, in the name of that merchant, the fraudulent telemarketers' sales drafts into the credit card system. This practice enables the fraudulent telemarketer to avoid the safeguards the credit card systems and financial institutions have established to preclude access by the fraudulent telemarketer to the credit card system.

The FTC's prohibition of credit card laundering should be broad enough to cover all of the parties involved in credit card laundering—the fraudulent telemarketer, the merchant submitting the fraudulent telemarketer's sales drafts into the credit card system, and any third-party intermediaries causing or arranging the credit card laundering. This credit card laundering prohibition, however, should not cover the activities of a legitimate servicing organization which provides services directly to merchants. It should not cover a practice expressly permitted in a valid agreement with a member of a credit card system or the member's authorized agent. An agreement in violation of the rules of the applicable credit card system should not constitute a valid agreement for these purposes. In addition, this prohibition generally should not apply to a messenger or other delivery service that is used by a telemarketer merely to physically transport sales drafts.

Our bill also expands the FTC's authority to obtain enforcement of its court orders through criminal, as well as civil, contempt proceedings. I am pleased to note that our previous Senate-passed provisions extending the FTC's enforcement authority with respect to such issues as venue and subpoena power have been included in the recently completed conference on FTC reauthorization, and therefore need not be included in this bill.

Additionally, our bill permits State attorneys general and other authorized State officials to bring civil actions in U.S. district courts for violations of the telemarketing rules promulgated by the FTC, and the FTC is permitted to intervene in such actions. This provision, however, in no way prohibits State officials from proceeding in State court on the basis of any State civil or criminal statute.

Our bill also permits private parties to bring lawsuits to enforce the newly promulgated FTC telemarketing rules directly against those engaged in telemarketing fraud, if the amount of damages exceeds $50,000. This private party right of action is intended to include a financial institution that has incurred loss or damage. Finally, the bill creates jurisdiction in Federal courts for actions brought under the bill.

I would like to commend my colleague on the House side, Congressman SWIFT, for his continuing interest in

the issue of telemarketing fraud and his diligence in moving this legislation forward. I also would like to express my appreciation to all the Senate cosponsors of this bill—Senators MCCAIN, GORTON, BURNS, DORGAN, and BINGAMAN—for their able assistance.

Mr. President, this legislation is vitally important. So often, the activities of the Congress seem far removed from the every day lives of our constituents. With the passage our bill, however, Congress will have acted to directly protect the consumers of all the 50 States, including the citizens in my own State of Nevada, from becoming unwilling victims of unscrupulous and fraudulent telemarketers. I ask for the unanimous support of my colleagues and ask that the text of H.R. 868 be printed in the RECORD.

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering H.R. 868, legislation designed to protect consumers and legitimate businesses from the ever-growing abuses and costs associated with telemarketing fraud. Such abuses cannot be permitted to go unchecked. According to some estimates, the costs from this fraudulent activity are in the billions—possibly as much as $40 billion.

Under fraudulent telemarketing practices, consumers are frequently lured into purchasing goods and services with offers of investment opportunities, fabulous prizes, deluxe vacations, and even household products such as vitamins, all at little or no cost. Consumers often are required to pay in advance, and are generally asked to pay by credit card. The offer is often, however, too good to be true. Sometimes the item is never received, and even when delivered, the consumer discovers that it is not of the promised value. In some instances, an individual is promised a valuable prize if a purchase is made, but never receives the prize. In addition, the required purchase typically costs much more than the value of the item. The most common mode of telemarketing fraud is fly-by-night, boiler room, anonymous operators, whose contact with the consumer is limited to the telephone, and whose mobility and anonymity preclude the consumer from having any recourse if the goods are deficient or undelivered.

Despite the difficulties in locating and pursuing fraudulent telemarketers, both State and Federal law enforcement agencies continue to report that telemarketing fraud remains high on their list of enforcement priorities. H.R. 868 will aid their efforts by enhancing the Federal Trade Commission's ability to pursue fraudulent telemarketers, and creating a new cause of action for State attorneys general and private parties with damages exceeding $50,000.

The original Senate bill, S. 568, was favorably reported by the Commerce Committee on May 25, 1993, and its text was passed unanimously by the full Senate on June 30, 1993, as a substitute for the text of the House-passed telemarketing bill, H.R. 868. The telemarketing bill now before the Senate is the culmination of many years of efforts by both the Senate and House Commerce Committees and is a measure that is certainly ripe for passage. I commend Senator BRYAN, chairman of the Consumer Subcommittee, for his untiring work on this bill.

I would note also that both the House and Senate are poised, after more than a decade, to reauthorize the FTC. The Congress recognizes the important role this agency can play to increase competition in the marketplace and improve the lives of consumers. The Telemarketing and Consumer Fraud and Abuse Prevention Act confirms the commitment by this Congress to assist the FTC in its enforcement efforts, particularly with respect to telemarketing fraud.

Mr. President, I urge my colleagues to support this important consumer protection measure.

Mr. GORTON. Mr. President, as the ranking Republican of the Consumer Subcommittee, I am very pleased that the Senate is considering the conference report on the Telemarketing and Consumer Fraud and Abuse Prevention Act on the floor today. I was a cosponsor of S. 568, the Senate's companion bill which we passed on June 30, 1993 and am delighted that we stand prepared to enact this vital bill to protect American consumers from telemarketing fraud. I also want to acknowledge the efforts made over the last two Congresses to advance this legislation and applaud the work of the distinguished chairman, Senator BRYAN and my colleague on the subcommittee, Senator MCCAIN. I also wish to commend my colleague from Washington State, Representative AL SWIFT, who tirelessly pursued enactment of this legislation on the House side. AL is retiring at the end of this year. I will miss him as a friend, as well as a strong partner and very effective advocate for consumer issues.

Mr. President, telemarketing is one of the fastest growing industries in the United States, involving more than 140,000 firms employing 2 million people. Although the vast majority of telemarketing firms are legitimate, fraud is a major problem. According to a recent report by the House Committee on Government Operations, telemarketing fraud may cost Americans as much as $40 billion annually.

One survey conducted by the National Consumers League found that 92 percent of all Americans had been contacted about a guaranteed prize. Most of those who responded received no prize at all. Those who did receive a prize found that it was 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. These criminals also avoid soliciting in the State in which they are located, since interstate prosecution is much tougher for State law enforcement officials than intrastate prosecution.

Both the magnitude and variety of the scams and the difficulty of enforcement make the provisions of this bill crucial to the FTC's ongoing fight against telemarketing fraud. For example, pursuant to this legislation, the FTC will promulgate rules clarifying what telemarketing practices are acceptable and establishing requirements and restrictions that legitimate telemarketers will follow. This is vital to protect every family with a telephone from becoming the victim of unwanted and abusive intrusions which are often coercive or misleading.

Once perpetrators of telemarketing abuse or fraud are targeted, moreover, this bill helps the FTC shut them down. Scam artists are notorious for ignoring FTC "cease and desist" orders and are not afraid of the possibility of civil sanctions because their scams are so lucrative. By allowing for the Commission to bring criminal contempt charges under certain circumstances, this legislation enhances the sanctions available to the FTC for use against those that repeatedly violate Commission orders.

As a former attorney general, I believe that one of the most important elements in this bill is the expansion of enforcement power at the State level. For the first time, State attorneys general can bring scam artists who have defrauded their citizens to justice, even when the scam artists are located outside their State. Individuals, too, will have standing to sue in Federal court on their own behalf, if the amount in controversy exceeds $50,000.

Mr. President, the business of ripping off Americans is booming. I am pleased that we are moments away from passing legislation that will strengthen the enforcement efforts to the FTC and the States in their fight against telemarketing fraud.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

SANTA FE NATIONAL FOREST BOUNDARY ADJUSTMENT ACT

RIO PUERCO WATERSHED ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 510 and 512 en bloc; that the committee amendments, where appropriate, be agreed to; that bills each be read a third time and passed and the motion to reconsider be laid upon the table en bloc; and that any statements appear at the appropriate place in the RECORD.

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

So the bills (S. 1897 and S. 1919) were deemed read the third time and passed as follows:

S. 1897

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 "Santa Fe National Forest Boundary Adjustment Act of 1994".

SEC. 2. ACQUISITION OF LANDS.

(a) IN GENERAL.—(1) The Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretary") are authorized to acquire the lands and interests therein identified on the map entitled "Santa Fe National Forest Boundary Expansion—1994", and dated June 13, 1994, by donation, purchase with donated or appropriated funds, or exchange: *Provided, however,* That no lands or interests therein may be acquired except with the consent of the owner thereof.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C.

(b) WITHDRAWAL.—Upon the acquisition of the lands referred to in subsection (a) by the Secretary or the Secretary of the Interior, and subject to valid existing rights, such lands shall be withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

SEC. 3. ADDITION OF LANDS TO SANTA FE NATIONAL FOREST.

(a) IDENTIFICATION OF LANDS FOR TRANSFER TO BLM.—As soon as practicable after the lands referred to in section 2(a) have been acquired by the Secretary of the Interior, the Secretary shall, in consultation with the Secretary of the Interior, identify appropriate lands within the boundaries of the Santa Fe National Forest (hereinafter referred to as the "forest") which are suitable for transfer to the Secretary of the Interior, to be administered by the Bureau of Land Management.

(b) TRANSFER OF JURISDICTION.—Upon the mutual agreement between the Secretary and the Secretary of the Interior on the lands to be transferred from the administrative jurisdiction of the Secretary to the Secretary of the Interior—

(1) administrative jurisdiction over all of the lands and interests therein acquired by the Secretary of the Interior pursuant to section 2(a) shall be transferred to the Secretary; and

(2) administrative jurisdiction over the lands identified by the Secretary and the Secretary of the Interior pursuant to subsection (a) shall be transferred from the Secretary to the Secretary of the Interior, to be administered by the Bureau of Land Management.

(c) MODIFICATION OF FOREST BOUNDARIES.—(1) Upon the transfer of lands as provided in subsection (b) the boundaries of the forest shall be modified accordingly.

(2) Upon the acquisition of lands by the Secretary pursuant to section 2(a), the boundaries of the forest shall be modified to reflect the inclusion of such lands within the boundaries of the forest.

(d) MANAGEMENT.—(1) Upon the inclusion of the lands and interests therein referred to in section 2(a) within the boundaries of the forest, the Secretary shall administer such lands in accordance with the laws, rules, and regulations applicable to the National Forest System: *Provided,* That the Secretary shall manage such lands so as to preserve and maintain the natural and scenic resources of the area.

(2) The Secretary shall not convey by exchange, sale, or otherwise, the lands or interests therein added to the forest pursuant to this Act.

(e) EFFECTIVE DATE.—For purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(1)), the boundary of the Santa Fe National Forest, as modified pursuant to this Act, shall be treated as if it were the boundary as of January 1, 1965.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

S. 1919

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 "Rio Puerco Watershed Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of existing communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has damaged the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with the entities listed in paragraph (8), and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 3. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Land Management and in consultation with the Rio Puerco Management Committee established pursuant to section 4, shall—

(1) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, as described in the attached map, including—

(A) current and historical natural resource conditions; and

(B) data concerning the extent and causes of watershed impairment;

(2) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(3) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Rio Puerco Management Committee, shall prepare a report of appropriate alternatives for the improvement of watershed conditions in the Rio Puerco Drainage Basin. The alternatives shall—

(1) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(2) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(3) recommend voluntary implementation of appropriate best management practices on both public and private lands;

(4) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on both public and private lands;

(5) provide for the development of public participation and community outreach programs that would include proposals for—

(A) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(B) involving private citizens in restoring the watershed;

(6) provide for the development of proposals for voluntary cooperative programs among the Rio Puerco Management Committee membership to implement best management practices in a coordinated, consistent, and cost-effective manner;

(7) provide for the encouragement and support implementation of best management practices on private lands; and

(8) provide for the development of proposals for a monitoring system that—

(A) builds upon existing data available from private, Federal, and State sources;

(B) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(C) will provide information to—

(i) assess existing resource and socioeconomic conditions;

(ii) identify priority implementation actions; and

(iii) assess the effectiveness of actions taken.

SEC. 4. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management, and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Soil Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local Soil and Water Conservation Districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

SEC. 5. REPORT.

Two years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives a report containing—

(1) a summary of accomplishments as outlined in section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 6. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall, in cooperation with the State of New Mexico, conduct a study of the Rio Grande from Caballo Lake to Sunland Park, New Mexico. The study shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and restoration of habitat through reintroduction or establishment of appropriate native plant species.

(b) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall transmit the study authorized by this section to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

REMOVAL OF INJUNCTION OF SECRECY—ILO CONVENTION (NO. 150) CONCERNING LABOR ADMINISTRATION

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the ILO Convention No. 150 Concerning Labor Administration (Treaty Document No. 103-26) transmitted to the Senate by the President on July 26, 1994; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President, is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 150) Concerning Labor Administration: Role, Functions and Organization, adopted by the International Labor Conference at its 64th Session in Geneva on June 7, 1978.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed.

As explained more fully in the enclosed letter from the Secretary of Labor, the Current system of labor administration in the United States fully satisfies the requirements of Convention No. 150. Ratification of this Convention, therefore, would not require the United States to alter its law or practice in this field.

Ratificaton of additional International Labor Organization (ILO) conventions will enhance the ability of the United States to take other governments to task for failing to comply with the ILO instruments they have ratified. I recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 150.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 26, 1994.*

WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 504, H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this measure be placed in the RECORD at the appropriate place as if read.

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

So the bill (H.R. 2457) was deemed read the third time and passed.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 374, designating "National Neighborhood Crime Watch Day," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times, passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statements appear in the RECORD as if read.

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

So the joint resolution (H.J. Res. 374) was deemed read the third time and passed.

The preamble was agreed to.

DESIGNATING 1994 AS THE YEAR OF GOSPEL MUSIC

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 157, designating "1994 as the Year of Gospel Music," and that the Senate then proceed to its immediate consideration; that the joint resolution be

deemed read three times and passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statements appear in the RECORD as if read.

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

So the joint resolution (S.J. Res. 157) 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. 157

Whereas Gospel music is a uniquely American art form, one that has provided hope and inspiration for generations of Americans;

Whereas Gospel music is the forerunner of many forms of popular music in the United States;

Whereas Gospel music is an important art form, and a vital part of our cultural heritage; and

Whereas it is in our national interest to promote and preserve Gospel music for generations of Americans to come: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1994 is designated "The Year of Gospel Music", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to mark that year with appropriate ceremonies and activities.

CONCLUSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that morning business be closed.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

THE MITCHELL-CLINTON HEALTH CARE BILL

Mr. GRAMM. Mr. President, the distinguished majority leader has presented his health care bill. And it seems to me that basically what the distinguished majority leader has done is taken the Clinton health care bill, stripped away the title page, and made it 1,341 pages long, and we now have the Mitchell-Clinton health care bill. We have a bill that expands the Government bureaucracy, a bill that expands spending, a bill that taxes health insurance benefits, and a bill that contains many of the basic Clinton components. And the basic Clinton component is to have the Government take over and run the health care system.

We can pass a good health care bill in this Congress, but for us to pass that bill, the President, Senator MITCHELL, and majority leader GEPHARDT are going to have to give up on one dream that they have but a dream that is not shared by the American people, and that is a dream that the Government is going to run the health care system in this country. That dream is never going to come true.

The American people are against it in overwhelming numbers, and they are not willing to turn over the greatest health care system in the history of the world to the Federal Government, or to any other government, for that matter.

So if the President wants a bill, if Senator MITCHELL wants a bill, if majority leader GEPHARDT wants a bill, they are going to have to give up on the central tenet of their bill, and that is a Government-run health care system. That is not going to happen in this Congress, and God willing it is never going to happen in any Congress in the history of the United States of America.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2442

(Purpose: To provide mandatory minimum terms of imprisonment for criminals who use guns and for drug traffickers who use children)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. DOLE, proposes an amendment numbered 2442.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

"Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. . FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

(c) SUPERSEDURE OF OTHER LAW.—The amendment made by subsection (a) supersedes any other law authorizing a downward adjustment of a mandatory minimum term of imprisonment for an offense as described in subsection (a).

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be no less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SUBTITLE E—RULES OF EVIDENCE, PRACTICE AND PROCEDURE

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

Mr. GRAMM. Mr. President, my colleagues and perhaps the people who are following this debate will remember that we passed a tough crime bill in the Senate. That crime bill had a provision that tried to deal with those who use a gun to commit a crime.

When you ask the American people what they are most concerned about with crime, they tell you they are most concerned about violent crime.

So what we offered in the Senate bill was a get-tough provision on people who use firearms to commit violent crimes. We agreed to 10 years in prison without parole for possessing a firearm during the commission of a violent

crime or a drug felony, 20 years for discharging the firearm, life imprisonment for killing someone, and the death penalty in aggravated cases.

That provision was not only adopted in the Senate by an overwhelming vote, but it has been adopted every time that we have debated crime in the last 6 years.

People are outraged about drug pushers who are selling drugs to children and who are using children in drug trafficking. The American people want something done about it, and in the Senate we did something about it: 10 years in prison without parole for using a child in the commission of a drug felony or selling drugs to a child and life imprisonment without parole on a second offense.

Mr. President, that provision was adopted in the Senate overwhelmingly, and it has been adopted in the Senate on numerous occasions. But what happened when the crime bill passed through the Senate and went to the conference with the House bill is that that provision was dropped.

As I am sure many know, despite all the talk about getting tough on crime from the day that Bill Clinton became President until today, he and his Justice Department have fought to overturn mandatory minimum sentencing for drug felons. They have spent every day they have been in office trying to do that. They have sent directives to U.S. attorneys giving them leeway in terms of not prosecuting under our mandatory minimum sentencing provisions and they have worked to overturn minimum mandatory sentencing.

Mr. President, let me go back and make my point, and then I will yield the floor and go back to the Whitewater hearings. I am not leaving out of disrespect to our dear colleague, who is chairman of the Judiciary Committee. We know each other's views very well, and I have the highest respect for him, and I would guess if he and I could have written the final bill I would probably be here on the floor supporting it.

But after we adopted a get-tough bill with mandatory minimum sentencing for people who use guns in violent crimes and with mandatory minimum sentencing for people who sell drugs to minors, those provisions were stripped out of this so-called crime bill, which is now coming back to the Senate, which is now an anticrime bill in many ways.

But the worst provision of that bill goes back to the Clinton agenda that I was speaking about when I yielded to the distinguished Republican leader.

The Attorney General and the President have sought from day one to overturn mandatory minimum sentencing for drug felons. I have fought that effort, but in a bipartisan effort in the Senate to pass a crime bill I reached a compromise with them which was not a compromise that I was happy with but it was a compromise that I was willing to make to get a crime bill, something that I have tried to do for 6 years. Here was my compromise. Leave the law as it is, mandatory minimum sentencing for drug felons, but give the judge a little discretion under the following circumstances.

First, the defendant had no previous criminal record.

Second, the defendant was not a leader in the drug conspiracy.

Third, the defendant was not carrying a gun and no one involved in the crime was armed.

And, fourth, nobody was hurt in the commission of the crime.

Now, under my provision, several hundred people a year would have been exempt from mandatory minimum sentencing out of more than 10,000 people who were charged. I think that ought to tell you something. But that was a compromise I was willing to make.

But what happened, Mr. President? What happened was, when they got to conference, where a small number of Democrats control the votes, my provision was stripped out and a provision was adopted which overturns mandatory minimum sentencing and which works retroactively so that as many as 10,000 drug felons who are currently in the Federal penitentiary could be released under a bill that is being called a crime bill.

Now, if people wonder why there is so much cynicism in America, why people are so outraged with our Government, think about it a minute. The President is talking about this great crime bill that we are getting ready to pass.

How many people know that this great crime bill is overturning mandatory minimum sentencing and is letting people who are currently serving in the Federal penitentiary under a mandatory minimum sentence, many of whom have more than one conviction, out of prison on a retroactive provision that, if used to the maximum extent, could let 10,000 convicted drug felons back out on the streets of America; basically furlough them because we know many of these people are going to go out and do it again. I assert, Mr. President, that the American people do not know that provision is in this bill now.

What I have tried to do today is, I have taken three important provisions that were in our crime bill which have been stripped out and I am offering those provisions, along with Senator DOLE's provisions, as amendments to this education bill because I believe one of the biggest problems in trying to educate our children is the presence of violence in our communities and in our schools.

So I hope my colleagues will adopt this amendment. We have voted on it before. We have adopted it by overwhelming numbers. Unfortunately, because the debate on crime is not in the media, not in those bright areas where the public can see, but in the dark areas where politics as usual still dominates, these provisions were dropped from the crime bill.

Mr. President, I would just say that I have worked for a long time for a crime bill. I worked very closely in the Senate with the distinguished Senator from Delaware. He and I do not agree on everything. But we agreed on what I thought was a good crime bill.

I want people to understand, I am not saying everything about this crime bill is bad. There are a lot of good provisions in the crime bill. But we have larded it up with another $5 billion of social spending on midnight basketball and other things that we defeated in last year's economic stimulus package, and that same old lard is back.

Second, these three provisions that are critically important to getting tough on crime were deleted. So I wanted to give our colleagues an opportunity again today, as I will now on every bill that comes through the Senate that is not an appropriations bill, until we adjourn, I am going to give our colleagues an opportunity to vote on these provisions with some hope that if they are adopted again and if we go to conference on the bills, that at some point, reason and responsibility will prevail and we can bring these provisions back to life—tough mandatory minimum sentencing for thugs who use guns in crime; mandatory minimum sentencing for people who sell drugs to our children or use our children in drug trafficking; and a provision that would overturn the provision in the crime bill which could retroactively go back and let 10,000 drug felons out of prisons.

I feel very strongly about this amendment. I hope it is adopted.

I hope my colleague will forgive me for leaving. I am in the midst of a hearing. He understands I mean no disrespect. I have listened to my colleague on this subject and he has listened to me. And, quite frankly, we have convinced each other on enough things that I think if the two of us had written this bill, we would have a good crime bill and we would both be supporting it.

I yield the floor.

Mr. BIDEN. Before the Senator yields—and I know he has to go back to those hearings—I just want to make one comment and then I will speak in detail, detail meaning 10 or 12 minutes, to the points he raised.

But one of the things that, last time we debated the crime bill and we went to conference a couple of years ago, there was a lot of talk about we just ramrodded this thing through, so on and so forth. This time now, in order to obviate that criticism, we made sure we picked the second biggest room in the House of Representatives, I am told, and C-SPAN televised all of it

from beginning to middle to end, to the point that my dear mother—I know the Senator from Texas is always talking about his mama's gun and how no one is going to take it away.

Well, no one is going to take my mama's television away. She stays up and watches her son Joey into the night. I caused my mother to lose a lot of sleep, going into the night on the crime bill.

I want to assure him that these provisions were detailed openly, in the open, clear light of day and night, and there was no politics as usual.

And with that, I will go to the substance of each of the amendments.

Mr. GRAMM. Your mama did not tell you that you need to listen to that nice man from Texas?

Mr. BIDEN. My mama told me, just be thankful that nice man from Texas, who disagrees with me a lot, does not have his mama's gun when he is debating. That is what my mama told me.

I kid—and I want to say it; I say it enough publicly, and it is said with affection—I occasionally kid and call my distinguished friend from Texas, to distinguish him from Senator GRAHAM from Florida, I refer to him as Barbed Wire GRAMM. And he has never taken offense to that. I want him to know that the distinguished Senator and I have a little bit of disagreement on these bills, but not nearly as much as is portrayed.

Mr. DOLE. Mr. President, I thank the Senator from Texas. I think he is making a very valid point with reference to the matter he just discussed.

Mr. President, I want to say a few words in support of the amendment offered by my distinguished colleague from Texas, Senator GRAMM. Unbelievably, the recent crime conference rejected Republican proposals to establish mandatory minimum penalties for vicious criminals who sell drugs to minors and who use a gun in the commission of a crime.

Another proposal rejected by the conference was one that I offered to the crime bill last November and which passed the Senate by an overwhelming vote of 75 to 19—with a bipartisan group of 39 Republicans and 36 Democrats expressing support. This proposal amended the Federal rules of evidence to allow the introduction of evidence of prior offenses of rape and child molestation in prosecutions for these same offenses. We had a debate on the floor on that. It was adopted again in a bipartisan way.

Ask any prosecutor, and he or she will tell you how important similar-offense evidence can be. In a rape case, for example, disclosure of the fact that the defendant has previously committed other rapes is often crucial, as the jury attempts to assess the credibility of a defense claim that the victim consented and the defendant is being falsely accused.

Similar-offense evidence is also critical in child molestation cases. These cases often hinge on the testimony of the child-victims, whose credibility can be readily attacked in the absence of other corroborating evidence. In such cases, it is crucial that all relevant evidence that may shed some light on the credibility of the charge be admitted at trial.

Unfortunately, Mr. President, the Federal Rules of evidence reflect a general presumption against, let me repeat—against—admitting evidence of uncharged offenses. This presumption has been widely reproduced in State rules of evidence, whose formulation has been strongly influenced by the Federal rules.

Take the 1988 case of Getz versus State. In Getz, the Supreme Court of Delaware overturned the defendant's conviction of raping his 11-year-old daughter because evidence that he had also molested her on other occasions was improperly admitted. The court went on to hold that the disputed evidence was impermissible evidence of "character" and could not be admitted under the State's evidentiary standards. The tragic result: the defendant walked.

Similar tragedies have been repeated in other courts and in other States.

Yes, the Federal rules of evidence have been around since 1975, but that does not mean they should not be changed when the need arises. For when someone is out there committing sex crime after sex crime, committing child molestation after child molestation, it is this Senator's view that this evidence should be admitted at trial without a protracted legal battle over what is admissible and what is not.

If you turn on television today, if you read the morning newspaper, or listen to the radio you have heard the sad story of 7-year-old Megan Kanka, who was recently strangled near her home in Mercer County, NJ. The police have arrested a twice-convicted sex offender. According to press reports, the person arrested for this vicious crime had been sentenced to 10 years in prison, but was released after serving just 6 years.

Should the killer's prior offenses be admitted at trial? You bet. Are these offenses relevant to the charge. Of course.

Mr. President, I am aware that even if my proposal became law, it would affect only Federal cases. State cases would still be governed by State rules of evidence. Nonetheless, the Federal Government has a leadership role to play in this area. Once the Federal rules are amended, it's possible—perhaps even likely—that the States may follow suit and amend their own rules of evidence as well.

So, Mr. President, I urge my colleagues to support the Gramm amendment. It restores some of the mandatory minimum penalties. It restores the important changes to the Federal rules of evidence. And it undoes some of the damage caused by the conference committee.

THE PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am happy to have this statement as part of my amendment. It tries to get at exactly the repeat, violent felons; what I am trying to get at. I appreciate the Republican leader's leadership as usual.

Mr. BIDEN. Mr. President, I have just received a copy of the amendment. And I do not say that critically. I say that only by way of explanation, in case I leave something out that I am unaware of that has been included in the amendment.

Let me tell you about three things.

First of all, let me talk about the part I agree with Senator GRAMM about. A number of my colleagues, Senators THURMOND and SIMPSON on the Republican side among others, Senator SIMON and Senator KENNEDY and Senator LEAHY and a number on this side of the aisle, have all found some great difficulty with some of the unintended consequences of minimum mandatory sentences that we have passed in the past. So they came to me when we were debating the crime bill on the floor, Democrat and Republican, and said let us come up with a proposal how to deal with these aberrations. We do not want the second-year medical student who has had an exemplary record, has been a model student, a model citizen, a model child through school, a model young adult, because of being found in a circumstance one time to have to go to jail for 10 years without probation or parole for something that we would not send a dealer to jail for for that long, and so on.

So they came along, both Republicans and Democrats, and said we should have this so-called fix, a circumstance whereby you could review, under certain circumstances, a particular minimum mandatory sentence. I in good faith took that provision worked out by that bipartisan group of Senators to a conference with the House of Representatives. We conferenced for, I do not know, 20, 30 hours, a bill that is 1,100 pages long. One of the few things we could not get the House to agree on was this provision.

Democrats and Republicans in the House of Representatives, led by two conservative Republican crime fighters, Mr. HYDE and Mr. MCCOLLUM—Representatives HYDE and MCCOLLUM, two very conservative Members of the House, along with all the Democrats—did not like the Senate provision on reviewing these sentences and said under these rare circumstances you should be able to review those in the future and retroactively review them. That is where this figure of 10,000 drug dealers being let out of jail comes from.

That is pure hyperbole. It is not what will happen. But I happen, in substance, to agree with Senator GRAMM. I do not think we should have made this retroactive. I think it should have been prospective. But it was made retroactive.

But that is the place from which I depart from Senator GRAMM in agreeing with him on anything else he had to say here. On that one point about being able to look at these minimum mandatory sentences there is no disagreement on whether or not we should look at them. Democrats and Republicans say we should go back and look at them. The disagreement is whether or not it had a retroactive provision; that is, people who may have been unjustly sentenced, sitting in jail, should be able to say: By the way, take a look at my sentence and see whether or not I got a minimum mandatory sentence I should not have gotten.

The Republicans on the House side and Democrats thought that should be done. The Democrats, with the exception of me and one other, thought that should be done. I lost. GRAMM's position lost. The other team won. That means out of a 1,100-page bill, that one paragraph was amended. Big deal.

No. 2, the other Gramm provision of making it a crime with a minimum mandatory sentence of 10 years for anyone 21 years or older to buy even an ounce of marijuana from someone 17 years or younger—this is how his amendment works. If a 21-year-old kid in college bought marijuana from a 17-year-old kid on a college campus, under the Gramm amendment that person, the 21-year-old, must go to jail and serve 10 years, no probation, no parole, no exceptions. And if it happened a second time he must be put in jail for life, no probation, no parole.

All those folks who stole the billions of dollars from the S&L's in Texas —none of them are in jail serving 10 years. None of them are in jail even considering life. But we are going to send a 21-year-old college student to jail for purchasing one ounce of marijuana—for life. An incredibly enlightened position. But that is the aberration on the one side, why we cannot have such a crazy law.

But there is some substance to what the Senator says, and I dealt with that in the bill, at least I attempted to. There are also those 23-year-olds and 25-year-olds who go into schoolyards and sell cocaine, go into schoolyards and sell heroin, go into schoolyards and sell methamphetamines, go into schoolyards and hook young kids on drugs. Now those sons of guns should spend a long time in jail. Nobody should have any sympathy for them. So how, on the one hand, do you deal with a provision in my crime bill which is designed to put those people away and not put away the 21-year-old kid who buys an ounce of marijuana from a 17-year-old kid—all of whom, in the Gramm amendment, would be caught up and swept up in one big net and treated exactly the same? The way to do that, in my view, is that using kids to sell drugs near schools or playgrounds provides triple the penalties otherwise authorized—using a juvenile to sell drugs in a drug-free zone. Right now, if you use a juvenile to go into that schoolyard—and that is how they do it, by the way. It is by peers.

The 30-year-old drug dealer does not go into the schoolyard and say, "By the way, I have some drugs." He goes out and hooks some 17-year-old or 15-year-old or 13-year-old kid and he gets that 17- or 15- or 13-year-old kid to go into the schoolyard and sell his drugs for him. When he does that he is covered, he is not selling the drugs.

Or he gets the young kid to carry drugs. That is where the phrase "mule" came from. Because those kids did not go to jail as long and therefore he does not get nailed.

I want to put that person in jail. Right now that person gets, in Federal court, a minimum of 5 to 6½ years in jail, under the sentencing guidelines. Under the crime bill that just passed out of conference, the maximum penalty for that offense will be tripled—tripled. So the person will get up to 19 years in jail, if a 21-year-old or 30-year-old or 50-year-old goes in and takes my 13-year-old daughter or your 17-year-old son and gets them to sell drugs to other kids. That is treating harshly the person who should be treated harshly in my view.

I realize I get criticized that that is too harsh. I am told constantly that is not fair. I do not have any sympathy at all for an adult using a child to distribute drugs to another child: None, zero. So I make no apologies for that person under the Biden crime bill going to jail for a long, long time.

The second way we took care of what Senator GRAMM is trying to get after with a sledgehammer, we use—not a scalpel but a big Bowie knife: Not precise, kind of harsh, but not a sledgehammer to grab in the net almost totally innocent people. The second way we do this is we not only triple the sentence for using kids to sell drugs, any crime that an adult engages a child in for purposes of committing a crime—any crime, not just drugs—any crime where it involves kids, the current penalty is 5 to 6½ years and we mandate that the Sentencing Commission increases that penalty. It is a mandate.

So, not only do we cover what Senator GRAMM wants covered—and in all fairness he may not know this was in the bill—we pick up not only drug crimes but all crimes where an adult is involved in using a child and increase the penalties.

There is another amendment that we debated hotly. I think it is absolutely, positively the wrong thing to do. It would stand on its head, as they say, 800 years of English jurisprudential thinking on admissible evidence. It says, translated in terms of how it really works, if a man is accused of a crime and the charge is a sex crime against a woman or a child, the way it works now the prosecutor can say: "This person here, John Doe, I allege raped Mary Smith. And John Doe is a bad guy. Your Honor, I want to seek permission to enter into evidence acts, prior convictions or similar crimes to show a pattern and practice that this guy operates under, to prove to you—to lend credibility to the fact that this is the guy who did this to this woman."

Under our system the judge looks carefully at that and says, "Is this a pattern? Does this give you any insight? Is this prejudicial?" Sometimes lets that stuff in and sometimes does not.

What Senator GRAMM wants to do on behalf of Senator DOLE—which we defeated in the conference—is to say the prosecutor can say: "You know, if I can go out and find anybody"—this is literally true now, I am not making this up—"if I can find anybody, from any time in the defendant's past, who alleged that the defendant did anything similar to the crime for which he was charged, I, the prosecutor, can go get that person, bring them into court and say, 'When John Smith, the defendant here who is now 47 years old—when you went out on a date with him when he was 15 years old, what did he do to you?'"

And now a 42-year-old can say, "Well, 27 years ago, I remember John forcibly tried to make love to me."

It is incredibly prejudicial. Under our system, for 800 years, we developed these Rules of Evidence because they work. Why do they work? They get at the truth. That is the purpose of them. And to allow total, uncorroborated, unsubstantiated testimony about something that could have happened—anything—from the day before to 50 years before into a trial, I think, absolutely violates every basic tenet of our system.

Remember, I am the guy who wrote this crime bill. I am not "Mr. Soft On Crime." I am the guy who put these death penalties in this bill. I am the guy who added these penalties for all these other things in the bill. But this is crazy.

If the person has a pattern, if he has been convicted of similar crimes, if he has been engaged in that kind of activity and there have been complaints, there are ways to bring that in. There are ways with our present evidentiary rules to bring that in, as I say, to the Presiding Officer, who is an accomplished lawyer himself. There are ways to do that. But not this, just waiving all existing rules.

One other thing. Let me tell you what we did here. Notwithstanding the

fact I think it is crazy, and that is just my opinion, we have a system whereby when we are going to change the Federal Rules of Evidence—we set up a system a long time ago. The Judicial Conference sets up an advisory committee. The way it works is they suggest changes in the rules, the Judicial Conference meaning Federal judges. We have a system we put in place because it made sense a long time ago. Federal judges come along and say we should change the Rules of Evidence the following way. And then if we, the U.S. Congress, do not act to stop those changes, essentially those changes become law.

So in this case, what I say we should do is let us go to the judges, let us go to the experts and say, "Does this approach of Senator DOLE make any sense? Study it, take a look at it, and come back and tell us whether we should change the Rules of Evidence."

That is how we have changed the Rules of Evidence in the 22 years I have been here. There are no fundamental changes in the Rules of Evidence that have been sui generis, that have been spontaneous, that have come from the floor. They come from legal scholars and judges sitting down and saying we should change the Rules of Evidence the following way.

So if it is any consolation—it probably would not be because I think they will agree with me, but maybe I am wrong—if it is any consolation to my friends on the Republican side, there is the ability in the request of the Senate and the House to ask the Judicial Conference to take a look at these rules changes—and they are, in fact, doing that. That is the orderly way in which we should do this, rather than haphazardly, willy-nilly, on the floor of the U.S. Senate, in a conference on the floor of the Congress, changing these Rules of Evidence, with all due respect, that a lot of people do not fully understand the significance of.

Let me ask a rhetorical question of the Presiding Officer: What do you think would happen if there were no fifth amendment and I came on the floor of the U.S. Senate and submitted an amendment to the Constitution called the fifth amendment? And I said, essentially, the fifth amendment says that nobody should have to make a case against themselves. How many votes do you think that would get on the floor of the Senate? And especially with the public the way they are today, ready to listen to the Rush Limbaugh malarkey and all that right-wing garbage, they would all go, "Oh, no, fifth amendment; that's ridiculous."

I wonder how many people would think if I walked on the floor in this atmosphere today and offered the fourth amendment saying the Government cannot engage in an unreasonable search and seizure of your property, I wonder how many votes I would get.

I wonder if people listening to this ask themselves—as Barry Goldwater would say, in your heart you know whether he is right. In your heart, what do you think would happen if we put the Bill of Rights up for a vote today? What do you think the Rush Limbaughs of the world today would do with the Bill of Rights? Do you think they would sustain them?

Thank God, there were people like Madison. Thank God there were people like the Founding Fathers, who debated these things called the Bill of Rights.

But I ask a very serious question. I ask those of you on the floor, what do you think would happen if we had a referendum on this floor on the Bill of Rights? How many people would vote for them? Then I ask you the rhetorical question: What country would this be if there were no Bill of Rights?

When you start changing fundamental Rules of Evidence, you start affecting fundamental questions that, on the surface, are awfully hard to explain. For how could I be against allowing Mary Smith, who said, "John Doe did that to me, too," from coming into court and saying that? How could I be against that, the author of the Violence Against Women Act, the guy who spent more of his waking hours dealing with the problem of violence against women, presuming to say, than any man or woman serving in the U.S. Congress today. How can I be against that? The same way I could be for a fifth amendment. The same way I could be for a fourth amendment. But the public "ain't" ready for that today, because they all want instant answers, instant answers, instant answers.

It is very appealing to put up this bogeyman of this horrible rapist, which there are horrible rapists. That is why in this bill I increased the penalties for rapists.

The Senator said he did not understand what was in this bill that was of any consequence; I mean, this is a soft-on-crime bill.

I ask unanimous consent to print in the RECORD a list of those added penalties beyond the death penalty.

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

NON-DEATH PENALTIES IN CONFERENCE REPORT

GUN PENALTIES

Semiautomatic Weapons (§401): Enhances penalties for using, carrying semiautomatic weapon during federal crime of violence or drug trafficking crime.

Second Offense for Using or Carrying Explosives (§402): Enhances penalties for second conviction for using or carrying an explosive to commit any federal felony (current enhancement—10 years).

Smuggling Firearms (§403): Increases penalty for smuggling a firearm into U.S. to violate a federal or state drug trafficking law or to commit a crime of violence—up to 10 years.

Theft of Guns and Explosives (§404): Provides up to 10 year penalty for stealing a firearm or explosive which has moved in interstate commerce.

Revocation of Supervised Release (§405): Mandates revocation of supervised release and institution of prison term for defendant who possesses drugs or firearm in violation of condition of supervised release.

Revocation of Probation (§406): Mandates revocation of probation for possession of drugs, firearms.

Lying on a Gun Application (§407): Increases penalty for lying on a gun application from 5 to 10 years.

Felons Possessing Explosives (§408): Prohibits felons, drug addicts from possessing explosives.

Explosives Destruction (§409): Authorizes the summary destruction of explosives subject to forfeiture where the explosives cannot be safely removed and stored.

Prohibition against Transactions Involving Stolen Firearms or Stolen Guns (§411): Prohibits possession, receipt, sale of stolen firearm, ammunition that has moved in interstate commerce—up to 10 years.

Using Firearm in Commission of Forgery (§412): Enhances penalties for using or carrying a firearm in commission of felony counterfeiting or forgery.

Firearms Possession by a Violent Felon (§413): Enhances penalties (depending on number of prior convictions) for gun possession by defendant previously convicted of a violent federal felony or serious drug offense.

Receipt of Firearms by Nonresidents (§414): Prohibits non-licensee from receiving firearm if not a resident of any state unless for lawful sporting purposes.

Firearms of Explosives Conspiracy (§415): Enhances penalties for conspiracies to violate federal firearms, explosive laws.

Stealing Guns or Explosives from a Licensee (§417): Provides up to 10 years for theft of firearm or explosive from a licensee or permittee.

Disposing of Explosives to Prohibited Person (§418): Prohibits any person from transferring explosives to felon or other prohibited person (current law forbids transfer by licensees)—up to 10 years.

Interstate Gun Trafficking (§420): Increases penalty for interstate gun trafficking—up to 10 years.

Drive by Shooting (§208): Up to 25 years for shooting into group of 2 or more to further or escape from major federal drug offense.

Adult Prosecution of Juvenile Offenders (§614): Expands category of federal offenses for which juveniles may be prosecuted as adults to include receiving a gun with the intent to commit a felony; traveling interstate to get a gun with intent to commit violence, drug trafficking crime; transferring a gun knowing that it will be used in a crime.[1] Directs court to consider extent to which juvenile played leadership role in an organization, or otherwise influenced others to take part in criminal activities in deciding whether to transfer to adult status.

DRUG PENALTIES

Using Kids to Sell Drugs (§615): Up to three-fold penalty increase for using kids to sell drugs in "drug free" zones.

Drug Dealing in Public Housing (§616, §1503): Increases penalties for dealing drugs near public housing.

Drug Dealing in Drug-Free Zones (§1505): Enhances penalties for dealing drugs in a drug-free zone.

[1] Senate bill also included drug possession as transferable crime—mark deletes.

Drug Use in Federal Prison (§1506): Enhances penalty for simple drug possession in federal prison or detention facility.

Smuggling Drugs into Prison (§1506): Enhances penalty for smuggling drugs into federal prison or detention facility.

Drug Trafficking in Prisons (§1501): Mandates that sentence imposed for providing or possessing drugs in prison be served consecutively to any other drug sentence imposed.

Selling Drugs at a Truck Stop (§1411): Enhances penalties for drug-dealing near truck stops and rest areas.

Cocaine Penalty Study (§3092): Requires Sentencing Commission to submit a report on sentencing disparities regarding crack and cocaine. (House)

OTHER PENALTIES FOR VIOLENT OFFENDERS

Three Time Loser (§501): Life imprisonment for 3 convictions of serious violent felony or serious drug offense. (House)

Criminal Street Gangs: Additional 10 year penalty for gang member who commits federal drug crime or crime of violence who has previous conviction (state or federal).

Using Kids to Commit Crimes (§5130): Enhances penalties for all crimes where defendant used a juvenile or encouraged a juvenile to commit a crime.

Repeat Sexual Assault Offenders (§3211): Doubles maximum penalty for repeat sexual assault offenders (first offense can be federal or state). (VAWA)

Aggravated Sexual Abuse: Federal Penalties (§3212): Directs Sentencing Commission to review and recommend enhanced penalties for aggravated sexual abuse. (VAWA)

Interstate Travel to Commit Spousal Abuse (§3321): Creates new federal offense to travel interstate or to cause someone else to travel interstate to intimidate, harass, or injure. (VAWA)

Sex offenses Against Victims Under age of 16 (§3702): Broadens definition of sex offense as the intentional touching through clothing with intent to abuse, humiliate, harass.

Assaults Against Children (§301): Increases penalty for simple assaults against a youth under 16; creates new penalty for assaults against youth under 16 resulting in substantial bodily injury. (House)

Hate Crimes (§2409): Directs Sentencing Commission to enhance sentences at least 3 levels for persons convicted of hate crimes.

Travel Act (§2906) (also see §617): Increases penalty for interstate travel to commit violent crime in furtherance of drug trafficking from 5 to 20 years.

Federal Prosecution of 13-Year Olds as Adults (§1101): Discretionary transfer for 13-year olds who commit assault (with intent to commit murder or felony, with dangerous weapons) murder, attempted murder and with gun: robbery, bank robbery, aggravated sexual abuse, sexual abuse. (House)

Assault (§2901): Increases penalties for adult of: federal officer, foreign officials, official guests, within U.S. maritime and territorial jurisdiction, Congress, Cabinet or Supreme Court, and President and President's staff.

Manslaughter (§2902): Increases penalty for involuntary manslaughter on federal territory from 3 to 6 years.

Conspiracy to Commit Murder for Hire (§2905): Broadens the murder-for-hire statute to include conspiracy to travel interstate to commit murder-for-hire.

Addition of "Attempt" Offenses to Federal Robbery, Burglary, Kidnapping, Smuggling, and Malicious Mischief Statutes (§2969).

Civil Rights Violations (§2903): Conspiracy against rights. Broadens criminal civil rights conspiracy statute to punish kidnapping, aggravated sexual abuse and attempted murder in connection with civil rights deprivation—up to 10 years.

Official deprivation of rights. Broadens criminal civil rights statute to punish use or attempted use of dangerous weapon, explosives or fire in official rights deprivation—up to 10 years.

Federally protected activities. Broadens criminal civil rights statute to punish use or attempted use of dangerous weapon, explosives or fire in deprivation of federally protected activities, such as voting, serving as juror, or joining labor organization—up to 10 years.

Religious property/free exercise. Broadens statute to punish use or threatened use of dangerous weapon in defacing religious property or obstructing free exercise of religious beliefs—up to 10 years.

Fair Housing, Broadens Fair Housing Act to punish use or threatened use of dangerous weapons or explosives or fire.

Arson (§2907): Increases penalties for damage or destruction of property by fire or explosives.

Extension of Civil Rights Statute (§2911): Extends protection of civil rights statutes to include all persons (now limited to state "inhabitants").

Crimes Against Elderly (§2002): Directs Sentencing Commission to ensure increasingly severe punishment for physical harm imposed on elderly victim; requires enhanced penalties for violent second offenders.

TERRORISM PENALTIES

Failure to Depart (§5005): Increases penalties for failing to depart or reentering the U.S. after an order to deportation, to a maximum of 20 years.

Alien Smuggling (§215): Increases penalties for alien smuggling for profit.

Counterfeiting U.S. Currency Abroad (§721): Extends counterfeiting laws to acts committed overseas.

Terrorist Felonies (§724): Enhances penalties for any felony involving international terrorism.

Weapons of Mass Destruction (§711): Outlaws use of weapons of mass destruction against U.S., Americans overseas—up to life; death penalty if death results.

International Airport Violence (§719): Increases penalties for acts of violence or destruction at international airports—up to 20 years.

Document Forgery (§712, §5124): Enhances penalties for various offenses involving false documents for immigration purposes to 10 years; 15 years if used for drug trafficking; 20 years if used for international terrorism.

Maritime Violence (§701): Up to 20 years for violent acts against maritime navigation (e.g. forcible seizure, property destruction, injury to person).

Violence against Fixed Platforms (§701): Up to 20 years for violent acts against fixed maritime platforms.

WHITE COLLAR PENALTIES

Mail Fraud (§2103): Broadens the mail fraud statute to include use of private interstate carriers to commit fraud.

Receiving Proceeds for Extortion of Kidnapping (§2941): Provides up to 3 years for the knowing receipt of extortion proceeds; up to 10 years for the transport or receipt of ransom.

Receiving Proceeds of Postal Robbery (§2942): Provides up to 10 years for the knowing receipt of postal robbery proceeds.

Credit Card Fraud (§2102): Makes it an offense to: use with intent to defraud another person's credit card; solicit a person to offer credit card or sell information regarding the same; show without permission a person's transaction records.

Insurance Fraud (§2101): Creates a new offense of insurance fraud, including false statements, embezzlement, and obstruction, with maximum penalty of 15 years.

Computer Crime (§2601): Strengthens federal laws in relation to hackers; prohibits transmission of programs to cause damage to, or to deny the use of, a computer or system; provides a civil remedy.

Theft of Major Art Work (§2966): Prohibits and penalizes the theft or procurement by fraud of any object of cultural heritage held in a museum.

SCAMS (§3901): Enhances penalties for telemarketing and other fraud targeted at senior citizens.

Animal Pests (§5105): Makes it a federal offense to mail non-indigenous species.

Interstate Wagering (§5109): Makes it a federal violation to transmit in interstate commerce information for the purpose of procuring a lottery ticket.

MISCELLANEOUS PENALTIES

Drunk Driving with Kids (§1602): Enhances penalties imposed by state for drunk driving on federal lands if child is in vehicle—up to 1 extra year; up to 5 extra years if minor is seriously injured; up to 10 extra years if child is killed.

International Child Pornography (§824): Provides up to 10 years in prison for engaging or conspiring to engage in sexual explicit conduct with minors outside the US.

Crediting of Good Time (§5101): Amends 18 USC §3624 regarding release of prisoners to change the requirements for violent criminals (serving sentences of more than one year and less than life) to receive good time credit. criminals. Such offenders may receive credit of up to 54 days for each year served after the first year of the prisoner's sentence if the Bureau of Prisons determine that the prisoner has displayed exemplary compliance with disciplinary regulations.

Trafficking in Counterfeit Goods (§2904): Increases penalty for trafficking in counterfeit goods or services from 5 to ten years; increases penalty for second offenders from 15 to 20 years.

Military Medals and Decorations (§3056): Amends 19 USC §704 to provide a maximum punishment of one year for the unauthorized wearing, manufacturing or selling of a Congressional Medal of Honor (current punishment is up to 6 months); broadens the meaning of the term "sells" as applied to Congressional Medals of Honor to include trades, barters, or exchanges for value. (House)

(Mr. ROBB assumed the chair.)

Mr. BIDEN. Mr. President, I will just number them. There are over 60 in this "soft-on-crime" bill, 60 new penalties or penalty increases, which is interesting. I know I must be doing something right, because the liberals are mad at me because I entered these in, and they are part of the bill, and the conservatives do not think they are enough. So we probably hit a pretty good balance here—probably.

It increases the penalty for alien smuggling for profit; extends counterfeiting laws to acts committed overseas; enhances penalties for any felony involving international terrorism; outlaws and penalizes use of weapons of mass destruction; increases penalties for acts of destruction at international

airports; increases penalties for some 16 gun crimes; increases penalties for damage or destruction of property with use of explosives; increases penalties for simple assaults against youths under 16; creates new penalties for assaults against youths under the age of 16 that sustain bodily injury; broadens definition of sex offense as intentional touching through clothing with intent to abuse, humiliate, or harass.

It goes on and on. I am not going to go on and on and on any more. The fact of the matter is that what the Senator wants done is done in the bill. What is not done in the bill that the Senator wants done in the bill should not be done, in my humble opinion.

The last amendment that he has here is a little beauty. This one is the one we talked about a lot. It is formally known as the "D'Amato amendment." It is a provision that we expand Federal jurisdiction over all crimes of violence, including property crimes and drug trafficking in which the offender possesses a gun.

Let me tell you how many of those crimes there were last year, Mr. President. There were 900,000 of those crimes. Let us just put this in perspective. I do not know if anybody here is from Philadelphia. Philadelphia is the largest big city near me. The DA in Philadelphia prosecutes roughly 30,000 crimes a year. We don't prosecute that many in the entire Federal system in all 50 States and territories. One DA's office does more than the entire Federal Government. The reason for that is 96 percent of all the crimes committed in America are committed within state jurisdiction.

Let me make the following point, and I will cease. When you think about it, what are my friends, my Republican friends and some of my Democratic friends, asking me to do in this crime bill, and asked me to do when I wrote the crime bill? They are saying why not make the States as responsible as the Federal Government? The Federal Government's sentencing bill, which Senator KENNEDY and I wrote in the late seventies, declared that we would have a sentencing commission. If you are convicted in Federal court of a crime, the judge has very limited discretion. You go to jail. If the sentence says 10 years, you go to jail for at least 85% of the sentence. I defy anyone listening to this debate back in their offices, on television in their homes, or in the gallery, to name a single case they have read about in the paper where they have heard that the awful crime was committed by a Federal prisoner out on bail, a Federal prisoner out on parole, a Federal prisoner who got a sentence that had been reduced. It does not exist. Guess why? Because I and a bunch of us who were around in the late seventies led by Senator KENNEDY.

So my friends do not want the States to do the same thing. That is why they have this truth-in-sentencing stuff. In the average State, when someone gets convicted for 10 years in prison, they will only serve 4 years and 3 months; your State. Your Governors are not telling you the truth. They tell you they want to get tough on crime. They do not want to build more prisons. They want us to build them for them. But federally we do it. Once we nail them, they are nailed. And they stay in jail.

What is the second thing the Federal Government has done? We have a Speedy Trial Act. I happen to be the author of that act of 10 or 12 years ago. You get convicted, arrested for a Federal crime, and you go to jail. You go to trial within 70 days; no screwing around, no fooling around. It is called the Speedy Trial Act. Most States do not have that.

What is the third thing we do? We convict someone. We build a prison, and we put them in the prison. We do not have any prison overcrowding federally because we had the nerve to go back and tax you, and tell you we are going to build more prisons.

There are three things that I take blame and credit for as chairman of the Judiciary Committee and as someone who has had the responsibility to deal on this side of the aisle with the criminal justice situation in the last 22 years in part or in whole. My friends want that done to the States. I would like that done to the States, too.

They are going to take the one system that is not broken—that is the Federal system as it relates to the criminal justice system—and they are going to say, "Let us break it. Let us take 900,000 cases that the States are not handling and drop them into the Federal courts." Crime has been a local problem, a local responsibility.

What do we do in this bill? We help the way we should help. We do not federalize new crimes. We say you need more cops. We—the Federal Government—will go to the American taxpayer, and say, "We are going to spend 9 billion of your dollars to get 100,000 more cops; not Federal cops, local cops."

What else do we do? We say to the States, "We don't have enough prisons." Last year 30,000 convicted violent felons in State courts were convicted, and then never served a day in jail. Why? Because 34 States are under court orders for prison overcrowding. They do not have any place to put them.

I keep mentioning Philadelphia because I know the city well. But every other city is the same. Every Friday a group of judges on the court of general jurisdiction meet with a list given to them by the clerk of 25, 20, or 500 people, and they are told. "Like Barabbas, you must release X number of people because we have no room for them." They sit there and they release convicted felons because they have no place to put them.

What do we do? We come up with almost $9 billion for the States; Federal money given to the States to build and operate prisons. So next year there will not be 30,000 people, and the next year and the next year released in the States because the Federal Government did what we should do. We used Federal revenue to give to the States, give to the cities, to build more prisons, to buy more cops, and to have tougher penalties. But we should not do it this way.

Now, my friend from Texas, Senator GRAMM—and I guess I should stop using that. Before all of these debates were televised, there is part of a civility here in the Senate which I think is a useful thing where we refer to our opposition as our friends. Every time I say that, people say to me when I get on the train to go home they say, "You got so mad at him but you kept calling him your friend. How can he be your friend? Are not you all being a little phony?" He really is my friend. PHIL GRAMM and I have incredible disagreements on policy. But he is my friend. He has always been straight with me, and I think he would tell you I am always straight with him.

But PHIL GRAMM has a problem. A Democrat is about to pass the toughest crime bill in the history of the United States of America. That is a problem we used to deal with, we Democrats, when Republicans passed all these tough bills. Now it is a problem.

This kid, BIDEN, used to be a public defender. He wrote this bill, and guess what? All the cops like it. Guess what? All the prosecutors like it. Guess what? It is tough on crime. Guess what? It means it is hard to make a case. Those soft-headed Democrats, big spending, taxing liberals, are soft on crime. They have a problem.

I make a prediction. When we bring this crime bill up, they will spend at least 2 days on the floor arguing against it; arguing against 100,000 new cops; arguing against 9 billion dollars' worth of new prison money; arguing against 64 new penalties; arguing against over 50 death penalties. Why? If this passes, how can they say Democrats are soft on crime?

It is a problem. I sympathize with it; I really do. I feel badly for them being put in this position. I understand the dilemma, and I suspect we are going to see 50 different versions of what happened here on every single bill. But as we pass this crime bill, God willing—and as my grandfather would say, "and the creek not rising"—it is going to become more and more a hollow echo when we talk about getting tough on crime.

Go out and find me any police agency, any law enforcement agency, or anyone who tells you that this bill is soft on crime. It is true that the Senator from Texas did not get all he

wanted in the bill. I did not get all I wanted in this bill either. I happen to agree with him and disagree with the Senator from Illinois and the Senator from Massachusetts and my Republican friends over in the House. I think retroactivity should not be in this bill. I lost. But I have a 1,100 page bill, and I lost something, so I am going to be against it?

So as trial lawyer—one of the best in Delaware, for whom I used to work "100 years ago"—Sid Balik used to say—and I will never forget going to my first trial with him as a young trial lawyer. He stood before the jury and said:

I want you to look at my defendant in this trial. He is not somebody you would want to bring home to dinner, someone you would want your daughter to go out with; he does not dress very well, and is not well educated. But that is not the issue in this trial. The issue in this trial is whether or not he committed the crime. Did he rob John Doe?

And then he said, "So I want you to do the following: I want you to keep your eye on the ball. Watch the ball. Do not be distracted. Keep your eye on the ball."

I say to my colleagues and to anyone listening to this debate: Keep your eye on the ball. Is the crime bill that we are soon going to debate a tough, honest, straight, significant attempt to deal with violence in America, and to prevent youth who are at risk from becoming violent predators? If it is, be for it. If you think it is not, be against it.

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

Mr. BIDEN. Mr. President, I move to table the Gramm 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.

Mr. SIMON. Mr. President, I wonder if the Senator from Delaware could refrain for 5 minutes so that I can speak on this amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator SIMON be able to proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois [Mr. SIMON], is recognized.

Mr. SIMON. Mr. President, while I do not agree with every word the Senator from Delaware said, I agree in opposition to the Gramm amendment.

Mandatory sentences simply do not make sense all the time. And what the bill does is to substitute the Federal guidelines which are tough for the mandatory sentences.

Let me quote from a few people. Cato Institute, which is more conservative than Senator PHIL GRAMM, said in an article study entitled "How America's Foolish Sentencing Policies Endanger Public Safety":

Mandatory minimum sentences enacted in the 1980's, have led to the early release of violent criminals to make room in our prisons for nonviolent, first-time, drug offenders.* * * Instead of spending more money on prison space for nonviolent offenders * * * we should return prisons to their original purpose of incapacitating violent criminals.

Justice Kennedy of the U.S. Supreme Court, a conservative Justice, testifying before the House Appropriations Subcommittee this morning said:

I am in agreement with most judges in the Federal system that mandatory minimums are an imprudent, unwise, and often unjust mechanism for sentencing.

The Rand study—a highly regarded group—of this whole field points out that California went from 22,500 prisoners in 1980 to 106,000 in 1992. "This 500-percent increase is the largest of any State in the Nation."

Then they conclude, "The data suggests that the massive investment in crime control * * * may have had little effect on California's crime rate, particularly violent crime."

Justice Rehnquist, the Chief Justice of the Supreme Court, has criticized mandatory minimums. Is he a wild-eyed liberal, a radical? Of course not. The two people who are responsible, particularly for the one change that was criticized on the floor by our friend from Texas, are HENRY HYDE and BILL MCCULLOM. Is Congressman HENRY HYDE a wild-eyed liberal radical? Is Congressman BILL MCCULLOM a wild-eyed liberal radical? Well, we know the answer to that.

Much of the provision for taking away the mandatory minimum sentence on the nonviolent crime was a bill that I introduced, together with Senator STROM THURMOND and Senator ALAN SIMPSON. The Federal judges are just overwhelmingly on that side of things. The National Center for Crime and Delinquency is studying my State of Illinois. The study found that shorter prison terms saved taxpayers $100 million a year without jeopardizing public safety.

And then, finally, there is one provision in the Gramm amendment that my colleague from Delaware did not mention. He did not mention this. It says:—and I think this is unprecedented— "any prior conviction, foreign or domestic." We have never before, to my knowledge, ever considered foreign convictions. If someone was a student at Tiananmen Square and was convicted there, should that be used against that person here? I think we are taking a step that clearly we should not be taking, and I hope the Gramm amendment is soundly defeated.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 2442.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—55

Akaka	Feingold	Mathews
Baucus	Feinstein	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Glenn	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hatfield	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Reid
Byrd	Jeffords	Riegle
Chafee	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
DeConcini	Kerry	Simon
Dodd	Kohl	Wellstone
Dorgan	Leahy	Wofford
Durenberger	Levin	
Exon	Lieberman	

NAYS—44

Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Coats	Helms	Sasser
Cochran	Hutchison	Shelby
Cohen	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Lautenberg	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Faircloth	McConnell	

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 2442) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2443

Mr. KENNEDY. Mr. President, I send technical amendments to the desk and ask that they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2443.

The PRESIDING OFFICER. Without objection, the technical amendments are agreed to en bloc.

So the amendment (No. 2443) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

SUPPORT OF AN AMENDMENT TO S. 1513 ADDING THE FAMILIES OF CHILDREN WITH DISABILITIES SUPPORT ACT OF 1994 AS A NEW PART I TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. HARKIN. On May 23, 1994, I introduced S. 2144, the Support for Families With Children With Disabilities Act of 1994, along with my colleagues Mr. JEFFORDS, Mr. KENNEDY, Mr. SIMON, Mr. DODD, Mr. LEAHY Mr. METZENBAUM, and Mr. WELLSTONE. The legislation adds a new part I to the Individuals With Disabilities Education Act.

Today, I am offering this bill as an amendment to S. 1513, the Improving America's School Act of 1993. I would like to thank the managers of this bill for including my amendment in the managers' amendment.

For the past 18 months, families of children with disabilities from Iowa and throughout the country, together with the Consortium for Citizens With Disabilities, have worked to develop recommendations for Federal legislation on family support for families of children with disabilities.

Mr. President, I would like to take this opportunity to thank them for their effort. This is your legislation; congratulations.

Let me briefly explain why I believe this legislation is necessary. When Congress enacted the Americans With Disabilities Act in 1990, we did more than pass comprehensive civil rights legislation. We also enunciated the fundamental precept of our national disability policy—that disability is a natural part of the human experience that in no way diminishes the fundamental right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society, and enjoy full inclusion and integration in all aspects of American society.

On the day the Senate finally passed the ADA, I made a dedication:

All across our Nation mothers are giving birth to infants with disabilities. So I want to dedicate the Americans With Disabilities Act to these, the next generation of children and their families.

With the passage of the ADA, we as a society make a pledge that every child with a disability will have the opportunity to maximize his or her potential to live proud, productive, and prosperous lives in the mainstream of our society. We love you all and welcome you into the world. We look forward to becoming your friends, your neighbors, and your coworkers.

We say, whatever you decide as your goal, go for it. The doors are opening and the barriers are coming down.

The unfortunate truth is that our current so-called system of services does not empower families desiring to raise their children with disabilities at home and in their communities consistent with the precepts of the ADA.

I believe this legislation will help us transform those current State systems, many of which foster dependence, separation, and paternalism into systems that foster inclusion, independence, and empowerment. The bill assists States, through systems change grants, develop or expand and improve family-centered and family-directed, community-centered, comprehensive, statewide systems of family supports for families of children with disabilities that are true to the precepts of the ADA.

On May 10, 1994, I held a hearing before the Subcommittee on Disability Policy, which I chair. One of the witnesses was Allan Bergman who testified on behalf of the Consortium for Citizens with Disabilities Task Force on Children and Families. He shared with the subcommittee his understanding of the vision of the legislation:

This bill declares a set of values and principles in Federal law that sends a message throughout this country and to all the States and to all families that we believe in the family unit and we are prepared to support you as you go forward in maintaining your rightful place in the community.

Dave Novak, from Cedar Rapids, IA, stressed to the members of the Subcommittee the importance of enacting this legislation:

Federal policy needs to support families. We don't need a federal policy that would divide families. We need to have a federal policy that is going to bring families together.

Sue Swenson from Minneapolis, explained the need for this legislation to focus on systems change:

We desperately need in this country Federal systems change legislation to address family support for families who are raising a child with, perhaps, extraordinary needs. The systems, as they are right now, don't work. In fact, in many instances, they hurt families. We cannot afford, as a nation, to pour money into systems that hurt such a basic piece of our democracy as the family unit, as the family structure.

One of the important provisions in the legislation calls for the establishment of a State policy council for family support for families of children with disabilities. Cathy Ficker-Terrill of Elmhurst, IL voiced strong support for this provision:

This legislation allows each state to have a council that is not only family-centered but family-driven. We don't need to create another system that is solely professionally-driven. The Council will allow each state to focus on the entire family. It will respect changing family needs, and most importantly, the council will respect cultural, economic, and spiritual differences of families.

I asked the witnesses whether they believed that this modest bill could truly make a difference. According to Donald Shumway, the director of the Division of Mental Health and Developmental Disabilities for the State of New Hampshire:

This modest statute has the potential to influence government policy, federal, state, and local, more positively than do many of the federal government's largest pieces of legislation. I know, because New Hampshire has taken its first steps in this direction of family support, and it is the best human services policy that we have made in at least two decades.

Mr. Shumway explained to the subcommittee that the proposed legislation is similar to New Hampshire's family support law supported by and signed by Governor Sununu in 1988, and strongly supported and expanded by Governors Gregg and Merrill. He then asked a rhetorical question about the nonpartisan nature of support for family support legislation:

Why, you might ask, are three consecutive Governors of a very conservative state wild about family support? The answer lies first in the values that underlie family support. This is a self-help program; however, it does not stop there. Family support is a commonsense problem solver, and family support is a community builder.

These witnesses provided compelling testimony in support of this legislation.

I urge my colleagues to vote in favor of my amendment adding family support for families of children with disabilities to our national disability policy.

Mr. President, I ask unanimous consent to insert in the RECORD following my remarks a brief description of the legislation.

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

FAMILIES OF CHILDREN WITH DISABILITIES SUPPORT ACT OF 1994 BRIEF SUMMARY

INTRODUCTION

The major focus of the bill is to provide competitive grants to States to develop or enhance statewide systems of family support for families of children with disabilities. The bill recognizes that States have different levels of development of statewide systems of family support for families of children with disabilities. For States that are just beginning to develop family support systems for families of children with disabilities, the bill allows them to apply for State grants to "develop and implement" these systems. States that have made significant progress in the development of family-centered and family-directed approaches to family support for families of children with disabilities may apply for State grants to "expand and enhance" statewide systems of family support for families of children with disabilities.

The legislation is not intended to provide support for direct services to families of children with disabilities or to create a new entitlement. Rather, the legislation is designed as a "systems change" bill to assist States and families to work in partnership to develop statewide systems of family support for families of children with disabilities that are family-centered and family-directed and that use existing resources more efficiently. It is intended to address the priorities and concerns of those families who want to raise their children with disabilities at home and in their communities. Thus, under the legislation, "family support" for families of children with disabilities is intended to foster in-home care when it is desired by the family and appropriate for the child with a disability.

Findings. The findings of the bill recognize, among other things, that: children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment; many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities; there are financial disincentives for families to care for their children with disabilities at home; supporting families to enable them to care for their children with disabilities at home is efficient and can be cost-effective; and there is a need for statewide, comprehensive, coordinated, interagency systems of family support for families of children with disabilities that is family-centered and family-directed, easily accessible, and that avoids duplication, uses existing resources more efficiently, and prevents gaps in services.

Purpose. The purposes of the bill are to (1) provide financial assistance to States to support systems change activities to assist each State to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities and to ensure the full participation, choice and control by families of children with disabilities; and (2) enhance the ability of the Federal Government to identify Federal policies that facilitate or impede the provision of family support for families of children with disabilities, provide States with technical assistance and information, conduct a national evaluation of the program of grants to States, and provide funding for model demonstration and innovation projects.

Policy. The bill states that it is the policy of the United States that all activities carried out under this Act shall be family-centered and family-directed, and shall be consistent with the following principles: Family support for families of children with disabilities must focus on the needs of the entire family; these families should be supported in determining their own needs and in making decisions concerning necessary, desirable, and appropriate services; these families should play decision-making roles in policies and programs that affect their lives; family needs change over time, and family support for families of children with disabilities must be flexible, and respond to the unique needs, strengths and cultural values of the family; family support for families of children with disabilities is proactive and not solely in response to a crisis; these families should be supported in promoting the integration and inclusion of their children with disabilities into the community; family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources; youth with disabilities should be involved in decision-making about their own lives; and services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences and cultural differences.

Construction. Nothing in this legislation shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

Grants to States. The bill authorizes grants to States to be awarded on a competitive basis. No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant. Grants may range from $200,000 to $500,000 based on the amounts available and the child population of the State. The bill directs the Secretary to award grants to States in a manner that is geographically equitable and distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

In order to receive a grant, States must submit an application with specified information and assurances, including:

The designation of a lead entity in the State, which may be an office or commission of the Governor, a public agency, an established council, or another appropriate office, agency, or entity.

The establishment of a State Policy Council For Families of Children with Disabilities, comprised of a majority of family members of children with disabilities or individuals with disabilities, as well as State agency representatives, and others. Family members of children with disabilities are eligible to serve on the Council whether the child is currently in the home, in an institution, or in other settings. The Council shall advise the lead entity in the development and implementation of a statewide system of family support for families of children with disabilities. Established Councils or committees of such Councils may be designated as the State Policy Council under specified circumstances.

A preliminary plan, and a description of the steps that the State will take to develop a strategic plan. A State receiving a grant must, within the first six months, prepare and submit a strategic plan designed to achieve the purposes and policy of this Act. The plan must be developed by the lead entity in conjunction with the State Policy Council For Families of Children with Disabilities, and must be updated annually.

An assurance that families are actively involved in all aspects of the State program.

An assurance that the State will expend at least 65% of the funds made available on grants and contracts to conduct authorized activities and expend not more than 5% for administrative expenses.

The bill describes a number of authorized activities that a State may carry out to accomplish the purpose of the Act. These activities include training and technical assistance, interagency coordination, support of local and regional councils, outreach, policy studies, hearings and forums, and public awareness and education.

The bill specifies that grant applications shall be reviewed by panels of experts that are composed of a majority of family members.

Technical assistance. The bill authorizes the Secretary to provide, through grants, contracts or cooperative agreements, technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. The technical assistance and information shall be provided to the lead entity, the State Policy Council For Families of Children with Disabilities, families, organizations, service providers, and policymakers.

The entity providing the technical assistance must submit periodic reports to the Secretary of HHS including, among other things, recommendations regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in the legislation in other Federal legislation.

Evaluation. The bill authorizes the Secretary to conduct, through grants, contracts or cooperative agreements, a national evaluation of the program of grants to States.

Projects of national significance. The bill authorizes the Secretary to conduct a study to review Federal programs to determine the extent to which these programs facilities or impede family support for families of children with disabilities. The Secretary may also fund demonstration and innovation projects to support the development of national and State policies and practices related to family support for families of children with disabilities.

Authorization of appropriations. The bill authorizes to be appropriated $10,000,000 for FY 1995 and such sums for FY 1996 and 1997.

Mr. GORTON. Mr. President, when the Senate first took up this bill, I expected to vote against it because I believe that people in communities across the Nation know better how to educate their children than do Federal Government bureaucrats in Washington, DC. The original bill, while well-intentioned, transfers too much control to Washington, DC.

Centralized decisionmaking in Washington, DC, is not the answer to improving the education of our children. Before the Senate began its work, I was convinced that this bill would have increased the Federal Government's power and control over the education of our children.

Substantial revisions to this legislation during our debate have removed many of my objections. Compared to what was originally introduced, this bill now has significantly fewer Federal mandates, increases local control and flexibility, protects home and private schooling, and addresses school violence. Because of these improvements, I will vote today in favor of the bill.

One of the most significant improvements to this bill is the Gorton-Lieberman school violence amendment. My top priority this year has been to deal with the issue of violence in our schools. In January, I held an education summit at which I listened to nearly 200 parents, teachers, administrators, and students share their concerns with our schools. Their No. 1 concern was violence in the classroom.

To address this issue, Senator LIEBERMAN and I offered an amendment to give parents, teachers, and administrators in local communities the authority to discipline violent students—without the heavy hand of the Federal Government interfering with their judgment. With this amendment, parents and school leaders in Seattle, Walla Walla, St. Louis, and Baltimore will decide how best to discipline violent children in their schools—not Federal Government bureaucrats in Washington, DC.

The Gorton-Lieberman amendment is a strong first step toward making our schools safer. I am grateful that the Senate has begun to address the issue of school violence and I thank my colleagues for their bipartisan support of my amendment.

But I must warn the chief backers of this reauthorization bill—while you have my support today, my vote comes with this caveat—strip the provisions which have been added to make this a better bill, and I will help lead the opposition to the conference report.

Specifically, the provisions I want kept in the final version of the bill are:

Amendments that protect home and private schools, and the freedom of local schools to choose not to participate in Goals 2000 programs.

The Gorton-Lieberman amendment to let local people determine how best to stop violence in their schools, without interference from Federal bureaucrats.

The Danforth amendment to create demonstration programs that allow for the development and study of same gender classes for low-income, educationally disadvantaged children.

The Smith-Helms amendment to prohibit the spending of Federal taxpayer dollars for school programs that promote or encourage homosexuality as a positive lifestyle.

The Hatch amendment to distribute fairly chapter 1 funds to schools in communities throughout the Nation, including my home State of Washington.

Mr. President, there should be no negotiations over these provisions. These provisions have turned a bad bill into a piece of legislation for which broad consensus has been reached. These amendments must stay in the bill. If the bill is returned to its original form in the conference committee, I will be forced to vote against the conference report.

Why am I sounding the alarm bells on the potential stripping of these provisions from the conference report? Because it has happened before. When the Senate passed the Goals 2000 bill, it contained my school violence amendment. But despite the Senate's clear support, it was taken out in the conference committee. I do not want that to happen again.

If we are truly committed to improving our schools and the education of our children, the Gorton-Lieberman amendment, and the other provisions that improved this legislation, must stay in the final version of the bill.

If they are not, we should vote it down when it comes back from the conference committee.

Mr. HATFIELD. Mr. President, with the passage of this legislation to reauthorize the Elementary and Secondary Education Act, we have the opportunity to make this the most productive Congress in decades for precollege education. But the productivity of Congress as far as education is concerned cannot be measured by what we build, but in what we enable others to build.

In our role, we may provide a few of the guidelines for the master plan, and we may also provide some of the basic tools needed to build the education program, but we here in Washington cannot build the kind of quality system that is desirable in each local community. We are dependent on the parents, the teachers, the local school administration, the State education officials, higher education representatives, and the business community to design and implement the plan that meets the needs of their children.

Local and State school personnel must supplement the tools that we have provided with those of their own to construct a system that strengthens their community, their State and, ultimately, their Nation.

Incorporated within this bill is a tool that has already proven its usefulness. It is one of the real success stories in Federal support to education, the Dwight D. Eisenhower Mathematics and Science Education Act. It is also a story that is close to my heart due to my role in advancing math and science legislation and my sponsorship, along with Senator KENNEDY, of the Excellence in Mathematics, Science and Engineering Education Act in 1990.

The latter legislation contained two new programs—a national network of 10 regional consortia to provide assistance to local educators as they reform their math and science programs, and the National Clearinghouse for Science, Mathematics and Technology Education Materials to serve as a central repository of all math and science teaching and curricular materials. The emphasis on reform that is in Goals 2000 and other recent legislation make these two programs even more vital than they were previously.

After canvassing educators throughout the country, I introduced legislation during the first session of this Congress that refined and reauthorized the Eisenhower program including the consortia and the clearinghouse. The refinements placed a priority on elementary education, provided for a greater emphasis on informal education, and strengthened minority teacher recruiting and retraining. The Elementary Mathematics and Science Equipment Act of 1993, S. 232, that I had introduced earlier in the session was included in that bill. Also included was an idea contained in the original Kennedy-Hatfield bill which established demonstration projects for training in early childhood science education. This is a powerful program based on the experiences gained from an institute now in place at Marylhurst College in my own State of Oregon and termed "Science Start." While Science Start is not included in this bill, I intend to pursue it in the future on an appropriate vehicle.

What accounts for the success of the Eisenhower program? The essential component is that the money flows through very few hands before being put to work in professional development opportunities for math and science teachers. The professional development is focused from three essential directions—the State, higher education, and the local education agency with the local folks receiving the greatest share.

I am sure that each of you has received, as I have, numerous letters from individual teachers that describe the changes that they have been able to make in their classrooms as a result of Eisenhower funds. I am extremely pleased that the majority of these letters came from elementary teachers. That indicates that the funds are getting to the area of greatest need. In addition, pilot projects and long-term programs directed at disseminating productive approaches for teaching math and science have been developed. The point is that the Eisenhower math and science program is starting to make a real difference, and we must continue to support it to the fullest extent possible.

We must not lose sight of the need to evaluate, coordinate, and disseminate the excellent programs being developed throughout the various regions and the Nation. It is this area that the importance of the regional consortia and the national clearinghouse become evident. To avoid duplication and to learn from the efforts of others, a system must be put in place. The regional consortia are already providing an essential link, and the clearinghouse is building an impressive catalog of free materials available to schools.

In addition, the vast majority of materials being developed for math and science education recognizes what outstanding teachers have known for decades and current research is verifying—students learn best by doing challenging hands-on activities that is related to their lives. Unfortunately, the typical elementary classroom does not contain the basic supplies necessary to carry out such activities. To make these materials available, this legislation contains the proposal I had introduced earlier as the Elementary Mathematics and Science Equipment Act. Again, if we ask teachers to build a better program, we should provide some basic tools which must include sufficient knowledge of subject matter and methods and the materials to apply those methods.

Mr. President, we must strongly support the professional development sections of this bill for it is professional development that will drive our efforts toward effective school reform. I have directed my remarks toward math and science because of the greater need in these areas and because of the infrastructure that is already in place to address the national goal directed at math and science. Let us continue to move forward in the core subjects where progress is underway and, at the same time, initiate programs in the

other subjects using what we have learned from the math-science model.

I would also like to briefly comment on a provision which was included in the Manager's package of amendments—legislation to find a permanent home for the Albert Einstein Distinguished Educator Fellowship Program. I introduced legislation this year to authorize this program within the Department of Energy. The Senate Energy Committee held hearings and is due to markup the bill tomorrow. In the meantime, I have worked with Members of the Energy Committee and the Labor Committee to reach agreement so that this program could go forward on S. 1513. I firmly believe that the Nation will benefit from having outstanding secondary educators giving advice to Federal policymakers in the areas of math and science. This provision will allow for such counsel in the core Federal agencies which deal with math and science issues and in the Congress. I am grateful for the Senate's support.

Finally, the legislation before us is quite comprehensive and provides assistance in critical educational areas. Already this year we have seen the Goals 2000 legislation signed into law. The national goals in that law are indeed lofty. Many say far too high to be attainable. But goals should always be beyond immediate grasp and perhaps should appear to verge on the impossible. These goals must challenge the talented, the enthusiastic, the dedicated among us to build an education structure in which all can thrive and succeed to the best of their ability. We should not fool ourselves into thinking that this is an easy task or one that we can foist off on others entirely. We must share the blame for failures, but we can rejoice in the successes for we have helped point a direction and have supplied some of the tools. Hopefully, we have also supplied encouragement toward positive change.

Normally, Mr. President, I am skeptical of groups or individuals claiming to be the "Education this" or the "Education that". But when I consider the legislation that has already passed this session and all that will be added with the passage of this bill, there should be little doubt that this Congress deserves the title of the "Education Congress". I am grateful for the leadership of my friends and colleagues on this committee, Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS. Once again, they have moved the country forward with this comprehensive education program.

Mr. SIMPSON. Mr. President, I rise in support of S. 1513, the Improving America's Schools Act. Before making this decision, I took a long, hard look at the provisions of this most important piece of legislation, and I listened at great length to the wise and sensible counsel of the ranking member of the Senate Labor and Human Resources Committee, Senator NANCY KASSEBAUM. This bill has broad bipartisan support. It passed the Senate Labor and Human Resources Committee by a vote of 16 to 1.

The till which we are voting on today would increase funding for students that need it the most. I supported Senator HATCH's title I amendment. It adopted an equalization factor which would allow States to control the distribution of Federal resources among local school districts rather than leaving the distribution to the Federal Government.

Wyoming received $13,473,000 in fiscal year 1994 under the current formula. Applying the committee formula, Wyoming would receive $14,916,000 in fiscal year 1995. Under the Hatch formula, Wyoming would receive $15,488,000 in fiscal year 1995

The bill invests more in America's teachers. Under the new Eisenhower Professional Development Program, Federal grants will be made available to train teachers. Helping to improve the quality of our Nation's teachers is a critical component of education reform.

Finally, the bill would advance the use of technology in our schools. This bill recognizes the need for young Americans to acquire the technological skills necessary to function in the 21st century workplace.

Mr. President, some who opposed the final version of the Goals 2000 legislation have said that this bill is cut from the same cloth. That is not so. Many months ago I supported the original Senate version of Goals 2000 only because I believed that it retained the extremely important element of local authority over the education of our children. I have always strongly supported the power and authority of State education administrators, local school boards and most importantly, the rights and responsibilities of parents in the education of their children.

However, after reviewing the final version of the legislation, which is known as a conference report, I realized that the conferees made a major departure from the Senate's attempt to eliminate Federal mandates on local governments and also struck the provision allowing voluntary prayer in schools. Despite the recitation in the conference report that the bill only had voluntary guidelines and standards, it was my view that the standards were really, quite effectively, mandates saddled upon the States.

I further opposed the Goals 2000 conference report because I have always believed that when it comes to education, we do not need more Federal Government oversight and intrusion. What works best at the Federal level is encouragement and financial support for locally structured and locally developed strategies for education improvement. When the Goals 2000 legislation was reported from the House/Senate conference, it was no longer consistent with my philosophy and I opposed it.

Now through town meetings, letters, and telephone calls, I have heard concerns that this bill before us restricts local authority, home schooling, and school prayer. Some Wyoming citizens also have fears that the bill takes steps towards implementing the controversial outcomes-based education [OBE] education reform initiative. That is not so either.

There is nothing in this bill that would restrict home schooling. There is nothing in this bill that should be construed to advance the principles of the controversial Outcomes-Based Education [OBE] Education Reform Initiative. And Mr. President, constitutional school prayer will continue to be protected under Federal law. My father worked for that while in the Senate. I have carried on his work. The ranking member of the Senate Labor and Human Resources Committee, NANCY KASSEBAUM, and my own research has assured me in great detail that these concerns are unfounded.

However, I am concerned with the impact aid provisions in this bill. Impact aid was created in order to neutralize the negative impacts on the local tax base caused by a Federal presence in local school districts. It is money that I believe school districts and local taxpayers rightfully deserve.

In seven Wyoming school districts—Campbell, Fremont No. 9, Sublette No. 9, Sweetwater No. 1 and No. 2, and Uinta No. 4 and No. 6, civilian B children make up more than 25 percent of total daily enrollment. In Laramie County, civilian and military B's make up 15 percent of total enrollment. The House bill entirely eliminated funding for impact aid civilian B's. This bill, at least, salvages some of the funding for this program.

I would always vote against any education reform initiative which endorses a philosophy of federalized education. I will be carefully watching the conference committee activity on this bill to make certain that the balance we have reached here today between Federal support and local control is not disrupted by the House. If that should happen, I will oppose the final conference report, just as I did in the case of the Goals 2000 legislation.

Mr. BINGAMAN. Mr. President, I would like to express my overall support for S. 1513. The Clinton administration and the Department of Education presented us with a cohesive bill designed to raise standards for all our Nation's children, and to ensure that those most in need have access to the high quality teaching and learning that will help them reach those standards. I am pleased that the Education and Labor Committee has further refined the administration proposal

through several key changes, including: the addition of the Technology for Education Act, my S. 1040; adjustments to the administration's impact aid proposal; and the addition of several new programs designed to promote innovations in our schools, such as increasing the time spent on academic learning, creating smaller learning communities, health education and services integration, and easing transitions from pre-school to school for title I children.

Throughout the reauthorization process I have fought to ensure that the title I formula would realize the administration's goal of targeting resources to where the needs are greatest—high poverty schools and school districts. Research has shown that poor children in high-poverty schools are consistently outperformed by their peers in low-poverty schools. Our limited title I resources clearly must focus on those States, and schools and school districts within those States, with the highest poverty rates. An equitable and responsible title I formula should incorporate measures that accurately reflect where needy children are and the extent of their needs, as well as the most up-to-date information on the numbers of such children in each area. I am afraid that the formula now in the bill does not accomplish that goal but I am hopeful that formula will be changed as the bill is considered further.

This bill has the potential to radically improve education in our Nation's poorest schools. Lowering the eligibility threshold for schoolwide programs will empower those at the school level to design comprehensive, coordinated programs of instruction that best meet the needs of all the children in that school; results-based accountability mechanisms will help ensure that all children, especially those most in need, progress toward higher levels of performance.

Schoolwide programs will challenge teachers and principals to break down categorical distinctions among children, and to organize and teach in new ways. I do not believe that innovation will come at the price of protection. Schoolwide programs will still have to meet the specific needs of all children served in that they must meet the intents and purposes—the underlying framework—of any program from which funds are used for schoolwide operation. Peer review and school support teams will provide a mechanism of both support and expertise in constantly improving schoolwide programs so that all children are taught to, and reach, challenging State standards.

This bill also recognizes the importance of ensuring that our teachers are prepared to teach to the new State standards which are being developed under the Goals 2000 State reform initiative. The Eisenhower Professional Development Program will provide much needed resources for school districts to supply teachers with intensive and sustained professional development opportunities, and to develop professional networks and other means of sharing innovative teaching practices and strategies.

By expanding the present Eisenhower Math and Science Program to incorporate professional development in all subjects, the committee has recognized that professional development will be crucial to all teachers, as emerging standards in each subject area call for greater depth of understanding on the part of both teachers and students. Title II will also establish a new technical assistance structure that consolidates disparate, categorically oriented technical assistance centers into integrated, comprehensive centers with expertise in ESEA programs and school reform in general. These comprehensive centers will maximize the reach of technical assistance by using electronic networks and other technologies to offer teachers, schools, school districts and States more immediate and thorough information about federal programs and educational innovations.

Title III, parts A and B, of S. 1513 incorporates S. 1040, The Technology for Education Act which I introduced earlier this year along with my colleagues, Senators KENNEDY, COCHRAN and HARKIN.

Part B is the Star Schools Program which has been so successful over the years. Part A is a new program, combining Federal leadership and a State grant program which, I hope, will lead the way to better education for our children, especially those who are disadvantaged.

Over and over again I have stood here describing the benefits which technology can confer on education. A recent report by the Department of Education "Using Technology to Support Educational Reform" describes the impact of technology on improvements in education:

Software, such as the Higher Order Thinking Skills Program which teaches disadvantaged students advanced thinking skills, is credited with producing substantial gains in achievement in reading and math by chapter 1 students over those such programs;

Technology application can engage students in authentic, complex real life tasks which increase their interest in school and expand their abilities to think critically and solve problems;

Use of word processing software in the classroom has proven valuable in teaching students higher-order thinking skills and improving their writing ability by focusing attention on ideas and ways to communicate rather than just mechanics. The revision process which is possible through computers encourages students to refine and edit their work with concomitant improvement in the final product; and

Distance learning technologies have brought advanced classes to remote school districts and have opened horizons for rural students across the country. In my State of New Mexico, students in some of the most remote areas are able to take advanced classes through interactive video—classes that were unavailable to them only a few years ago.

In sum, I think we no longer have any doubt that we are shortchanging our students and our future if we do not do everything we can to give our schools the same access to technology that most of us enjoy in our everyday lives—telephones, cable and satellite TV hookups, interactive services, video recording, PC's, modems and so forth.

The question then is not whether technology is an effective tool for learning. It is instead, how can we give all students, no matter where they live or what their economic circumstances, access to that technology.

The Department of Education report I referred to earlier notes that important equity issues are beginning to arise as technology plays a greater and greater role in schools across the Nation. Schools serving high socioeconomic status students report higher-computer-to-student ratios than do schools with low socio-economic status students. White students are more likely to have used a computer than Hispanic or African-American students. The Department points out that the problem is exacerbated by large differences in access to computers in the home. In 1991, a survey found that one third of white students had a computer in their homes, compared with a little over one-fifth of African-American and Hispanic students having that access.

Furthermore, there are important differences in the way in which computers are used in the classrooms for disadvantaged students versus higher-ability students. Lower ability students use computers for drill and practice while higher achieving students use computers in ways that are more congruent with our education reform goals—that is, to expand and develop order thinking skills, to learn to access and use information from outside the school, to perform authentic, real life tasks that hold their interest and motivate them, and to work cooperatively with others inside and outside the school.

Title III seeks to remedy that disparity in access to and use of technology. It also addresses the issue of the place of education in the technological and information revolution which is now underway.

Title III, part A addresses the issue of equity by providing Federal support for the integration and dissemination of technology, especially to the poorest schools. Part A—the former 1040—provides this support in two ways:

First, the Office of Educational Technology—which was established pursuant to the Goals 2000 legislation—is given funding and authority to conduct leadership activities at the Federal level. This Office will coordinate with all the other Federal programs and Departments which deal with or consider technology policy to ensure that education is included in that policy and the developments in technology which have applications for education will be brought to bear on education.

The Office will also award grants to consortia for the development of curriculum-based software in support of the development and dissemination of professional development materials related to technology. These national efforts will produce resources available to all schools—but most importantly, the focus of the work which these grants support will be on advancing and achieving the high standards for all students, in all settings, which Goals 2000 and this bill, S. 1513, seek to set for our students.

The teacher training and curricular materials which we hope will result from the consortia supported by this act will have special benefits for schools which do not have the resources to provide or acquire such resources for themselves. Those resources will be developed with an emphasis on serving the disadvantaged.

In addition to Federal leadership, title III, part A provides money to poor schools to acquire technology. Under this part, resource grants will be made which will enable schools with the highest numbers and percentages of disadvantaged students and with the greatest need for technology to acquire that technology. The resources targeted by this title are not just computers—but connections and linkages, such as cables, wiring, phone lines, modems, and software, professional development materials and other curricular materials.

A very important part of this section is its requirements that the acquisition of technology be made in accordance with a plan. Too often technology, especially hardware, has been purchased by schools and districts, many times with Federal money through chapter 2, without due consideration for the need to educate teachers in the use of the technology or for the need for technical support. Too often insufficient attention was paid to issues of interoperability and compatibility of hardware and software. Part A encourages States and localities to think strategically about their technology purchases and plan for all aspects of technology so that they can take maximum advantage of developments in technology and the information highway as they evolve.

Unfortunately, for this year at least, we are facing very limited funds for education—title III contains an authorization in excess of $300 million, $200 million of which is for State and local resource grants, yet on the House side the appropriation is only $20 million for education technology and here in the Senate we have been given only $50 million for this part.

In drafting title III we anticipated that initial funding for the program might be low—accordingly, part A provides that in the event appropriations for the year are less than $50 million, half the money shall be used for the Federal leadership activities described in the part, including funding for the product development and professional development consortia, and half will be used for local resource grants. It is our intent that at any level of appropriations, at least some schools will receive financial assistance to acquire technology. We have also provided that in the event of appropriations less than $50 million, the resource grants will be awarded to local school districts on a competitive basis, with priority for districts with high percentages or numbers of disadvantaged students. At higher appropriations, the grants will be made on the basis of the title I formula and then awarded by States to local districts based on their poverty and need for technology.

I hope that considerably more than the amount we see this year is appropriated next year for this part—technology is key to the success of the programs we are launching here with Goals 2000 and with title I. While establishing the Office of Educational Technology and getting demonstration projects and other leadership programs underway is important, we have to recognize that the Federal Government's role in ensuring equity in access to technology will only be fulfilled when we are able to make significant grants to States so that schools serving the disadvantaged can share in the benefits of technology. We run the risk in this area—as we do in so many others—of seeing the gap widen between the haves and the have-nots unless we step in to help.

Which brings me to one last point about part A of title III. We need to be concerned not only with the have-not students but also with the fact that too often education itself is a have-not when it comes to technology and information—and threatened to become more so. Poor schools are especially disadvantaged, but the fact is that education in general is often at the bottom in terms of access to the technology we all take for granted in our lives—much less to advantaged applications. The great majority of classrooms do not have telephone jacks, much less cable connections, and many have insufficient electrical outlets to support computers or monitors or televisions. While many schools do have computers, a recent international survey of computers in classrooms showed that most computers in American schools are 8-bit machines—woefully out of date and unable to run the new software that is being developed to support school curricula.

There is a lot of talk of making sure that schools are given on-ramps to the information superhighway and in various places across the country combinations of private industry and States and localities are trying to make this happen. But little concrete has been done at the national level to ensure schools' access. If we do not pay attention to this here we run the risk of perpetuating what we have seen so often in other areas—the affluent school districts and schools will be fully connected and equipped and rural America and the inner-city will be left behind.

Title III, part A provides some help to these schools through the leadership role given to the Office of Educational Technology. That Office is charged with providing leadership at the Federal level to establish guidelines to ensure ease of access for emerging technologies so that no school system will be excluded from the technological revolution. I see the Office of Educational Technology taking an active role in discussions and plans at the Federal level for the deployment of the information highway and the development of national technology policy. This bill gives education a seat at the table when these matters are discussed and decided—education will no longer be sitting on the floor waiting for some crumbs to drop from the decisionmakers.

As I said when I rose to speak here today—I have been talking about the benefits of technology for education for several years now—finally, we are about to pass a bill that will for the first time provide meaningful and purposeful Federal support for technology in the classrooms of America. Title III, part A provides the structure for constructive Federal involvement in this crucial area of education reform. Its combination of creative and energetic Federal leadership and financial support for the neediest schools will, I believe, help all our students meet the 21st century with the education they need and deserve.

I also appreciate the committee's inclusion of several measures I proposed to foster other improvements in teaching and learning. The Extending Time for Learning Program will help schools implement the recommendations of the Commission on Time and Learning. In its excellent report, "Prisoners of Time," the Commission encourages schools to change the way they structure the school day, week or year, so that they maximize the amount and quality of time students spend learning the core academic subjects. The Commission reports that many Americans support a longer school year, while increased need for after-school care for

the children of working parents has also made extended-day schedules more appealing and more imperative. The amount of time students spend in school will not help students excel unless the quality of that time is significantly upgraded as well. Mastery of world-class standards will require more time of students, as well as increased time for teachers in learning new and innovative methods of teaching to the new standards. Through the Extending Time for Learning Program, I hope to provide teachers, students, and parents the opportunity to redesign school schedules around high standards and achievement, instead of clocks and Carnegie units.

I have also proposed the Creating Smaller Learning Communities Program, through which I hope to stimulate efforts to reduce class size, while promoting student-teacher interaction and strengthening students' connections to their school. Research and experience have shown that smaller learning communities, such as schools-within-schools can contribute to increases in student achievement, grade promotion and attendance, as well as decreases in violence and disruptions. I am sure my colleagues from Pennsylvania are familiar with Philadelphia's charter schools, which function as schools-within-schools in nearly all the city's comprehensive high schools. Smaller school size, increased interaction among teachers and students, and an emphasis on high-quality academics have helped students in Philadelphia's charter schools become 7 percent more likely to advance to the next grade than their peers who are not in charters. Funds from this program would: provide grants for teachers, administrators, parents and other community stakeholders to design and create smaller learning communities; enable schools to offer students a variety of curricular and instructional themes and approaches; and help schools and school districts establish new administrative and managerial relationships.

In many States, teachers, administrators and parents interested in testing new forms of management and administration are developing charter schools—public schools that operate independently of the school district. I have added several amendments to the charter schools provision of ESEA to ensure that charter school developers may also apply for funds to assist in the planning and development of charter schools that exist as schools-within-schools, in States where the law permits such charters. Smaller learning communities can promote the kind of variation in curricular and instructional approaches that will offer students greater educational choices within the public school system.

I would also like to discuss some of the important changes the Improving America's Schools Act incorporates to the Impact Aid Program which provides funds to school districts which are fiscally impacted by the presence of Federal property.

Federal property is not subject to State or local taxes and activities conducted on the property are frequently exempt from taxation. When that property has connected to it children who are entitled to receive a free public education, the State or locality providing that education is burdened with the expense of educating the child, often without the financial support which would otherwise be generated by the property on which the child resides or—in many cases—by other taxes related to that property.

This is an especially acute situation in New Mexico where we have large Indian reservations occupying tens of thousands of acres. Ninety percent of the children who live on those reservations attend public schools funded by the State of New Mexico and the nearby localities. In 9 of our 88 school districts, federally connected children—by and large children residing on Indian lands—constitute more than 50 percent of the children served by those school districts. In 20 percent of our school districts those children constitute more than a quarter of the school population.

Those school districts are required to provide a free public education to Indian children with virtually no financial contribution from the property on which their parents live or from activities on the property. State and local property may not be levied on Indian lands or other Federal property. But it is not just property taxes which are lost to the State and localities by reason of the Indian lands.

The other taxes on which New Mexico relies to support education are also adversely affected by the presence of Federal property, including Indian lands.

In particular,

Gross receipts tax—also known as sales tax—is not collectible on sales on military posts or on any sales made on Indian reservations by Indians or to Indians on the reservations;

Cigarette taxes are not payable on sales of cigarettes on the reservation or any tobacco products sold to the United States;

State income tax is not payable by any member of a tribe living and working on a reservation;

Indian-owned corporations located on Indian lands are not subject to the corporate gross receipts tax;

Severance taxes may not be imposed if a tribe is the interest owner and operator;

New Mexico estate taxes are not imposed upon Indians living on reservations.

In short, few if any of the traditional sources of revenue for schools are available to New Mexico or to school districts from Indian lands. Compounding the problem for schools educating Indian children are the high poverty rates among those children and their parents, their limited English proficiency and the additional costs of transporting children who live on reservations.

New Mexico and other Western States bear a heavy financial burden in connection with the education of children residing on Indian lands—contributions by the Federal Government to support the public schools serving these children is essential.

Title IX of the committee substitute is well-crafted to achieve the goal of ensuring an appropriate education for federally connected children—particularly Indian children. The Senate has reduced the weight to be accorded the so-called civilian "b" children, leaving more of the resources appropriated for this program for the districts which are truly needy such as districts serving children residing on Indian lands.

The committee substitute also includes a provision that is especially important to my State where we have several school districts enrolling substantial percentages of Indian children. In those districts Impact Aid makes up a large percentage of the district's budget; when appropriations are not enough to fully fund the program, these districts suffer acutely because they have nowhere else to turn for funds. The committee substitute includes a concept of a learning opportunity threshold to deal with this situation. The learning opportunity threshold determines the allocation of funds among districts where funds appropriated are insufficient to fully fund the program. Under this provision, districts which are more heavily reliant on Impact Aid funds receive a greater percentage of funds than do districts with less reliance on those funds. This is especially important because districts which are heavily reliant on Impact Aid do not have other, local sources of tax revenue with which to make up any shortfall in funding—there is simply no place left to turn.

The committee substitute recognizes the disparate effects on school districts of less-than-full funding of Impact Aid. The committee substitute provides for reductions to be made on a sliding scale which avoids the cliff effect of current law wherein districts which derive 20 percent of their budgets from Impact Aid are treated the same as those who derive 90 percent and those deriving 19 percent are treated differently still. I commend the National Association of Federally Impacted Schools for their help in producing this improvement to current law.

I am also pleased with the revisions which have been made to the construction provisions of the law. Heretofore there were two construction programs, one for districts impacted by Indian

lands and one for all federally impacted districts. Construction grants were made on an all or nothing basis based upon evaluations of need and a waiting list. Schools could remain on that waiting list for decades without receiving a dime of help. At most, two schools a year would receive funds under this law—all the others would have to wait. The schools serving large percentages of Indian students often have little or no bonding capacity, thus they must rely heavily on these Federal sources for construction moneys—but those moneys were very, very scarce.

The committee substitute provides for only one program for all impacted districts, tightly constrains the districts which can participate, and provides each with an annual amount which can be used or accumulated for construction or repair. While annual grant amounts are not anticipated to be enough to construct an entire school, there will in many cases be enough to allow a district to accumulate sufficient funds to accomplish needed construction within a reasonable period of time and with some reasonable certainty—unlike the current situation, which, as I have said, results in only a couple of school districts being able to build or renovate a school each year.

Finally, I would like to commend the committee substitute for the way in which it handles the issue of equalization. Payments under Impact Aid can create inequalities in States which equalize spending among school districts. New Mexico has such a law. It provides for State funding of education under a scheme in which students are weighted according to their grade level, special needs, and the density or sparsity of their districts. Among other things, in this way, the State seeks to provide appropriate levels of funding for all students, regardless of the district in which they live or the resources of that district. This system has been formed and refined over many, many years in New Mexico; it is intricately balanced to take account of the many differences in educational conditions that exist across our State and it recognizes that equivalence of dollars is not always equity for students.

If my State could not take Impact Aid payments to districts into account in calculating amounts to be paid to local districts for education, the entire equalization system would be undermined and would undoubtedly have to be reformulated. That process would be a long one and once completed, those districts now heavily dependent on Impact Aid would be even more dependent because they could no longer look to a State equalization scheme to make up any shortfall in the event the Federal appropriations process does not provide enough funding in any year.

Under current law and regulations, New Mexico has been allowed to take Impact Aid payments into account when calculating payments to districts under the equalization formula. The committee substitute continues the current law. It has been suggested that the law be revised in various ways to make it more difficult for States to take Impact Aid payments into account in their equalization formulas. The suggested changes would make the test for equalization more rigid—but rigidity in determining whether a State's school financing is truly equalized is inappropriate because of the very different conditions in each State. It is obvious that Alaska faces dramatically different costs to provide the same educational opportunity to children in extremely remote areas as it does to children in Anchorage. The same is true in my State where our State financing law has to take into account great differences in transportation costs, differences in costs attributable to scarcity or density, and the challenges of limited-English-proficient students.

The current law is stringent enough—only three States are currently allowed to take these Impact Aid payments into account. There is no showing of any abuse or problem with the application of the law or that current law in any way discourages equalization of school financing. The committee substitute's approach to this issue should be adopted.

Impact Aid is a crucial component of the Federal Government's responsibility to the States and to native Americans. The education of American Indian children is largely dependent on the Federal Government's contributions through this program—as I said when I began, over 90 percent of all American Indian children living on reservations attend public schools. The committee substitute is a thoughtful and responsible reworking of the current law which provides support for the education of those children. While there are certainly aspects of it which I would change—for example, an increased weighting for Indian children as opposed to other federally connected children—on the whole it represents a reasonable compromise of many competing interests and is worthy of our support.

The committee has also made two significant changes to title XIV of the Elementary and Secondary Education Act, which establishes the collection of national education statistics.

First, the committee substitute includes a provision which I requested concerning the collection and analysis of data concerning school administrative expenses.

Through Goals 2000 and this bill, we are providing greater Federal resources to the schools to assist them in reform and improvement of their programs, especially their programs for economically disadvantaged students. We hope that the funds which we are sending to the States will promote the activities we are seeking to affect—better teaching in the classroom, more services to kids. I think that all taxpayers want to see their money go to the classroom—to services to children—and they want those services to be provided efficiently.

Yet we really know very little about exactly how education dollars are spent. There is a fair amount of data collection at the State level and even the district level—but it is exceedingly difficult to trace funds to individual schools and to the expenditures at the school level.

In the reform movement—especially with charter schools and the kind of accountability we are building into the title I program—we are seeking to put more responsibility on the individual school. Yet, at the same time, we have very little information about the finances of individual schools.

In an article last year, Education Week observed that we lawmakers have only a tenuous grasp of the real impact of our finance formulas and "local school officials are in the dark about how their money is being spent and whether their programs are worth the cost." By the time funds get to a classroom, it is hard to retrace the logic of how and why they got there or what they buy.

I have sometimes seen in my home State of New Mexico what appear to me to be wasteful spending practices—money being spent on nice offices for administrators while classrooms are ramshackle and lack even telephone connections. I am sure many of my colleagues have seen similar things—and we have all been told by members of the public that they question being asked to provide more funds for education until they are satisfied that the money is not going for unnecessary overhead or "perks." But schools are hard-pressed to respond to that criticism or to streamline their operations because they do not know where the money went, either.

Title XIV of the committee substitute now includes a direction to the Commissioner of Education Statistics to work with one or more of the few States which are working on collecting school level financial data to study, design, and pilot a model data system that will yield information about spending for administration at the school and local educational agency levels. Upon the completion of the pilot model data system, the Secretary of Education shall study the information gained through the use of such a system and or the relevant information and report to Congress on first, the potential for the reduction of administrative expense at the school and LEA level; second, the potential usefulness

of such data to reduce such expenses; and third, other methods which could be employed by schools, LEA's or States to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning and, if appropriate, steps which may be taken to assist schools, LEA's and State education agencies to account for and reduce administrative expenses.

I want to see our education dollars go as far they can. I believe that more information about where our dollars actually go will help the schools in several ways—first, it will help them manage themselves more efficiently as they see better just how their money is spent and how other comparable schools and districts manage themselves fiscally; also, it will provide more information to the public about the use of their tax dollars, and, that those dollars are being spent wisely, that information will bolster public support for the schools and finally, that information may assist our reform efforts by helping us to understand better how results are influenced by funding decisions.

Our schools need all the help they can get—one kind of help which the Federal Government is uniquely positioned to provide is information and analysis. I hope that with this modest change to the tasks of the Center for Education Statistics and of the Department, we can help States and localities make better decisions about their education dollars and drive more of those dollars to the level of the kids where they are most needed.

I would also, however, like to indicate for the record my disagreement with the committee's decision, in title XIV, to prohibit the use of the National Assessment of Educational Progress [NAEP] exams at the school district level.

The NAEP is a nationwide test administered to a sampling of American students in grades 4, 8, and 12 at least once every 2 years. NAEP is the best indicator we have to gauge the achievement levels of our children. This information helps parents understand what kinds of things American students know and can do, and it helps inform teachers, administrators, and policymakers about the areas in which progress have been made, and those that need improvement. The National Education Goals Panel, on which I serve, uses NAEP results to report on student progress toward meeting the national education goals, particularly goals 3 and 5, which call for higher levels of student achievement in the core academic subjects.

International comparisons provide increasing evidence of the need for American students to be challenged by higher standards. These comparisons have helped spur educational reforms at all levels—through Federal efforts such as Goals 2000 and ESEA, State systemic reform initiatives, and local efforts to improve the quality of teaching and learning in schools. States can elect to administer NAEP exams, and can tabulate results at the State level, although they must help defray the costs of the examinations. Many States have begun to use NAEP to chart progress within the State, and to compare results with those at the national level.

It is at the local level, however, that change is most critical, and often the most difficult to inspire. Too many parents feel that, while there may be a need for educational reform in our Nation, "my school is OK." In too many communities, the same citizens that complain about the need for a better-trained work force veto school bonds, constricting already tight school budgets. Information at the local level about student achievement can break the pattern of complacency that enables community members to point beyond their own backyards when citing the need for reform.

The administration originally proposed that NAEP be made available for assessing aggregate student achievement at the school or school district level. Under this proposal, school districts could, on a voluntary basis, use NAEP tests to gauge student progress in relation to student performance across the Nation. NAEP tests are developed and supported by public funds; thus they should be available for use at the local level.

NAEP data collected at the school district level can provide parents with better information about the progress of schools in their community. Several school districts in our country are larger than some States; these communities in particular could benefit from a better gauge of student achievement. It is important to note, however, that NAEP tests could not be used to report individual student achievement—local NAEP results would only be reported in terms of total student scores.

Some have argued that the use of NAEP at the district level could result in its use for accountability purposes, which may in turn encourage teachers to base curriculum and instruction on the content of NAEP exams. Others have added that NAEP administration at the local level may erode incentives to develop innovative assessments called for in Goals 2000 and title I of ESEA. I do not find these arguments persuasive, for several reasons.

The reasons described in Goals 2000 and title I of ESEA must be based on a set of standards developed by the State. NAEP exams are not—and will not be—based on a common set of standards, thus it would be difficult for schools to actually teach to the test or to substitute NAEP assessments for those necessary in Goals 2000 or title I.

In addition, schools administering NAEP tests would have to follow certain security requirements and protocols that would considerably stem the risk of polluting the results of national NAEP achievement data. Several nationwide tests administered on a local level, such as the SAT and the ACT, have strict administration requirements school districts are careful to follow. There is no reason to think that the NAEP testing process would be less secure than any other exam.

Local NAEP results would provide parents, teachers, and schools with a mechanism to gauge student progress in relation to other students in the Nation. At this time, it is the best such national indicator we have, and I believe that the Federal Government has an obligation to parents, teachers, and communities to supply these publicly funded exams to school districts who wish to use them within the guidelines established by the Department of Education. I hope that the Senate can revisit and reconsider its position on the local use of NAEP tests in the Conference on this bill.

In closing, I would again like to reiterate my overall support for this legislation. The committee and the administration have done a fine job of balancing many competing concerns and priorities. This comprehensive bill addresses today's most pressing problems in a holistic fashion—by insisting that all children are taught to the same high standards, and then providing resources—such as professional development, technology, and drug and violence prevention funds—to the areas critical to ensuring that children are able to learn to those standards. This bill will benefit our children and it will benefit the Nation.

Mr. GRASSLEY. Mr. President, I am pleased that the committee accepted a number of my proposals to the Elementary and Secondary Education Act to update the Family Education Rights and Privacy Act of 1974 [FERPA]. FERPA provides parents the right of access to their childrens' education records. Unfortunately, the law is rather strict on schools and has historically been difficult for the Department of Education to administer.

The suggestions I made to the committee were based on discussions with parents, educators, and the enforcement divisions at the Departments of Education and Justice.

The changes I have proposed will provide greater parental access, a lighter burden on schools and ease of enforcement for the Department.

The issue of parental access to a child's records has been widely accepted since FERPA passed in 1974. Under the law, a parent has the right to see their child's education records within 45 days of request and to modify the records if they believe the records to be misleading or inaccurate.

Not only this, but if modification of the education record is not allowed,

parents may appeal this decision and place a letter in the education record to accompany the information they believe to be inaccurate or misleading.

These provisions are crucial to parental involvement in the education of their children, which we all agree is tied to student academic achievement. In my proposal, I made several suggestions concerning how to enhance parental access to their children's records.

One of the limits of the law was that it only applied to local education agencies and schools. If State education agencies were keeping records on children, parents had no right of access to those records. My amendment provides for that access so that parents may review any records kept by the State on their individual children. To avoid burdens on the State, I modified my amendment so that parents are not trying to change State records; if they find something at the State level that requires modification, they will need to approach the officials at the local level.

They may modify the local records and go through the appeals process outlined under FERPA. The key to this provision is that parents should always have access to records on their children, whether they are kept at a State or local level.

Also under current law, a parent must typically be consulted before anyone has access to their child's education records. Again, the goal is to guard the privacy of the child and family. There are exceptions to the parental notice requirement, however, for specific occasions when it is decided that there is cause for that access. Confidentiality provisions were established to protect the child and family in cases of access without consent.

One example of access without consent is when there is a "legitimate educational interest." This provision of a "legitimate educational interest" has historically been interpreted as the big picture educational interest, meaning the education interest of all the children, not necessarily the educational interest of this particular child whose record is sought.

I offered an amendment to require that the specific child's educational interest must also be considered with the big picture in cases where access to a child's record is obtained without parental consent.

Another provision I proposed for greater protection for families is concerning third party organizations which receive information from a child's education record without parental consent. Organizations may receive information from student records for the purpose of developing, validating, or administering predictive tests, or for improving instruction.

In order to receive this information, the organization must not permit the personal identification of students and their parents. Further, the organization must guarantee the destruction of the records when they are no longer needed for the particular purpose for which the records were obtained.

Unfortunately, for 20 years since FERPA's creation, there has been no enforcement mechanism against an organization which violates these requirements for confidentiality and destruction of records. My amendment provides that enforcement mechanism.

If an organization violates its responsibilities to protect confidentiality and destroy records, the organization will be prohibited from access to any education records for a period of at least 5 years. By having an enforcement mechanism in the law, organizations will be more likely to live up to the responsibilities placed in the law since 1974.

Additionally, under the original law, parents must be notified of their rights under FERPA. Unfortunately, there is no requirement that the notice actually get to parents.

It is acceptable under the original law to simply put a notice in the local newspaper that may not ever reach parents. Rights that citizens don't know about are meaningless.

Let me make clear, Mr. President, that there is nothing in my amendment that tells school districts how they are to make this notice. However, a school district must assure that the notice to parents concerning their rights under FERPA is effective.

Finally, under the original law, the Department of Education was responsible to draft regulations "to protect the right to privacy of students and their families in connection with surveys or data-gathering activities conducted, assisted or authorized by the Secretary or an administrative head of the agency."

After 20 years, Mr. President, these regulations have never been drafted. The Department indicated in discussions with me that there is no need for new regulations because there are regulations concerning the National Center for Educational Statistics, the division that does most of the Department's data gathering activities. However, what about any other data-gathering activities performed by the Department or an administrative head?

In light of the its response, I modified the language to say that the Secretary shall either adopt appropriate regulations, as mandated in the original law, or identify existing regulations which protect these rights of privacy.

If, as the Department says, they already have regulations which provide for the protections, in every area of data gathering performed by the Department, I am happy to simply have those regulations assembled in a way that clarifies to parents how their family privacy is protected.

However, Mr. President, as far as I am concerned, it is not an option for an administrative agency to simply ignore a specific congressional mandate for action. Congress had reason to pass this language 20 years ago, and the Department needs to comply with the requirements established.

I have also made several suggestions, Mr. President, for ways to lighten the burden on local school districts.

Unfortunately, parents occasionally bring claims never intended under FERPA. Because of specific language in the act, there is a loophole allowing for frivolous claims. FERPA provides that parents can challenge information in the student record that they believe to be "inaccurate, misleading, or otherwise in violation of the privacy or other rights of students." Most of this language is very clear; however, what does "or other rights of students" mean?

This particular provision, "or other rights of students," has been used by parents to challenge provisions of a child's individual education plan under the Individuals With Disabilities Education Act [IDEA] and even to challenge grades. The problem with both of these true-life examples is that the enforcement office at the Department of Education has no authority to address these concerns. But because of the way the FERPA is drafted, parents continue to bring these claims.

My amendment drops the language "or other rights" of students so that if parents have rights under other laws—like IDEA—they must bring their claims under the law that created the right, not under FERPA, which was not designed for this purpose.

With this language dropped from the law, school districts and those in charge of enforcement at the Department will be free from dealing with these frivolous claims.

Another problem that school districts have had under FERPA is in dealing with subpoenas issued by courts concerning students at their schools.

Under the original law, a school district receiving a subpoena to release records without notice to any person is in a legal bind. Under FERPA, the district cannot release the records without notifying the parent or student. To do so, the district risks losing its Federal funds. But under the specific language of the subpoena, the district could be held in contempt of court for violating the subpoena if it obeys FERPA and notifies the student or parent.

Unfortunately, with increasing crime among young people, this double bind is becoming more prevalent for school districts.

What is a school official to do?

My amendment addresses this dilemma by creating a bifurcated approach. If a Federal grant jury issues a

subpoena for a student's records, the court is mandated, "for good cause shown" to issue the subpoena saying not to notify the student. In this case, the school is not in violation of FERPA.

In the case of a State court subpoena, the amendment is permissive and simply allows the State court, "for good cause shown" to tell the school officials not to notify the student. In this case also, the school district will not be held in violation of FERPA.

Note that in both the Federal and State examples, good cause must be shown for why a parent or student should not be told that records will be released.

With the addition of this amendment to the law, school districts will no longer be placed in the double bind of deciding whether to violate Federal law and release the records without notice, or be held in contempt of court for providing notice.

This provision was brought to my attention by counsel at the Departments of Education and Justice and was carefully drafted to avoid Congress telling State courts what to do.

Finally, Mr. President, there was a specific provision of my original proposal that I dropped, reluctantly, after much discussion with the Department and committee members. My original proposal required that a parent should have access to any records maintained as the result of any social or health services provided to their child on school grounds.

I want to make clear that I still believe parents have a right of access to any records kept on their children at school.

It does not matter to me if those records are kept by school officials or by health or social services officials. I do not believe anyone should have a right to keep records on a child without a parent's knowledge or access.

Understand that the provision I dropped did not require parental consent, which I personally believe should be the standard. No, it simply required that parents have access to the records after the fact.

I still believe this is a reasonable requirement.

Only in the case of child abuse or neglect allegations can I agree that a parent should not have access to health or social service records kept on their child. Even then, I believe the parent should have access to all of the records except for those records concerning the alleged abuse or neglect.

Unfortunately, this provision was not accepted.

Mr. President, I believe the suggestions accepted in the committee bill provide for greater parental access, a lighter burden on schools, and ease of enforcement for the Department of Education.

I have made every attempt to provide a balanced proposal that addresses the concerns of all involved in the application of the Family Education Rights and Privacy Act. I commend these provisions to the Senate and the conference committee as important modernizing amendments to this crucial law.

THE EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994

Mr. CAMPBELL. Mr. President, I would like to give my support for an amendment which is included in the manager's bill to the Elementary and Secondary Education Act [ESEA]. I am pleased to see the Equity in Educational Land-Grant Status Act of 1994 attached to this year's ESEA bill, which will give 29 tribally controlled colleges the land-grant status they need and deserve.

There are currently 14,000 students enrolled in the 29 tribal colleges and the student count continues to rise. Clearly, these colleges and students are a great resource in the communities where they are located, providing a unique learning experience that benefits not only the students, but community members as well. Because most of the tribal colleges are located in rural areas, they provide a general curriculum that is practical to students, but also need to be able to provide technical expertise and research opportunities that will benefit the community at large. It is for this reason that land-grant status should be extended to these schools, so that tribal colleges have the opportunity to provide the services that land-grant schools are already providing.

Land-grant schools were established to develop programs that would deal with problems of the rural poor and to then study how to improve the economic situation for rural people. The native American population is by far the poorest and most rural of Americans. It is imperative then, that tribal colleges receive adequate funding and resources necessary to continue to operate programs of outreach and technical assistance which make up a large part of the schools curriculum. In fact, land-grant institutions were originally established for these types of programs. By extending this status to tribal colleges, graduating students will not only become productive citizens, but will also have gained the appropriate skills to better their community.

The extension of land-grant status to tribal colleges would not affect the programs of existing land-grant schools. It would, however, authorize an endowment to tribal colleges payable in installments over a 5-year period. Namely, this status would provide $10 million, as provided under the 1862 Morrill Act, to operate "colleges for the benefit of agriculture and the mechanic arts" and tribal schools would also become beneficiaries of annual appropriations in the budget of the Department of Agriculture. If fully funded, this legislation would bring these severely underfunded schools closer to the level of funding already enjoyed by other land-grant schools.

This act will provide the tribal colleges with better resources needed to foster and develop programs in agriculture, natural resource management, and other related fields. In addition, the colleges will be able to seek technical assistance from the Department of Agriculture. I think it will provide an invaluable opportunity for native American peoples to fully develop their agricultural resources and realize self-sufficiency through education. Understanding that there is no debate on this amendment, I would just like to share my support and appreciation for the committee and my colleague from New Mexico, Senator BINGAMAN, on his work with the Equity in Educational and Land-Grant Status Act. I am pleased to see this language attached to the Elementary and Secondary Education Act of 1994.

Mr. RIEGLE. Mr. President, I rise today to speak in support of S. 1513—Improving America's Schools Act.

Americans have come to a consensus that the education of our children is the fundamental starting point in building a strong future for our country. Unfortunately, our schools cannot educate in a vacuum, by simply ignoring the problems that face our society. As a result, poverty, crime, drugs, hunger, and the condition of the family all show up in the classroom. S. 1513 recognizes this reality and provides some critical support to local schools in confronting these problems.

In 1965, President Johnson recognized that Washington must provide a leadership role and the Elementary and Secondary Education Act was created. Back then we recognized the inequities that exist from school district to school district. Since 1965, as the challenges to society have changed and in some instances worsened, so have the problems in the classroom. This reauthorization takes new strides to deal with these challenges and recognizes that, while Government cannot act alone, it can provide some needed leadership and funding.

The leadership we are extending with this act reaches out in many directions. In the 1980's, we recognized the threat of drugs to our classrooms and attempted to assist local communities in creating drug free environments. Today we are continuing that fight and recognizing that we must include violence as a related challenge to the integrity of the schoolhouse. As the world economy has become more competitive so has the challenge to the U.S. work force, and this legislation makes a commitment to that challenge by increasing our support of professional development of teachers and by helping to bring technology into the classroom.

Just as we have recognized the need to keep drugs and violence out and to bring training and technology into the classrooms, we also know that much of what we accomplish in America's schools is affected by what happens to the child before he or she sits down to learn. Efforts such as Even Start recognize the importance of adult literacy and parenting on a young child who has just entered the school system. Similar to earlier education legislation passed in this Congress, we are placing special emphasis on the involvement of parents in their child's education and their schools.

Finally, this act reaffirms the fact that, although we are providing national leadership, the critical difference will be made by local school boards, teachers, community and business leaders, and parents. This country's education system is the most democratic and local form of government. We can lead from Washington, but it will be local people—especially parents—who will determine what ultimately happens.

I commend President Clinton and Secretary Riley for their leadership on education. The enactment of this legislation will add to a growing list of accomplishments that now include: Goal 2000, the School-To-Work Act, reform of college student loan programs and—perhaps most importantly—the creation of a National Service Program that will extend, to college students, both an opportunity at higher education and require a commitment to our communities. The administration has strongly supported these programs and worked with Congress in developing the legislation and the needed funding. Let me also take this opportunity to commend Senator KENNEDY and Senator PELL for their continued leadership and hard work on education issues.

LAND GRANT STATUS TO TRIBALLY CONTROLLED COLLEGES

Mr. BINGAMAN. Mr. President, I am pleased that the managers have accepted an amendment to S. 1513, the Improving America's Schools Act that will provide limited land grant status for 29 educational institutes serving Native American students. I am pleased to have a distinguished group of original cosponsors, including, Senators BAUCUS, CAMPBELL, DORGAN, LEVIN, RIEGLE, and SIMON. In addition, I would like to thank Senators DASCHLE, EXON, WELLSTONE, KERRY, CONRAD, INOUYE, BURNS, and DOMENICI, who have joined me as cosponsors.

Of the 29 institutions that would become land-grant institutions, 24 are tribally controlled community colleges, established pursuant to the Navajo Community college Act of 1970 and the Tribally Controlled Community College Assistance Act of 1978. These colleges offer 2-year degrees, except for Salish Kootenai College and Oglala Lakota College, which offer 4-year degrees, and Sine Gleska University, which offers both a 4-year and a graduate degree program. These colleges are located in 12 States and enroll more than 14,000 students.

Two other institutions that would be designated are tribally controlled postsecondary vocational institutions—Crownpoint Institute of Technology and United Tribes Technical College—both of which offer 2-year programs. Together the two have an enrollment of 675 students.

Other institutions that would also be designated as land-grant colleges are the Haskell Indian Nations and the Southwest Polytechnic Institute [SIPI]. Enrollment in 1993 at Haskell was 906 students and at SIPI, 519 students. Both schools are operated by the Bureau of Indian Affairs.

The final college that would be designated is the Institute of the American Indian and Alaska Native Culture and Arts Development, an institution offering 2-year degree program. The institute, an independent agency governed by a Presidentially appointed board, currently enrolls 250 students.

The amendment would provide additional resources to further the agricultural capacity of the tribes and their members through these colleges.

In considering this amendment, it is important to understand the background of the land-grant program. In the middle of the last century, life in America underwent dramatic changes and many educators realized that an entirely new educational system was needed to provide accessible education suited to the needs of our citizens. In 1862, Congressman Justin Smith Morrill sponsored the Land-Grant Act which authorized States to use the income from certain public lands to establish and operate colleges or universities for students of agriculture and the mechanic arts.

A major goal of the land-grant program has been to include equally all people of the United States and the trust territories in the educational benefits which these land-grant colleges and universities provide. This served as the impetus behind the 1890 Second Morrill Act which established numerous institutions for black students, to ensure that these students had equal access to higher education even in States which already had existing land-grant colleges. In addition to setting the precedent that land-grant colleges could serve special populations, the Second Morrill Act demonstrated that there could be more than one land-grant college established in each State. In 1968, Federal City College, now the university of the District of Columbia, in Washington, DC was included as a land-grant institution. It established that trust areas were to be included in the land-grant programs; this trend continued with the addition of colleges in Guam and the Virgin Islands in 1972. Finally, the addition of colleges in Micronesia, American Samoa, and the Northern Mariana Islands in 1980 demonstrated that community colleges are also eligible for land-grant funding.

The original intent of the land-grant colleges statutes was the development of programs to deal with problems of the rural poor and to study means of improving economic opportunities for rural people.

Presently 74 colleges in the United States and their trust territories receive money under land-grant programs. Of these, 50 had their origins in the Morrill Act of 1862. Sixteen black colleges were also designated as land-grant institutions pursuant to the 1890 act. The seven other colleges were designated pursuant to separate acts of Congress between 1968 and 1980. The Department of Agriculture annually appropriates over $700 million to these colleges and universities, with each institution receiving an average award of approximately $9 million. This legislation confers on these schools some of the benefits now available to other schools.

Granting limited land-grant status to the institutions would significantly assist the approximately two million Native Americans living in the United States, 800,000 of whom live on 314 reservations. The 29 colleges listed in the amendment are all located on or near reservations. Most are 2-year colleges and technical schools. However, three are 4-year institutions and one offers a master's degree program. The schools are the most important providers of higher education opportunities for Native Americans, and have been particularly successful at retaining students and sending them on to 4-year colleges. They also are a source of community support—operating programs of family counseling, alcohol and drug abuse programs, job training, and economic development. The tribal colleges also conduct numerous types of programs of technical assistance similar to that on which the original land grant institutions were founded. Generally speaking, the schools are poorly funded, due in large part to the depressed economies in and around the reservations, but also due to a lack of adequate Federal support. This amendment would make the resources available to continue the technical assistance now provided by the schools as well as to allow the schools to enhance their agricultural program.

Furthermore, land-grant resources would allow tribal colleges to ameliorate the gross funding inequities which they suffer. Presently, tribal colleges receive approximately $2,974 per full-time equivalent [FTE] student compared with approximately $17,000 per FTE student for Historically Black Colleges and Universities students and

approximately $7,000 per FTE student at comparable mainstream community colleges. I would note that funding for tribally controlled community colleges has not been included but in fact has decreased over the last year while Federal support increases for other minority institutions continue to grow.

In my home State of New Mexico, there are four tribal colleges that serve over 1,700 full-time equivalent students. These institutions provide their students with the education and technical skills necessary to dramatically improve their lives. With a land-grant college designation, the Crownpoint Institute of Technology, the Navajo Community College/Shiprock Campus, the Southwestern Indian Polytechnic Institute, and the Institute of American Indian Arts, will have access to additional resources for the study of agriculture, traditional arts and culture, and ways to help Native American people become self-sufficient. By enabling tribal colleges throughout the country to become participants in a variety of agriculture research programs, this legislation would assist them in developing research and extension services.

This amendment also will provide an endowment payable in $4.6 million installments over 5 years. This endowment will be held in trust and its annual dividend will be used to supplement current educational programs of the schools.

The amendment also makes clear that the series of these existing institutions will not be duplicating or competing with the existing State land-grant institution extension services or experiment stations. It provides for a separate annual authorization of $50,000 for each tribal institution to be used for instruction in food and agriculture sciences; the existing land grant schools would not have this annual allocation to them diluted by the addition of these new schools.

The amendment also authorizes an institutional capacity building grant program of $1,700,000 per year for the next 5 years and a grant program of $5,000,000 per year for research and extension services to be administered through the already-existing land-grant institutions.

The legislation was reported out of the Indian Affairs Committee in November 1993; the substitute bill which comprises the amendment was unanimously approved by the committee. The bill has full support from the Department of Agriculture. In addition, the National Association of State Land Grant Universities and Colleges endorses the legislation.

The institutions which are listed in the amendment are similar in many ways to those institutions currently eligible for Department of Agriculture assistance under the Morrill Act to strengthen its commitment to equal educational opportunity for all Americans, including American Indians. Unfortunately, American Indians are too often last in educational opportunity and development. By providing equitable access to agriculture education-related programs, it is not too late to help remedy this situation.

Mr. WOFFORD. Mr. President, the Improving America's Schools Act will give our communities the tools they need to improve their schools. It will help schools strengthen basic skills—through an invigorated chapter I program and expanded staff development. It will also bring badly needed technology to schools around the Nation.

I am particularly pleased that this legislation includes the Safe and Drug Free Schools Act—legislation I introduced to provide parents, teachers, and students with the tools they need to fight violence in our schools.

A recent survey showed that only 29 percent of parents believe that their children are safe in school. According to the Centers for Disease Control, nearly 3 million crimes occur on or near school campuses very year—one every six seconds. It is estimated that over one hundred thousand students carry guns to school each day. Thousands of students and teachers alike are victims of physical attacks or threats of violence. It is a terrifying situation. And, it is a scandal.

Marleihia Harper, a student at a Philadelphia high school, says that violence is an everyday occurrence. She says that even the hand-held metal detectors are not enough to keep guns and knives out of her school. And when it rains, the crack vials float in puddles in the schoolyard.

Marleihia attends a large urban school. But school violence has infected our rural and suburban schools as well. I recently visited a smaller school in Wilkes-Barre where a poll of students found that 52 percent of students knew someone who brought a weapon to school and 72 percent said they witnessed violence at their school in the past year.

The seventh National Education Goal, established by the Nation's Governors, states, "By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning." The legislation we are considering today will bring us closer to that goal.

The Safe and Drug Free School Act will help local school districts develop and carry out comprehensive programs to prevent destructive behavior. Schools will be able to attack their own individual problems head-on. Schools could use funds to fit their own unique needs to develop programs such as teacher training, conflict resolution training for students, antigang efforts, or they could use funds to develop a partnership with the police, or a mentoring program with members of the business community.

Feelings of hopelessness, alienation, and cynicism that lure children into using drugs also lead to violent behavior. Since drug use and violence often go hand and hand, the most promising strategy is comprehensive, coordinated school and community efforts, efforts that bring together families, students, community organizations, and law enforcement. This legislation will support these efforts.

This legislation does not create another Federal program and bureaucracy. Rather, it alters an existing program to better meet the challenges facing our schools today. It will not burden schools with rigid, top-down, bureaucratic rules, but will leave communities free to produce the best course of action and give them some of the resources needed to get things done.

Many Pennsylvania communities have taken the lead in attacking violence in schools. In recent months I have met with students, parents, teachers, and administrators from all parts of Pennsylvania who told me their own stories of the violence they see in their schools and how this legislation will help them do something about it. In Pittsburgh, the school district formed a task force that's taking the ideas of parents to work to eliminate violence among young people. In Philadelphia, I walked with a group of concerned parents and clergy—led by my friend Rev. William B. Moore—in the safe corriders program, which protects children on their way to and from school. Also in Philadelphia, Veronica Joyner, a caring and dynamic community leader, has created a parents program that brings activities into some of the cities most violent schools. In Reading, a peer mediation program is teaching children how to settle their own disputes without resorting to weapons, punches, and insults. In Wilkes-Barre, the district attorney is working with local schools to prevent youth violence. And in Harrisburg, parents have joined together to provide a daily presence in the schools.

Education is the one sure path to a better life for every American child. But children cannot learn if they do not feel safe. The Safe and Drug Free Schools Act will help us to once again make our schools a safe haven of knowledge, hope, and security.

I am also pleased that this legislation incorporates key provisions of the Service Learning Act of 1993, which I introduced with Senators DURENBERGER, KENNEDY, and WELLSTONE. The Service Learning Act is based on a simple yet powerful truth: students learn best by doing, by being active and engaged in the process of learning.

In 1990, the President of the United States and all 50 Governors recognized this approach as an integral part of our Nation's educational goals. In their Charlottesville Declaration, they proposed that all States and school systems act to ensure that by the year

2000 "all students will be involved in activities that promote and demonstrate good citizenship, community service and personal responsibility." Service-learning was seen as an important way to achieve goal three: that all students are "prepared for responsible citizenship, further learning, and productive employment in our modern economy."

Service-learning can be a critical element in education reform. Active learning through community service, especially if it is curriculum-based, improves student achievement by making classroom learning more meaningful. It can reengage students turned-off by traditional teaching methods. Service-learning promotes teamwork, leadership, and problem solving. In successful programs of service-learning, students replace alienation with engagement, exchange boredom with excitement, and learn the exhilaration of making a difference. In this active form of education, the community becomes the classroom and students become resources. Thus service-learning will help us achieve all of the national education goals set in Charlottesville—for better teaching and better learning.

Mr. President, with this legislation we are also going farther than ever before in recognizing that the best ideas about how to improve schools do not come from Washington—but from communities across the Nation. I commend Senator KENNEDY, Senator KASSEBAUM, Senator PELL, and Senator JEFFORDS for their leadership in crafting this bipartisan education bill, and I encourage my colleagues to join me in offering their full support for the Improving America's Schools Act.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1513, the Improving America's Schools Act. This the third major education bill that the Senate has passed this Congress. The legislation complements the Goals 2000 and School to Work acts that President Clinton signed into law last year.

This legislation represents the Federal commitment to local education. The Federal commitment to education is an important one, although it is limited. The Federal Government provides only 7 percent of all funds for education. However, the Federal role has traditionally been one that helps disadvantaged children and promotes innovative education.

This bill provides funds for such items as increasing the use of technology in the classroom, school-based violence prevention programs, public charter schools, gifted and talented programs, repairing school facilities, foreign language programs, and math and science programs. It also makes significant changes in the so-called chapter 1 program, which provides resources for our schools to help our disadvantaged children.

The Federal Government cannot and should not run our public school systems. It can only provide them resources and encouragement to improve our education system. This bill provides approximately $13 billion to our States and schools to better educate our children. It is now up to our parents, teachers, principals, and administrators to finish the job of improving our schools and empowering our children to learn and compete in the next century.

I urge my colleagues to support this bill.

SCHOLAR-ATHLETE COMPETITIONS

Mr. CHAFEE. Mr. President, the amendment that I offered, and that the managers have agreed to accept, authorizes $1 million to support scholar-athlete competitions in 1995. I believe that competition can encourage greater understanding and friendship between the participants. Academic and athletic competitions can bring together economically and culturally individuals who might otherwise never have the opportunity to interact.

In 1993, the University of Rhode Island hosted the World Scholar-Athlete games. These games were an enormous success, with 2,000 young scholars and athletes participating from 125 different countries and all 50 States. Young people between the ages of 16 and 19 who are talented in art, creative writing, singing, poetry, and athletics met in Rhode Island to engage in healthy competition and performances. I have no doubt that life-long friendships were forged at the World Scholar-Athlete games. As we help to build these individual friendships, we help to dismantle the walls that divide us.

The Institute for International Sport at the University of Rhode Island conducted the World Scholar-Athlete games. The same group created National Sportsmanship Day to bring attention to ethics and fair play both in athletics and in society at large. Now, the Institute for International Sport plans to host the Rhode Island Scholar-Athlete games in the summer of 1995. The Rhode Island games are intended to be a model for other States to replicate.

Like the Scholar-Athlete games, the Rhode Island Scholar-Athlete games are designed to bring together young people from diverse economic and social backgrounds in educational, athletic, and cultural activities intended to foster mutual understanding and respect. The Rhode Island Scholar-Athlete games, with the cooperation and guidance of the Rhode Island Department of Education, will gather scholars with demonstrated proficiency in a particular sport or cultural activity, to participate in a program which will motivate them to achieve greater academic, athletic, and artistic excellence.

The sports activities that are planned include: baseball, softball, sailing, basketball, volleyball, soccer, tennis, swimming, and track. The cultural activities will include: art, band, debate, choir, theater, poetry, and creative writing. The Institute for International Sport also plans to hold theme days on the subjects of ethics and fair play, the environment, and substance abuse.

To qualify for participation in the games, students must have a record of academic excellence or must have demonstrated notable progress or improvement. Special attention will be given to encouraging students from high poverty areas to participate.

Educators and civic leaders from every State will be invited to attend and observe the games. The Institute will offer training sessions to these individuals to enable them to emulate the Rhode Island Scholar-Athlete games in their home States.

My amendment authorizes the Secretary of Education to provide $1 million to an organization such as the Institute for International Sport to implement Scholar-Athlete games in 1995. The Institute is prepared to conduct the games and is uniquely qualified to do so. I appreciate the cooperation of the managers in ensuring acceptance of the amendment.

IMPROVING AMERICA'S SCHOOLS ACT

Mr. COCHRAN. Mr. President, I support the passage of this bill which reauthorizes nearly every Federal elementary and secondary education program and provides Federal support to supplement State and local efforts. It strives to improve the quality of education for all students through ongoing staff development, remedial assistance for disadvantaged students, and by encouraging the adoption at the local education level of course work that is challenging enough to enable America's students to achieve the National Education Goals. This bill is intended to promote effective and equitable education for all students. The bill recognizes that ongoing professional development for teachers and other educators must be an integral part of every educator's career; schools and school districts must be given flexibility to implement reforms geared to their individual needs; technology can be used as a powerful tool to improve student learning opportunities; and reaching high academic standards requires a strong partnership with parents and others in the community.

I would like to commend the committee chairman, Senator KENNEDY, the subcommittee chairman, Senator PELL, and the ranking members, Senator KASSEBAUM and Senator JEFFORDS for their hard work and commitment to the futures of our children and our Nation which is evidenced in every title of this bill.

The Chapter 1 Program is probably the most important education program supported with Federal dollars. Its purpose is to improve educational opportunities for low-achieving, poor students

by providing extra assistance to the Nation's over 5 million disadvantaged students.

S. 1513 states that "although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated." I am disappointed the bill does not follow the recommendations of the administration, Government Accounting Office, or the assessment of chapter 1 by redirecting greater Federal resources to those States with the highest concentrations of poverty. However, the bill does introduce a better within-state targeting mechanism to focus resources within a State to areas where needs are greatest.

Other changes to the program will allow more flexibility in the use of funds, particularly in schools where more than 50 percent of the students are from low-income families. The Chapter 1 Program continues to hold great promise for those children in our society who do not have the same opportunities students in wealthier schools have.

This reauthorization also emphasizes the notion that schools can't do it alone. Ensuring the best education for children is a parent's responsibility and the community should and can make a big difference by placing a high priority on student achievement.

Another successful Federal program reauthorized by this bill, which was first authorized with the 1988 amendments, is the Even Start Program. It has been important to Mississippi's efforts to combat illiteracy. Even Start combines early childhood education and adult basic education into a unified program. Its success is due in part to its ability to build partnerships within families and encourage family members to work together to improve literacy and learning skills. It is closely coordinated with other Federal programs including chapter 1, adult education, Job Training Partnership Act and Head Start. S. 1513 extends the program for another 5 years and expands eligibility to a much neglected segment of our population—teen parents.

Title III of the bill, "Education Technology for All Students," includes many of the same provisions which were part of S. 1040, "the Technology for Education Act," a bill I was pleased to introduce along with Senators BINGAMAN and KENNEDY earlier this year.

S. 1040 was developed over a 2-year period in consultation with students, teachers, school administrators, representatives of the technology industry and other experts. These provisions, now part of S. 1513, will establish a Federal leadership role in promoting greater integration of technology into the classroom; support teacher training programs; encourage the development of curriculum specific software; and provide assistance to needy schools for the purchase of equipment and linkages necessary to become technologically connected. I am pleased to report that the Senate Appropriations Committee approved $50 million for this new educational technology program at last week's markup of the Labor HHS appropriations bill for fiscal year 1995.

Also included in title III is the reauthorization of the highly successful Star Schools Program. The Star Schools Program supports grants to telecommunications partnerships to enable them to provide distance learning services, including facilities and equipment, programming and technical assistance.

Star Schools programs are designed to improve educational opportunities for students residing in areas of the country where there are teacher shortages by making available subjects such as mathematics, science, and foreign languages, as well as other subjects such as literacy skills and vocational education. First enacted in 1988, the Star Schools Program has supported various consortia which now provide satellite access to every region of the country. Changes made by this reauthorization allow grants to be made for a 5-year period, thus preventing disruption of services.

I ask unanimous consent that an article which appeared in the the Journal, authored by Senators BINGAMAN, KENNEDY, and myself on the promise of educational technology be printed in the RECORD at the conclusion of my remarks.

I appreciate also the committee's including in this bill the National Writing Project and extending this worthwhile staff development program for 5 years. First authorized in 1991, this program has received modest Federal support over the past 4 years and has made a significant impact on the teaching of writing in the Nation's classrooms and on student ability to use writing as a way to improve learning in all subjects. The bill I introduced in January 1993 to reauthorize the National Writing Project, S. 70, had 42 cosponsors from both sides of the aisle at the time the committee adopted it as part of S. 1513.

The National Writing Project operates through 144 sites in 44 States, most of which are associated with universities. Last year, 105,009 teachers voluntarily sought training in one of the National Writing Project intensive summer and school-year workshops.

The National Writing Project has reached 20,000 students through summer young writers camp and over 7,300,000 students of all ethnic and linguistic backgrounds through their classroom teachers. In other words, in a single year 18 percent of the Nation's K–12 public school students benefited from a Federal investment that amounts to 34 cents per student.

The National Writing Project is a teachers-teaching-teachers program which identifies and promotes productive techniques used in the classrooms of our best teachers. It is a positive program celebrating good teaching practice, one which through its work with schools, increases the Nation's corps of successful classroom teachers. When the project was funded for an unprecedented 10th year by the National Endowment for the Humanities, a spokesman said:

> I have no hesitation in saying that the National Writing Project has been by far the most effective and 'cost effective' project in the history of the Endowment's support for elementary and secondary education programs.

In Mississippi, National Writing Project sites have contributed greatly to the remarkable improvement in the quality of teaching. Program participants include not only English teachers but also teachers of history, geography, math, reading, science and elementary classes. The result has been a measurable improvement in student performances and rekindling of teachers' enthusiasm, confidence and morale.

For every Federal dollar, the National Writing Project has been able to garner 5 additional dollars from State, university, school district and other local sources.

By improving writing instruction as part of a basic education, I believe this legislation will provide a very high return for a modest investment and will take us further toward our goal of improving the quality of education in our Nation.

Another new program the bill includes will support a grant to demonstrate "Mathline," a national telecommunications-based demonstration project to assist elementary and secondary school teachers in preparing all students to achieve State content in mathematics. The Senate Appropriations Committee included $3 million for fiscal year 1995 to support the initial phase of implementing this program.

The "Ready to Learn," television as teacher program is reauthorized to support the development and distribution of early education television programming and supporting written materials to help parents and daycare providers make the most of public television programming. The motivation behind this program was to reach preschool youngsters with high quality programs which are cost-effective and have broad availability in order to help them achieve the first National Education Goal, "All children will enter school ready to learn."

Other sections of the bill—Elementary and Secondary School Library

Media Resources Program, Foreign Language Assistance, Magnet School Assistance, Safe and Drug-Free Schools and Committees and the new Targeted Assistance Program replacing the current chapter 2 program—will make a significant contribution to the quality of education America's students receive.

I urge other Senators to join me in support of this landmark legislation.

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

[From the T.H.E. Journal, Aug. 1993]

A BLUEPRINT TO REVOLUTIONIZE AMERICA'S SCHOOLS

(By Senator Jeff Bingaman, Senator Edward M. Kennedy and Senator Thad Cochran)

New Mexico—In a cluster of nine small high schools scattered across the plains of rural eastern New Mexico, the classrooms, of the future are emerging. High school students in San Jose, House and Grady—some of the most rural communities in New Mexico—are taking advanced classes from a college 50 miles away. Through a two-way interactive video system, these students have been linked to each other and to the Clovis Community College. Through this innovative application of technology these students can participate in a regional classroom and have access to educational resources that do not exist in their small schools and communities.

Mississippi—At the Hayes Cooper School for Math, Science and Technology, a technology-centered K–6 public school in the heart of the Mississippi Delta, each child has an individualized educational program tailored to meet his or her learning needs, using computer programs that have been designed by the school's teachers to meet state curriculum standards and the National Education Goals.

As a result, teachers have more time to spend with small groups of students, while other students work in teams at one of the classroom's computer terminals. Classrooms are linked by computer networks to enable teachers to share ideas and participate in team-teaching activities. Computer-generated reports on each child's progress are sent home to parents on a monthly basis. After just one year in operation, Hayes Cooper students report significant gains over last year's standardized test scores. "This school is harder," explains one sixth grader, "but it is a lot more fun."

Massachusetts—During the last five years, hundreds of teachers in Boston Public Schools have observed the positive impact of technology on their students' ability to learn, especially in the area of mathematics. Each teacher involved in the Elementary and Middle School Math and Technology Project, which is funded by the National Science Foundation and Boston Public Schools, received two computers, a calculator and "hands-on" math materials for their classrooms.

Coupled with intensive workshops in mathematics and new strategies for teaching math (cooperative learning, interdisciplinary teaching, etc.), these materials have provided rich and vastly different learning experiences in math for Boston students. Listen to the comments from some Boston area teachers.

One teacher reported that "I no longer use textbooks. All lessons involve manipulatives, calculators and computers. I teach to develop concepts, not techniques for getting answers."

Another said that "my students are always engaged in problem solving. My students now work in groups, sharing their ideas and knowledge. I love to listen to them develop strategies as they work at the computer. They are always thinking and sharing their knowledge."

Still another remarked, "I have seen totally new ways to use calculators and computers. I always saw computers as a tool to reinforce or check skill work, but now I see that they really engage my students in much more complex problem solving."

EFFECTIVE EXAMPLES, BUT NOT YET PERVASIVE

Powerful examples like these show that creative uses of technologies by skilled teachers offer the promise to quickly and cost-effectively restructure education as we know it. These technologies can help teachers create an environment where all students are afforded rigorous, rich classroom instruction at a pace that suits their learning style and in a way that gives them a more active role in the learning process.

The problem is that there are few examples of exemplary use of technology in the classroom. Some of the reasons include: Lack of resources to wire schools, purchase equipment and develop technology plans; inadequate teacher training, both pre-service and inservice; little support from school administration; lack of availability of curriculum-specific software; and no interest by teachers because they have not had opportunities to become fully award of the vast resources technology can offer.

LEADERSHIP AT THE FEDERAL LEVEL

On May 27, 1993, we introduced S. 1040, the Technology in Education Act of 1993. It would authorize over $300 million in federal funds to help integrate advanced technology and communications systems into the classrooms of all the nation's elementary and secondary schools. The motivation behind this bill is to support state and local efforts to reach, by the year 2000, the ambitious National Education Goals established by the nation's governors. We want our elementary and secondary schools to be the best in the world.

We believe that these goals can be reached through the creative use of instructional technologies. Without the advantage of technology in the classroom, our students will not be able to achieve the level of competence they need in order to reach these goals or compete in a rapidly changing workforce.

THE TECHNOLOGY IN EDUCATION ACT OF 1993

The Technology for Education Act strives to make our elementary and secondary schools a part of the information technology revolution. In education, just as in technology, we are on the verge of a major restructuring of the way we live and learn. Americans have awakened to the need for dramatic improvements in education and reform of our educational system. We hope that the Technology in Education Act of 1993 will energize this revolution to change the way we teach our children and prepare them for the jobs of tomorrow.

In developing this legislation, we seek to provide much-needed federal leadership to integrate technology into K–12 classrooms. Although there are many technology-related programs supported by various federal agencies, the legislation will give the U.S. Department of Education a stronger and more visible role. Its primary responsibility will be to encourage state and local education agencies to integrate technology in all education programs and to coordinate technology efforts across all levels of the federal government.

The Office of Technology established by the bill will oversee new programs to provide funding to support state technology-in-education planning, staff development activities and the acquisition of technology by poorer school districts.

PROVIDING VISION, STRATEGY AND RESOURCES

Technology can revolutionize the way we teach our children and change the way they learn, just as profoundly as it has altered the American workplace. Advanced information technologies are obviously not the cure-all for America's educational problems, any more than chalk and the blackboard were cure-alls when they were invented. But technology can do a great deal to extend educational opportunities to all students and raise the level of performance of our schools and our students. The classrooms of the future that will utilize these educational technologies must be grounded with the goal of equity and access for all students.

We believe the Technology in Education Act of 1993 can provide the vision, the strategy and the resources to make that goal a reality.

SUMMARY: TECHNOLOGY IN EDUCATION ACT OF 1993, S. 1040

TITLE I

Title I sets out the leadership function of the Department of Education in the area of educational technology. It establishes an Office of Technology within the Department of Education to coordinate the technology-related activities in all of the department's programs.

The Office of Technology shall also provide the leadership necessary, both inside the federal government and throughout the country, to encourage the uses of technology that support systemic school reform. Some of the ways it will provide this leadership and encouragement is through:

A system of grants and loans to support the programs described in this bill;

Encouragement and support of ongoing research and development of new technology-enhanced software, programming and the advanced technologies themselves; and

Promotion of collaboration among business, educational organizations and others to expand and improve the uses of technology in education.

The Office of Technology shall manage the Star Schools programs and a new Division of School Library Media Services. Leadership functions will also include exploring the feasibility of interface guidelines to make technology truly accessible for teachers and students in schools and annually assessing the "state of the art" to make policy recommendations for the future.

An Assistant Secretary for Educational Technology is established to direct the Office of Technology and to provide leadership both inside the department and in working with other departments and agencies of the federal government to integrate technology into our schools.

TITLE II

Title II provides federal funding to promote the state planning necessary to use the ideas, skills and knowledge provided by technology as one of the tools to support state systemic reform.

This title also establishes a Division of Elementary and Secondary School Library and Media Services to fund media center resource development, innovative library

media specialist and teacher partnerships, and programs to electronically bring library media centers into classrooms. Through a series of grants and loans, schools having the highest percentages of children in poverty and demonstrating the greatest need for technology in the classroom will be eligible for funds to implement plans to integrate technology into the curriculum by purchasing equipment, installing wiring and training teachers.

Title II also provides for the dissemination of information of programs that have already successfully integrated technology into the curriculum.

TITLE III

Title III establishes a means to electronically disseminate information that schools need to support their programs by building on existing electronic networks and making them easily accessible to users.

This title also recognizes the need to provide long-term, on-site staff development in order to integrate existing technologies, and those yet to be developed, into the curriculum. It will establish grants to regional consortia to develop and implement these programs. The consortia will also provide technical assistance to states and schools to help them keep current with the newest information.

TITLE IV

Title IV supports educational technology product development, production and distribution through competitive grants for partnerships of businesses and educational institutions to develop curriculum-based software. Using a set of matching competitive grants, the Office of Technology will fund research, production and distribution of educational television programming that supports the National Education Goals and is targeted to school-aged audiences. Continuation and expansion of the successful Star Schools programs will also be administered through the Office of Technology.

TITLE V

Title V provides for the educational technology research, development and assessment necessary to annually gauge the effectiveness of technologies in our schools and also to look to the future by supporting development of new and better technologies through a series of grants.

TITLE VI

Title VI recognizes the continuing costs of maintaining and upgrading technologies by requiring funding models to support these costs in our schools.

Mr. SIMON. Mr. President, I want to commend my colleagues for their hard work on this critical piece of education legislation. In particular, the chairmen and ranking members of both the full committee and the Education Subcommittee, along with their staffs, have spent countless hours reviewing the recommendations and concerns that have been raised, and going over every detail in the bill. They deserve our thanks and our respect.

More than a decade ago, the Department of Education published the milestone report "A Nation at Risk." As the title suggests, the report raised grave concerns about the quality of American education. The intervening years have produced dozens more reports that echo these findings. Although these reports have raised awareness about the serious problems facing our system of education, our children, regrettably, are at no less risk now than they were at the time the original report was issued.

Perhaps what is most remarkable—and most telling—is that despite the fact that "A Nation at Risk" was issued by an administration whose central aim was to curtail Government involvement in social issues, the report called for stronger Federal leadership in reforming education.

These hopes have not been realized. The lack of action has led to heightened expectations for this administration, and this piece of legislation. While no one expects one President, or one bill, to instantly reverse more than a decade of neglect, this administration is to be commended for moving from rhetoric to action. In March, President Clinton signed into law his administration's blueprint for education reform, the Goals 2000: Educate America Act. This legislation is a solid first step toward realizing the Federal commitment to high academic standards for all students.

Along with the Goals 2000 bill, Congress also passed the School-to-Work Opportunities Act, which I was pleased to sponsor in the Senate. This initiative, open to all students, will be particularly useful to the so-called forgotten half of high school students who do not go on to college. This bill will help thousands of students receive the training and education they need to compete in today's work force by setting guidelines and offering start-up venture capital for statewide school-to-work transition systems.

President Clinton should also be commended for standing up to special interests to ensure that college will be a more realistic possibility for all Americans. With the passage of the new direct student loan program, both taxpayers and students will save billions of dollars. In addition, with the help of income-contingent repayment under the new student loan program and new funds under the National and Community Service Act, more citizens will be able to tutor those with limited literacy skills, assist the elderly, rebuild inner-city communities, and engage in other work that enriches our Nation.

ESEA REAUTHORIZATION

None of these measures alone will solve all our education problems, but each is an important piece of the puzzle. And the more than $9 billion in this reauthorization of the Elementary and Secondary Education Act represent several pieces.

The original Elementary and Secondary Education Act was passed nearly 30 years ago as part of the Johnson administration's war on poverty. The central aim was to provide extra educational assistance to poor children to help them overcome the adversities of poverty. The heart of this legislation was captured recently by Secretary of Education Riley who quoted John Dewey:

> What the best and wisest parent wants for his [her] child, that must be what the community wants for all of its children: Any other ideal for our schools is narrow and unlovely; it destroys our democracy.

To determine what changes need to be made to the various ESEA programs, I chaired hearings in Chicago and East St. Louis, and we heard from numerous witnesses here in Washington. In addition, valuable input came from two blue-ribbon studies of Federal education programs, many smaller such studies, and letters and meetings with hundreds of parents, teachers, students, and education researchers.

The Improving America's Schools Act includes many critical reforms, including: an increased emphasis on schoolwide approaches to encourage schools to abandon ineffective approaches that pull out and label students who need help; stronger accountability provisions to monitor schools' progress in educating economically disadvantaged students, and the elimination of perverse incentives that penalize schools that increase student achievement; an increasing emphasis on better tests tied to challenging content and performance standards rather than a dumbed-down curriculum; significant increases in funding for teacher training and professional development, and more flexibility for teachers and other staff to tailor these activities to the needs of their individual schools; and stronger parental involvement.

An important aspect of the reforms in the bill is that schools are provided with more flexibility in exchange for increased accountability. I must mention, however, that I am not comfortable with the waiver language included in title I. I raised my concerns at the committee markup, and there are improvements in the committee amendment. But I am afraid that the language is still too broad and will result in some abuse—either a misuse of funds, or students not receiving the assistance that was intended by Congress. I am hopeful that we can look more closely at this in conference.

FOCUSING ON POOR SCHOOLS

One of the most significant reforms the Senate has achieved is to refocus chapter 1, now title I, of ESEA on serving the needs of poor children. Title I, by far the largest program in the bill, is supposed to provide financial assistance to local education agencies with high concentrations of poverty. But the money is too thinly spread: More than 90 percent of school districts receive funding, while 13 percent of high-poverty schools get no money at all. Given the many obstacles they face in reaching their potential, economically disadvantaged students require special

attention and extra support. While it is politically difficult to take away funds from some school districts, we have done the right thing by revising the current formula to target more heavily on the higher poverty districts and schools.

We should not fool ourselves into thinking that we have solved the funding disparities faced by poor schools, however. In Illinois and many other States there are glaring disparities in school funding that can only be fixed by the States themselves—perhaps with some encouragement from the Federal Government. Last year, several of my colleagues and I held hearings to look at school finance and to explore the role of the Federal Government in encouraging States to equalize school funding. I held a hearing in East St. Louis, which has become a symbol of this problem, in part due to the vivid descriptions in Jonathan Kozol's book, "Savage Inequalities."

Through these hearings, Mr. Kozol's book, and my visits to schools in East St. Louis, Chicago, other areas of Illinois, and New York City, I have seen the deplorable learning conditions of our poorest students. It is discouraging to visit a school where students have workbooks in which students from previous years have already penciled in answers. It is discouraging to visit a school with 730 students and only one half-time counselor. During our hearings, Senator DODD mentioned that his sister, an elementary school teacher in Hartford, buys pencils, paper, and even toilet paper for her students with her own money. Teachers from across the country have similar stories.

Pencils, paper, and toilet paper—as well as textbooks, technology, competent teachers, and a safe and healthful learning environment—are basic and essential components of an effective education system. It is not fair to ask our students to meet world-class standards and then deny them the necessary resources.

The heart of the problem is the way education is funded, which, in most States, is primarily through property taxes. In Illinois, the per-student value of property ranges from $5,445 to $880,974. Our statewide annual average per pupil expenditure in 1990 was $4,200, with a high of $12,900 and a low of $2,100. Those that spend less do so because they have less. There are districts that could tax themselves to the point of ruin and still not be able to adequately fund their schools. It is interesting that Sweden, which does not have the extremes of poverty that we have, has a policy of spending two to three times more per student on education in the more disadvantaged areas. We have stumbled into a system in which we do exactly the opposite. This must change.

MONEY MAKES A DIFFERENCE

While opponents of school finance reform argue that money does not improve schools, we don't see them volunteering to send some of their money to the poorer urban or rural schools. It is interesting that in Sweden they spend more on the higher poverty schools, logically assuming that they will need more help.

And we did learn from our hearings that money, spent the right way, can make a significant difference in student achievement. Parental education, parental involvement and training, significantly smaller class sizes, teacher experience, and access to reading materials and modern technology are among those factors shown to boost achievement. All of these things take money. Of course, money alone is not the answer. There has to be some degree of accountability that assures funds will be used appropriately. However, we must begin to provide the types of resources that make a difference.

A few months ago, just after Robert Leininger resigned as the Illinois State Superintendent of Education, he lamented publicly that during his tenure very little had changed regarding education funding. "Adequate funding is the backbone of school reform," he said. "We know the solution. However, our collective leaders lack the desire, the inclination, and the fortitude to take legislative action." I would like to prove him wrong. Pressure has been mounting for greater school finance equity, with court cases in 28 States and legislative and referendum efforts in many others. We have taken small, but significant steps in the right direction. But our political leaders must overcome their inability, or unwillingness, to address unfair systems of funding education and take the larger strides that are necessary.

The Federal Government has two main roles to play in this process. The first is to lead the guide States toward reforming their own systems of funding. Under Goals 2000, the Federal Government will develop national opportunity to learn standards that describe the conditions and resources necessary for all students to achieve to high standards. States will develop their own standards as part of their plans for systemic reform. Goals 2000 also authorizes technical assistance grants to assist States in achieving greater equity in their distribution of education resources. That opportunity to learn standards were the most difficult issue to resolve in passage of the bill signifies the intensity of the debate. At the center of this debate is the tension between our tradition of local control of schools, and the national interest in a well-educated citizenry and a well-trained work force. Our passage of the bill shows that these issues can be resolved. While there will be many difficult fights ahead, we are clearly moving in the right direction.

Also part of this leadership role, in this reauthorization the Federal Government has signaled its concern about school finance equity by including an equity adjustment directly in the title I formula. States that have more equitable systems of school finance will see a bonus in their title I funds, while inequitable States will see a reduction. This is phased-in over a 4-year period, to give States like Illinois a chance to improve their funding systems. Frankly, the way that equity is measured in the bill is far from perfect. My preference would have been for a different approach. However, the provision does send a signal to States that the Federal Government is seriously interested in the issue.

The second role of the Federal Government is to identify specific areas of need, and to provide adequate funding to support these areas. Informed by the many studies both on ESEA programs and education in general, this bill does establish some clear priorities which are backed up with significant authorizations.

FAMILY LITERACY

One area in which we have had significant success is in asking more of parents and providing them with the support they need to take a more active role in their children's education. I am pleased that this bill continues the Even Start Family Literacy Program, which combines early childhood education for children in low-income areas and adult basic education for their parents. Many impoverished parents see academic failure as inevitable for their children—just as their parents did before them. The home is the child's first classroom and the parent is the child's first teacher.

Even Start, which was expanded and improved in my National Literacy Act, addresses the needs of the most at-risk families in the Nation through a family-centered approach, and it works because it gets at the root of school failure and undereducation. Working in coordination with other programs, including the Adult Education Act, the Job Training Partnership Act, Head Start, and volunteer literacy programs, Even Start builds partnerships within families so that members reinforce each others' learning. I am pleased that my amendment allowing title I funds to count toward the State match was incorporated in his bill, and I am hopeful that this will enable Even Start and title I programs to collaborate, resulting in greater learning gains for low-income children and their parents.

TEACHER TRAINING

Another area in which this bill has made significant advances is in supporting high-quality teaching. The bill marks a milestone by establishing a new title II for the funding of teacher training and professional development, which expands the Eisenhower Math and Science Program to include all core subject areas. I am happy that we

were able to include summer institutes for teachers to update their knowledge and hone their skills in a setting in which they have ample time for study and many opportunities for interacting with other teachers. I am particularly happy that these institutes will be undertaken in several core subject areas, including foreign languages.

PREJUDICE AND VIOLENCE

Our Nation's racial, religious, and ethnic diversity is increasing, and this trend—which will continue in coming years—is reflected in our Nation's classrooms. Unfortunately, many schools have experienced an alarming escalation in intolerance and conflict, according to a disturbing report by the Department of Education's Office for Civil Rights. In a 1993 report, the American Psychological Association documented the role of prejudice and discrimination in fostering conflict that can lead to violence. The APA found that education programs aimed at reducing prejudice and hostility are critical components in programs to prevent youth violence.

In a hearing before my Judiciary Subcommittee, director Steven Spielberg emphasized the importance of school-based efforts to promote tolerance and reduce prejudice. For example, the Anti-Defamation League's A World of Difference Program, founded in 1985 and now operating in more than 30 cities, provides training and educational programming about the roots and consequences of prejudice.

I am pleased that the Safe and Drug-Free Schools Program in this bill includes provisions that I advocated to address this issue. First, schools participating in the program—most schools in the Nation—will include prejudice and intolerance in their evaluation of the problems they face. Second, if they find there is a problem, funding from the program can be used to address it, preferably in partnership with community organizations. Finally, violence-reduction efforts at the statewide level will also be able to be used for efforts to reverse trends toward prejudice and intolerance. In addition, the Civics Education Act recognizes that respect and appreciation for cultural differences are critical to a healthy democratic society.

FOREIGN LANGUAGES

There are certain areas in which we have made some progress, but in which I hope we can do much more. One place in which it is clear that we must do more is in providing all students with instruction in foreign languages. It is significant that foreign languages are included as a core academic subject in the National Education Goals. Unfortunately, many States consider foreign language education a frill. And when budgets are tight, these courses are among the first to be cut. Over 95 percent of elementary students do not study a foreign language and 26 States face a shortage of foreign language teachers.

The Foreign Language Assistance Program, which this bill reauthorizes, is the only Federal program that funds foreign languages in elementary schools. Revisions that I promoted include focusing more on encouraging learning at the elementary level and adding a new foreign language incentive program that will reward elementary schools that offer foreign language education that leads to communicative competency. We had two wonderful demonstrations of this at a hearing I held in April.

Improving and expanding foreign language education is important because it contributes to cognitive and social growth of students. Children who have studied foreign language in elementary school score higher on standardized tests of reading, language arts, and mathematics than those who have not studied a foreign language. It also contributes to understanding and appreciating diverse people and cultures and our competitiveness in the global marketplace.

LIBRARIES

We also need to do more to support our country's libraries. Access to adequate library facilities is essential to the effective education of our Nation's young people. A recent study showed that library and media spending was one of the best predictors of student achievement, even after controlling for other factors such as the social and economic status of parents.

Yet in recent years, our school libraries have not received the funding they need to serve students and teachers effectively. The Elementary and Secondary Education Act of 1965 provided separate funding for school library programs. During the seventies and eighties, however, Congress merged funding for all school programs into block grants. As a result of the merger, funding for school libraries declined dramatically. The lack of funding has taken a heavy toll on the State of our school libraries. In California, for example, more than half of all school libraries have closed during the last 10 years. In that State, a young person in a correctional institution has better access to library facilities than does the average student. In those school libraries which remain in operation, collections are hopelessly outdated. The average publication date of a school library book is the late 1960's. Our school library collections are so obsolete that over half of the books on space exploration were written before the United States put a man on the moon. While ESEA provides some funding for school libraries, it is clearly inadequate. I look forward to achieving better funding for school libraries in future efforts.

LENGTHENING THE SCHOOL YEAR

I am also pleased that we have taken an important first step toward achieving a longer school year. Our children spend only about 180 days a year in school. In Japan students attend school 243 days a year. In Germany students attend school 240 days a year. If we want our children and future generations to do better and compete, we will have to give our students an education that is at least as rigorous as that of our competitors. Right now we are falling far short.

Funding constraints, as well as the strong tradition of an agrarian economy, have made expanding the school year difficult for most States and school districts. I am pleased that my amendment, which provides grants to States or local school districts that want to include lengthening of the school year as one of their school improvement efforts, was adopted. I hope that in future years we can do much more.

GENDER EQUITY IN THE CLASSROOM

I am also pleased that my amendment to increase the authorization for the Women's Educational Equity Act was incorporated. I am concerned that many textbooks still stereotype women. Girls deserve to learn with curriculum and materials that provide positive female role models. Girls do not see their own lives, experiences, or accomplishments reflected in the curriculum. In fact, only 2 percent of people in history books are women. This shapes their expectations of themselves—and having high expectations of themselves is absolutely crucial in achieving their potential. In addition to providing grants that can be used for introducing into the classroom materials that are free of gender stereotypes, grants under this program can be used for conducting research on ways to advance gender equity in classrooms, training teachers and other school personnel in gender-equitable teaching practices, and assisting pregnant and parenting students in remaining or returning to school.

The reauthorization of the Elementary and Secondary Education Act presents us with an unique opportunity. Nothing is more important to our country's future than our children. If we want our children and future generations to do better and compete, we will have to ensure that they are well-educated. This means demanding more of our students, but at the same time demanding more of ourselves.

Mr. President, I would be remiss if I did not note the hard work of my staff who have put a great deal of time and effort into this legislation: Alice Johnson has developed an in-depth knowledge of education issues—particularly literacy and foreign languages—and contributed major improvements to the bill; Dr. Charles Barone's background as a psychologist working with schools and troubled youth, as well as his technical skills and inquiring nature, have made him an invaluable resource; Kristina Zahorik knows the

role of libraries and technology in education and has contributed greatly; and Bob Shireman, though he is temporarily serving as my press secretary, continues to provide expert and superb overall direction for my efforts on education.

Mr. REID. Mr. President, I would like to take this opportunity to compliment the chairman of the Labor and Human Resources Subcommittee on Education, Senator PELL, and the other members of the committee on the inclusion of title XV in the Elementary and Secondary Education Reauthorization Act. This title will provide much needed assistance to school districts facing overwhelming renovation and construction needs. Federal, state, and local funding for repairs, renovation, and construction of public elementary and secondary schools have thus far been insufficient to meet the need across the country.

We are experiencing the devastating effect of insufficient educational facilities and a lack of resources for construction in my home State of Nevada. The Schurz Elementary School which is located on the Walker River Paiute Reservation in Nevada and is administered by the Mineral County School District has been determined unsafe for school purposes and condemned. This elementary school, built in 1938 of unreinforced block, is at a site affected by the highest level of earthquake potential, is located in the flood plain of the Walker River, and is within yards of highway and railway munitions transport to the Hawthorne Army Ammunition Depot. The children are currently being schooled in multiple classrooms and trailers throughout the campus under very crowded conditions. There is no communication system between these makeshift classrooms and currently no fire alarm system.

It is my understanding that section 15004, subsection (B) of title XV specifies an eligible local education agency as one in which the United States owns Federal property of 90 percent or more. Since the Mineral County School District consists of 94 percent Federal land then it is my understanding that this title will make the Mineral County School District eligible for funds to build a new school at a safer site. I would like to ask the chairman of the Subcommittee on Education, Mr. PELL, if I am correct about the eligibility of the Mineral County School District under the provisions for funding in this title?

Mr. PELL. The Senator is correct. The title specifically states that a local education agency is eligible under this title if the district consists of at least 90 percent Federal property owned by the United States.

Mr. REID. I thank the chairman for that clarification and for his support of our Nation's educational infrastructure. The Senator from Rhode Island has worked diligently and admirably to improve the standards for education and educational opportunities for students across the Nation.

Mr. PELL. It is my hope that the Secretary of Education will recognize the unique circumstances facing the Mineral County School District and the crucial need for a new school at Schurz when approving funds under this title. I would support the Secretary in approving the needed funds for Schurz as the Appropriations Committee has indicated it would in two separate places in its report accompanying the Labor, Health and Human Services and Education bill.

MULTIETHNIC PLACEMENT ACT

Mr. DURENBERGER. I have a question for the distinguished sponsor of the Multiethnic Placement Act, Senator METZENBAUM, related to the placement practices of my home State. Minnesota has a policy, absent good cause to the contrary, of first attempting to place a child with relatives. If that is not workable, the State agency attempts to place the child with a family of the same racial or ethnic heritage. If that is not feasible, the final preference is for a family of different heritage that knows and appreciates the child's racial and ethnic heritage. The search for relatives or families of similar race and ethnicity must be completed within a short and specified time period.

Would the Multiethnic Placement Act prevent a State from implementing such a policy of preferences?

Mr. METZENBAUM. Consistent with the best interests of the child, the bill would not prevent such policies.

Mr. DURENBERGER. I thank my distinguished colleague.

Mr. COATS. As you know, the goal of ending discrimination in adoption placements is one which we both share, Senator METZENBAUM, as cosponsors of S. 1224, the Multiethnic Placement Act of 1993. I believe that this bill is an important step toward the goal of ending policies which categorically deny adoption placements on the basis of race, color, or national origin.

Although the issue of transracial adoption is both controversial and complicated, you and I agree on certain basic principles. First, that it is generally preferable for children to be placed with families of their own ethnic origin when such homes are available and in the child's best interest. Second, that transracial placement is a positive and effective means of providing a child with a loving and permanent home, particularly when faced with the alternative of long term foster care. Finally, that children should not be forced into prolonged temporary care when good, stable families are ready, willing and able to adopt.

Mr. METZENBAUM. I have long been impressed by Senator COATS' dedication to helping children and protecting their best interests. I share his commitment to placing children in loving and permanent homes as quickly as possible. I also believe that transracial adoption should be encouraged when an appropriate same race placement is not available.

Mr. COATS. I am glad that Senator METZENBAUM and I are in agreement on this issue. I would like to ask for clarification of one section in the bill that states that a covered agency may consider race, color, or national origin as a factor in making placement decisions if it is relevant to the best interests of the child involved and is considered in conjunction with other factors. Does the Senator intend that this section allow the use of race, color or national origin as a determining factor between two otherwise appropriate and available families, when to do so is in the best interests of the child? The reason I am asking this question is that the bill also prohibits denial of adoption based on race. This appears to be a contradiction.

Mr. METZENBAUM. Perhaps this could have been worded more clearly—but the intent is to allow race to be considered as one of many factors and to allow race to be the determinative factor between two otherwise appropriate and available families, if and only if the consideration of race is in the child's best interest.

Mr. COATS. So, I gather from the Senator's response that the primary concern of this bill is the child's best interest.

Mr. METZENBAUM. That is correct—and prolonged foster care is not in the child's best interest.

Mr. COATS. I agree—but does the Senator intend that other factors such as religion, language, and cultural identify be considered when determining the child's best interests?

Mr. METZENBAUM. Yes. Any factors which contribute to a child's development should be taken into consideration when making placement decisions and determining the child's best interest.

Mr. COATS. I thank the Senator for his response. S. 1224 also prohibits any delay in making an adoption placement. While I have expressed concern about the effect of this prohibition I have determined that it is the best legislative approach we can take at this time. I do however want to reiterate my concern that this not be perceived as an excuse for agencies not to aggressively recruit prospective adoptive parents. Agencies should, on an ongoing basis—consistently, creatively, and vigorously recruit and study families of every race and culture of children needing adoptive families.

Mr. METZENBAUM. The Senator is correct—and anyone who uses this bill as an excuse not to recruit will have gone against the very spirit we have intended here.

Mr. COATS. I thank the Senator.

CHARTER SCHOOL GRANT PROVISIONS

Mr. DURENBERGER. Mr. President, I rise today to engage in a brief colloquy with my distinguished colleagues from Connecticut and Massachusetts, Senators LIEBERMAN and KENNEDY, on the new charter schools grant program authorized under title VIII, part C.

Charter schools are public schools that are frequently exempt from input-oriented mandates, but are accountable to a public agency through a contract that commits them to achieving specified academic or other results. Although States laws across the country vary, charter schools must be nonsectarian, may not charge tuition, and may not discriminate in admitting students.

What is the current status of State legislative activity authorizing charter schools? How broad a movement has charter schools now become?

Mr. LIEBERMAN. Charter schools have now been authorized in 10 States—Minnesota, California, Colorado, Massachusetts, Georgia, New Mexico, Wisconsin, Michigan, Kansas, and Arizona. In addition, Governors and legislators in my own State of Connecticut and a dozen or more other States are actively considering legislation to authorize charter schools.

Charter schools enjoy growing, bipartisan support. Advocates include both President Clinton and Education Secretary William Riley, as well as a number of leading Governors including Roy Romer of Colorado, William Weld of Massachusetts, John Engler of Michigan, Pete Wilson of California, and Tommy Thompson of Wisconsin.

The idea behind charter schools is to encourage innovation within public schools by allowing school staff, parents, and others in the community to apply for a charter to run their own public school. Charter schools are free from many onerous regulations and administrative burdens and at the same time, are dedicated to providing high quality and effective education. Charter schools foster and enable creativity. They allow educators who have ideas about how to teach students more effectively, to step outside the education bureaucracy to set up new schools. Charter schools will give students opportunities to learn in ways that better meet their needs. They will also establish a competing force that should help encourage ongoing improvements through out the rest of the public education system. Indeed, charter schools can point the way toward successful education reform and improved academic achievement for all students.

What are the origins of the charter school grant program authorized by S. 1513?

Mr. DURENBERGER. The new grant program authorized under title VIII is based in part on S. 429 and H.R. 1113, the Public School Redefinition Act, a charter school grant proposal that I introduced in February 1993 along with a bipartisan group of Senators and Representatives that included Senator LIEBERMAN, along with Senators BOB KERREY, and SLADE GORTON and Representatives DAVE MCCURDY, TOM PETRI, TIM PENNY, and TOM RIDGE. It also enjoyed bipartisan support on the Labor Committee, including support from Senator BINGAMAN who made several suggestions for improvement in this new program that I am pleased were also accepted.

Mr. LIEBERMAN. And, how do the charter school provisions in the House and Senate versions of the ESEA reauthorization differ?

Mr. DURENBERGER. During its consideration of ESEA, the House retained the administration's proposal for the new charter school grant program with one very important and limiting change—a requirement that charter schools receiving grants be authorized and in partnership with their local school district.

The House requirement that charter schools be authorized by local school districts is of particular concern to States like Massachusetts, Michigan, New Mexico, and Arizona. In those four States, some or all charter schools would not be eligible for Federal grants under the House bill since they are chartered by public bodies other than local school districts.

In addition, Minnesota and California make it possible for State or county boards of education to charter schools "on appeal" if they are turned down at the local level.

And, legislation adding postsecondary education institutions as possible chartering authorities passed the Minnesota Senate this year, but was not included in the final education conference committee agreement.

To make sure that all charter schools are eligible for grants under this new program, I offered an amendment in the Labor Committee that does two things:

First, States are given authority for making grants to individual charter schools.

One goal of this change is to encourage States to adopt charter school laws. Hopefully, having authority to administer the program and award grants would also encourage States to put their own funds into this program. And, if encouraged in this manner, States are more likely to promote the charter idea and offer technical assistance to groups of parents, teachers, or others who are interested in starting a charter school in their community.

This change is also consistent with the Goals 2000 legislation under which States make subgrants to districts and schools for local reform initiatives. By placing the State in the grant-making role, a charter school program could be better integrated with other State/local initiatives funded by Goals 2000 that are designed to meet the education goals and standards each State is pursuing.

Second, States are given more discretion to decide who may charter schools.

The Federal Government should not be dictating to States how charter schools should emerge as a part of systemic reform. With that in mind, the Senate bill now allows schools receiving grants to be chartered by "a State education agency, local education agency, or other public agency that has the authority pursuant to State law to authorize or approve a charter school."

Beyond these two changes, the Labor Committee added several "allowable uses" for grants that schools receive, including minor renovation or remodeling needed to meet health and safety codes. And, the Senate bill now explicitly allows States to make cash flow loans to new charter schools for their initial operations. These loans would have to be paid back once regular operating funding from State and local sources begins flowing to the charter school.

In addition to these two changes, the Senate bill now gives more explicit direction to the Secretary of Education in using the Secretary's "bully pulpit" to provide national leadership to this aspect of State-based education reform.

To do this, this legislation authorizes the Secretary to engage in capacity building activities including developing and disseminating model State charter school laws and model contracts between schools and their sponsors; to collect and disseminate information on successful charter schools; and to use conferences, publications and telecommunications, and other means to share ideas and information about charter schools.

Overall, the Senate's version of the charter school grant program follows an important principle about the role of various levels of government in education reform: The national government should be providing overall leadership to education reform initiatives, but should defer to the States on how to authorize the elements of reform that are—in turn—best designed and carried out by each local community.

By following that principle, States and local communities will claim greater ownership of the elements of reform. And, those elements of reform are more likely to be implemented and more likely to result in improved student performance.

Senator LIEBERMAN has been a strong advocate of charter schools as one element of systemic reforms at the State and local level. How does the Senator respond to concerns that charter schools will attract only the brightest and most highly motivated students?

Isn't there a danger that charter schools will discriminate against some students and favor others?

Mr. LIEBERMAN. The legislation makes it clear that charter schools are public schools and must abide by the same fundamental requirements as all public schools. They are bound by Federal and State statutes that prohibit any discrimination on the basis of race, religion, disability, or any other factor. They must be open to all students interested in attending and if they are over-enrolled, must provide for admission by lottery. Finally, they must be nonsectarian in their programs and employment practices, and cannot be affiliated with a nonpublic sectarian school or religious institution. They simply cannot discriminate against any students.

Senator KENNEDY has also been a strong supporter of the administration's proposal for a new charter school grant program and the changes in its authorizing language proposed by Senator DURENBERGER in the Senate Labor Committee. What has been the experience so far with Massachusetts' charter school program? And, based on that experience, will the Senator work with Senator DURENBERGER and me and others to support the Senate's charter school provisions in conference?

Mr. KENNEDY. Since the Massachusetts Legislature passed charter school legislation in 1993, there has been a great deal of interest in starting new charter schools among parents, teachers, and others throughout the State. This past February, the Massachusetts Secretary of Education received a total of 64 applications to start charter schools. Fifteen applications have been approved in this year's application cycle and applicants are now preparing for a 1995 school opening. An additional 10 charters will be granted under a competitive process to be conducted early next year for start-ups in the fall of 1996.

The 15 charters approved so far in Massachusetts include a number of schools designed to serve at-risk students, students who have dropped out of traditional public schools, and students with special needs.

For example, the Neighborhood House Charter School in Boston will integrate school-based services into its program—joining classroom education, social services, and parental enrollment. Each family with children enrolled in the school will be required to participate in the family cooperative—creating a social infrastructure among families and offering GED and ESL classes, as well as other support services. This school will have an enrollment of 135 at-risk students with histories of academic, emotional, and behavioral problems. It will operate for 227 school days a year.

Overall, Massachusetts first 15 charter schools will have initial enrollments ranging from 35 to 700 students. Most will initially serve a limited number of grade levels, but have plans to expand by adding more grades and students in subsequent years.

I'm pleased that several of the Massachusetts charter schools will be employing teaching and learning methods supported by earlier Clinton administration initiatives already passed by this Congress.

For example, the City on a Hill Charter School in Boston will emphasize a commitment to community service and internships—the kind of service learning opportunities encouraged by President Clinton's National and Community Service Act that we adopted last year.

Several of Massachusetts charter schools will also use internships and youth apprenticeship opportunities encouraged by a second Clinton initiative we approved earlier this year—the School to Work Opportunities Act.

And, a number of charter schools in Massachusetts will make extensive use of computer and telecommunications technologies supported by provisions in President's Goals 2000 legislation as well as other titles of this ESEA reauthorization.

As Senator DURENBERGER pointed out, none of these charter schools in Massachusetts would be eligible for grants under the House version of ESEA. The same is true for charter schools in a number of other States where some public agency other than local school districts is authorized to grant charters. As long as all the other protections that Senator LIEBERMAN discussed are guaranteed, I don't believe we should be second guessing the determination States make on what public agencies should be authorizing charter schools. Therefore, I intend to support the Senate's version of the charter school grant program during the conference committee's deliberations on ESEA.

Mr. DURENBERGER. I look forward to working with Senator LIEBERMAN and others to attain adequate funding for this new grant program in the next year's Labor, Education, HHS appropriations bill. It's my understanding that the administration proposed that the new program be funded at its authorized level—$15 million. The House cut that amount to $6 million. And, while the full Senate has yet to act on the administration's recommendations, the subcommittee decided on a funding level consistent with the House.

A total of 10 states have now authorized charter schools and the strong interest on the part of parents, teachers, and others in this opportunity in those and other States suggests strong demand for this program, once authorized. I believe it is only prudent and fair that this new opportunity to support State- and local-based reform be fully funded at the Federal level.

Mr. LIEBERMAN. I agree. On behalf of Senator DURENBERGER and others, I commend Senator KENNEDY's leadership on this and so many other aspects of education reform. We look forward to working closely with him as this legislation is finalized in conference committee.

TITLE II: COMPREHENSIVE TECHNICAL ASSISTANCE CENTERS

Mr. KENNEDY. This Elementary and Secondary Education Act reauthorization bill creates a new training and technical assistance system to support States' and schools' efforts to improve teaching and learning. This is a positive measure in that it will simplify and enhance access to help that is needed in the field. Further, it has the potential for cost savings and a streamlined array of services.

There are also risks in this new system, and in the process of effecting a smooth transition from the old system to the New. First, it is critical that the Congress ensure that States and schools will have the high-quality, hands-on assistance they need while they work to make the shift into a new, more results-oriented education environment. Second, it is critical that the expertise among existing technical assistance providers, built over 7 years with Federal dollars, is effectively transferred into the new system. Third, we must guarantee that our attacks on the problems of crime, violence and drugs remain strong while the new systems are shaped. We must not reduce the level of vital technical assistance support for this national priority objective.

I know that there is great concern in my own State about the potential loss of a valuable resource, specifically the services of the Northeast Regional Center for Drug-Free Schools and Communities. That center's training and technical assistance is helping schools to make significant reduction in student's involvement with these destructive behaviors.

I want to ask the Senator from Rhode Island if the provisions of this bill will respond to my concerns. Will this bill assure that the services of the regional centers for drug free schools and communities center remain available, and will this effective service continue to be available to States and schools during the critical transition period?

Mr. PELL. I want to assure the Senator that this bill includes provisions for the continuation of that service and through centers like the Northeast Regional Center. In my State as well, there is strong evidence that the centers, for drug-free schools and communities are effective. This is an entity which has a record of demonstrated effectiveness. We do not want lose the skill that has been developed and successfully applied over the past 7 years.

In section 2307 of the bill, we have included language which provides for the

continuation of the services of these centers through fiscal year 1996, where appropriate and feasible in order to ensure that services will not be interrupted, curtailed or substantially diminished. During that time of transition, these centers will be able to continue to serve the States, and help local schools, to address their problems with drugs and violence. We are happy to include this language. It reaffirms the commitment of the Senate to programs which promote safe and drug-free schools and communities for the youth of this Nation.

Mr. WELLSTONE. As one of the members of the committee who worked to see that the new technical training and assistance was phased-in in an orderly and effective manner, I am pleased to express my support for the language included in section 2307. The work of regional centers for drug free schools and communities should be retained and extended to violence prevention as the Federal technical assistance system undergoes a period of restructuring.

This bill provides for the continuation of this assistance, indicating the concern of the committee about maintaining a strong national capacity to assist the prevention efforts of local schools. It is the intent of the committee to ensure that the Secretary of education draw upon the demonstrated effectiveness of the current technical assistance providers in establishing the new technical assistance system, rather than reinventing the capacity to carry out these new responsibilities.

EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP

Mr. JOHNSTON. Mr. President, I would like to ask my distinguished colleague from Rhode Island some questions regarding the amendment that would add the Albert Einstein Distinguished Educator Fellowship Act of 1994 to S. 1513, the Improving America's Schools Act. This amendment would establish a fellowship program for elementary and secondary school mathematics and science teachers within the Department of Energy. The amendment is very similar to a bill introduced by Senator HATFIELD earlier this year—S. 2104, the Albert Einstein Distinguished Educator Fellowship Act of 1994. S. 2104 was referred to the Senate Energy and Natural Resources Committee, which I chair. I would like to ask the Senator from Rhode Island, who chairs the Subcommittee on Education, Arts and Humanities, which has jurisdiction over the Improving America's Schools Act, whether he was aware that this amendment deals with a matter currently pending before the Energy and Natural Resources Committee?

Mr. PELL. I appreciate the question of the Senator from Louisiana. As a committee chairman, I am sensitive to other committees dealing with matters currently pending before my committee. To answer his question—yes, I am aware that the amendment authorizes a program very similar to one that would be created by S. 2104, which is currently pending before the Energy and Natural Resources Committee. I have been assured, however, by Senator HATFIELD, the primary sponsor of this legislation, that he has worked with you and the other members of the Energy and Natural Resources Committee in crafting the amendment. Am I correct in my understanding?

Mr. JOHNSTON. The Senator from Rhode Island is correct. I, and other members of the Energy and Natural Resources Committee, have worked closely with Senator HATFIELD to craft this amendment, which reflects the input of witnesses who testified before the committee and from the administration. The amendment, as currently crafted, is one I support adding to the Improving America's Schools Act. I would like, however, the assurance from the distinguished Senator from Rhode Island, who has been so instrumental in the work of his subcommittee in crafting the Improving America's Schools Act, that oversight of and any future amendments to the Albert Einstein Distinguished Educator Fellowship Act will remain within the jurisdiction of the Energy and Natural Resources Committee.

Mr. PELL. Both the amendment and S. 2104 would create an elementary and secondary mathematics and science teacher fellowship program within the Department of Energy. S. 2104 was, I believe, appropriately referred to the Energy and Natural Resources Committee. As this amendment is very similar to S. 2104, I believe it too is within the jurisdiction of the Energy and Natural Resources Committee. Thus, oversight of and future amendments to the Albert Einstein Distinguished Educator Fellowship Act would be within the jurisdiction of the Energy and Natural Resources Committee.

GENDER EQUITY TRAINING

Mrs. HUTCHISON. Mr. President, I understand that part G of title VIII of this bill provides funding for gender equity training for educators, counselors and other school personnel. I am certainly not insensitive to the need for fair treatment for all students in the classroom, but I have a particularly strong view about the importance of encouraging young women to pursue the broadest range of subject matter in their studies, including mathematics and the sciences. I have discussed this concern previously with the distinguished Senator from Maryland who was one of the original sponsors of the amendment, and I would appreciate it if she would clarify her intent about the implementation of this provision.

Ms. MIKULSKI. The Senator from Texas is correct in her understanding of the provision in question. I would say to her that she and I are in agreement about the importance of encouraging all young people, girls and boys, to consider the widest possible range of alternatives in their studies and preparations for careers and adult lives.

Gender equity training has been an authorized purpose since 1974. It is intended to promote the letter and spirit of title IX which prohibits discrimination in education. I appreciate the Senator's concerns and when this provision is implemented, I would welcome working with the Senator from Texas to encourage the Secretary of Education to place an increased emphasis on encouraging young women to excel in math and science.

Mrs. HUTCHISON. I appreciate the Senator's courtesy and her very helpful comments. I welcome her suggestion and look forward to working with her further on this important issue.

MULTIETHNIC PLACEMENT ACT

Mr. METZENBAUM. Mr. President, I introduced the Multiethnic Placement Act, S. 1224 with one goal in mind—encouraging transracial adoption when an appropriate same race placement is not available. I strongly believe that it is better for children to be adopted by parents of another race than not to be adopted at all. Policies that virtually prohibit multiethnic foster care and adoption are unconstitutional, harmful and must be stopped.

There has been an explosion in the number of children in the foster care system, from 276,000 in 1986 to 450,000 in 1992. The goal for these children is a loving and stable home. This goal can be achieved by placement in either an appropriate same race or interracial home. Although interracial foster and adoptive families may face a variety of problems that same race families do not, the evidence indicates that transracial adoption is often a positive experience for all involved.

Despite this evidence, formal and informal policies against multiethnic placements still persist. S. 1224 would prohibit any agency which receives Federal funds from denying a foster care or adoption placement solely on the basis of race, color, or national origin. For example, it would prohibit child welfare agencies from categorically denying anyone the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin.

The bill would provide for injunctive and equitable relief and require HHS to withhold adoption assistance funds from any agency that violated the law. S. 1224 has the support of Senators CAROL MOSELEY-BRAUN, DANIEL INOUYE, DAN COATS, NANCY KASSEBAUM, PAUL SIMON, DIANNE FEINSTEIN, and DAVE DURENBERGER. It also enjoys the support of Marian Wright Edelman of the Children's Defense Fund, The Reverend Jesse Jackson of the National

Rainbow Coalition, and the National Council for Adoption.

Although an appropriate transracial placement is often a positive experience, it is also true that a same race, language, or ethnic group placement can go a long way in helping children make the psychological, social, and cultural adjustment to their new family. Given the obvious benefits of same race placement, the Multiethnic Placement Act also makes it clear that race, color, or national origin can be a factor in making foster care and adoptive placement, if and only if: First, the consideration of these factors are in the child's best interest, and second, race, color, or national origin is considered along with other factors, such as age, sex, member of a sibling group, religion, disability, language, and whether the child has already bonded with the prospective parents.

This commonsense approach to the consideration of race in making foster care and adoption placements is in keeping with long standing Federal adoption legislation that encourages the recruitment of prospective parents of all races. Federal and State case law and HHS guidelines also specifically allow race to be one factor in making foster care and adoptive placements. In addition, every single major child welfare and adoption organization advocates the consideration of race as one of many factors in making out of home placements if such a consideration is in the child's best interests.

Many child welfare and adoption advocates also believe that the permanent placement of a child may be postponed, but not for an undue period of time, in order to affect a same race or ethnic group adoptive placement. They recognize that recruiting prospective parents of all races of children in need of homes requires time and effort.

I would prefer that no child be required to spend any extra time in foster care limbo in order to effectuate a same race placement. Ideally, appropriate prospective parents of all races should be waiting to care for a child the moment he or she needs an out of home placement. But given the difficulties in finding appropriate same race placements, S. 1224 was amended at an executive session of the U.S. Senate Committee on Labor and Human Resources, to state that agencies receiving Federal funds may not unduly delay in making foster care and adoptive placements on the basis of race, color, or national origin.

The amended version of the Multiethnic Placement Act also contains additional findings that stress the importance of eliminating racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures. Child welfare agencies are encouraged to use active, creative, and diligent efforts to recruit parents from every race and culture for chilren needing out of home placements. The amended bill was adopted by voice vote by the U.S. Senate Committee on Labor and Human Resources on October 6, 1993.

The lack of definition for the term "unduly delay" in S. 1224 has caused some concern among the foster care and adoption community. Some who otherwise support S. 1224, fear that the term "unduly" will not or cannot be defined in a manner consistent with the goals of the bill. In order to make it clear that appropriate out of home placements should be made as soon as possible, the latest version of S. 1224 has eliminated the term "unduly."

The passage and enactment of the Multiethnic Placement Act is my highest legislative priority of my remaining time in the Senate. I realize that this bill will not solve all the problems of the child welfare system. But S. 1224 can make a difference in the lives of thousands of children who languish in foster care and temporary placements because of policies against transracial placements. I thank my Senate colleagues for their support of this legislation and will work hard for its passage in the House.

Mr. COATS. I would like to ask the chairman a question regarding opportunity-to-learn standards. As the chairman will remember, the following language was added in the Labor Committee markup of S. 1513:

Page 476, lines 6–11; section 1111(b)(1)(A)(iii):

"Each State plan shall describe the steps the State will take to help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(3), 1114(b), and 1115(c) that is applicable to such agency or school."

While I understand that the chairman is not opposed to opportunity-to-learn standards, I wonder if he might respond to a question I have about this language.

Does this language require States to develop opportunity-to-learn standards, either mandatory or voluntary, or impose unfunded mandates on States to develop these standards under this bill?

Mr. KENNEDY. As the Senator has noted, I do not oppose opportunity-to-learn standards. I agree, however, that the language cited does not mandate these standards under this bill.

Mr. COATS. I thank the chairman for his courtesy and his response to my question.

Mr. HARKIN. Mr. President, I would like to enter into a colloquy with Senator KENNEDY, the distinguished chair of the Labor and Human Resources Committee regarding clarifications of some terms used in S. 1513.

Mr. KENNEDY. I would be pleased to enter into a colloquy with the distinguished Senator from Iowa and chair of the Subcommittee on Disability Policy.

Mr. HARKIN. I thank the distinguished Senator from Massachusetts for allowing this inquiry. As the Senator is well aware the passage of the Americans with Disabilities Act and the Individuals with Disabilities Education Act has set forth a national disability policy for the full inclusion and integration of individuals with disabilities in the educational, social, economic, political, and cultural mainstream of society. Furthermore in the passage of Goals 2000 legislation we worked toward building a unified education system and away from distinct systems of regular and special education which we find too often existing in our Nation's schools.

It is in this spirit of pursuing a more comprehensive and unified system of education that I have the following inquiries.

In titles II and III of the act the term "other public early childhood programs" is used frequently. Is it understood that the term is meant to include early childhood special education programs funded under section 619 of part B of IDEA and early intervention programs funded under part H of Part B?

Mr. KENNEDY. Yes, that is correct the term "other public early childhood programs" does encompass early childhood special education programs and early intervention programs funded under section 619 of part B of IDEA and part H of IDEA respectively.

Mr. HARKIN. The term "teachers" is also used frequently throughout the bill. Am I correct in understanding that the term includes special education teachers. Assuring their inclusion would remove any doubt of Congress's intent to have all educators fully participate in functions described in the act, such as school support teams, distinguished educator awards, and professional development activities.

Mr. KENNEDY. That is correct, the intent is to have all instructional staff encompassed in the term "teachers" and therefore includes special education teachers.

Mr. HARKIN. I would like to thank the distinguished Senator from Massachusetts for these clarifications and I would like to commend him and my colleagues on the Labor and Human Resources Committee for their efforts in developing this act and for making sure that students with disabilities are fully included and that their rights as established in ADA and IDEA are fully recognized.

MIGRANT EDUCATION

Mrs. FEINSTEIN. Mr. President, I rise today to emphasize the importance of migrant education and to clarify the committee amendment to the Improving America's Schools Act that pertains to this program.

Over one-third of the children served under the Migrant Education Program reside in my State of California. These

migrant pupils have very unique educational needs that result from their migratory lifestyle. For example, Mr. President, many migrant students most often do not attend school during the regular school year and require special summer school or intersession programs.

I understand that included in Senator KENNEDY's committee amendment is a provision that maintains the quality of the migrant education program, and I thank him for including this language. It is my understanding that, even if a school participates in the schoolwide program, the program that allows schools to commingle Federal education funding, Migrant Education Program funds must be used to continue to meet the unique identified needs of migrant children which result from their migratory lifestyle or are needed to permit migratory children to participate effectively in school.

Mr. KENNEDY. That is correct. I know that the Migrant Education Program is important to Senator FEINSTEIN and the State of California. Migrant education is also important to my State of Massachusetts.

Madam President, the committee amendment to the Improving America's Schools Act requires schools which receive Federal migrant education funding—even those who have chosen to participate in the schoolwide program—to first attend to the very special needs of this population that are a direct result their migratory lifestyle and that will help them participate effectively in school.

Those needs, and how they will be met, are to be determined by the school, the State educational agency, and the local operating agency and may include: First, instructional services outside of the regular school day and school year; second, heath and support services; third, services to preschoolers, 18- to 21-year-olds, and dropouts; and fourth, secondary credit accrual for interstate migrant students.

The committee amendment assures that these and other services which are necessary to address the specific needs of migrant pupils—services that help them overcome the barriers associated with their mobile lifestyle and become effective learners in the classroom—shall be provided by the States and schools that receive Federal migrant education funding.

Mrs. FEINSTEIN. Does this pertain to all migrant children who are being served under the Migrant Education Program?

Mr. KENNEDY. Yes, under the Improving America's Schools Act, eligible migrant children shall be served for up to 4 years.

Mrs. FEINSTEIN. I thank the Senator for his clarification.

INDIAN DEMONSTRATION SCHOOLS

Mr. DORGAN. Mr. President, I rise on behalf of myself and Senator CONRAD to offer an amendment to S. 1513, the Improving America's Schools Act of 1994. Our amendment authorizes the Secretary of the Interior, acting through the Bureau of Indian Affairs [BIA], to establish therapeutic model demonstration schools at two off-reservation Indian boarding facilities. The purpose of these therapeutic models is to bring healing and positive change to the lives of Indian students with very special needs.

Recent hearings I have held in North Dakota have given me a vivid and disturbing picture of the problems of high-risk Indian students. One facet of this picture is that off-reservation boarding schools, such as the Wahpeton Indian School, have become last-resort facilities for troubled Indian kids. Youth from broken homes, youth with learning disabilities, and youth with discipline and chemical dependency problems.

Regrettably, these schools have been operating for too many years as traditional boarding schools, even though it is clear to all that a more therapeutic, healing approach to the students' needs is required. Hearings of the Indian Affairs Committee here in Washington, DC, also have shown this in grim detail.

By contrast, the therapeutic model proposed in our amendment would provide a safe, alternative residential environment. In this secure setting, troubled youth could get special help while building a strong identity as Indian youth. The staff would no longer include only educators and dorm monitors but also health and social service professionals—including child psychologists and substance abuse counselors.

While our amendment establishes two demonstration schools which would receive priority in 1994–96, it would assist any off-reservation boarding schools in eventually making the transition to a therapeutic model. It initially targets one BIA-run and one tribally controlled grant school and provides the additional resources these schools need to implement the model. But the overall purpose of the amendment and the demonstration schools is to develop a model that could be replicated at the other five off-reservation boarding schools.

Mr. President, I would advise my colleagues that this amendment requires no new appropriations. It authorizes the Secretary to provide resources to meet this critical need in Indian country. The amendment also grants the Secretary the authority to limit the student enrollment at the demonstration projects to ensure that each institution accepts only as many students as it can effectively serve.

In closing, I want to commend Chairman INOUYE and Vice Chairman MCCAIN of the Indian Affairs Committee for their support of the amendment. I also thank Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS for accepting this amendment on behalf of the Labor and Human Resources Committee. I further express my indebtedness to Senators CONRAD, HATFIELD, and SIMON for their support of this amendment.

In addition, I appreciate the support of Assistant Secretary of Indian Affairs Ada Deer and her staff in developing this legislation. Finally, I appreciate the assistance of the professional staff—particularly Bob Arnold of the Indian Affairs Committee—in drafting this amendment.

I believe that acceptance of this amendment not only improves the bill but also meets a special need in Indian education. I urge my colleagues to retain this provision in the conference.

COMPROMISE IMMIGRANT EDUCATION AMENDMENT

Mr. GRAHAM. This is an amendment offered on behalf of Senator FEINSTEIN and myself.

Our amendment would assert the Federal responsibility for assisting States and local school districts with the cost of educating immigrant students and increase the authorization for the Emergency Immigrant Education Act [EIEA] program from $75 to $150 million.

I would also like to thank the chairman and ranking member for their assistance on this issue.

Immigrant education is yet another example of the failed Federal-State partnership. In the case of Plyler versus Doe, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status. Since that ruling more than a decade ago, however, the Federal Government has not provided adequate funds to reimburse States for these mandated services.

Individual States have no capacity, either under law or in resources, to control access of illegal entrants to our Nation. Unfortunately, when the Federal Government does not adequately address its responsibility for illegal immigration, State and local governments are left with the burden of that failure.

In April 1994, Florida Governor, Lawton Chiles and the Dade County School Board sued the Federal Government for the unreimbursed costs of serving the State's immigrants, primarily the 345,000 which are living there illegally. Education is the largest of those costs.

In 1993 alone, the Florida Department of Education and local school districts spent an estimated $517 million to provide education to legal and illegal immigrants. However, Florida received only $1.6 million in EIEA funding.

An estimated $180 million was spent to provide educational services to undocumented students alone.

The current EIEA authorization level of $75 million results in less than $100

per eligible student and would do little to assist either the students and the school districts involved. It costs Dade County alone an estimated $68.2 million per year to educate the district's 16,395 undocumented students.

I had originally intended to offer an amendment which would authorize the Secretary of Education to provide full reimbursement to States and local school districts for the costs of educating undocumented students. I ask that a copy of the original amendment be included for the RECORD.

However, there is currently no agreed-upon method for calculating either the number or the costs of undocumented aliens in the country. Each State uses its own methodology, and the figures are often in dispute.

That is why the Office of Management and Budget hired the Urban Institute to determine a standard methodology for calculating the costs of illegal immigration. That report is due within the next few weeks, and I intend to revisit this issue after we have a more accurate estimate of the costs of illegal immigration.

This is not simply an "immigration State" issue. Although the majority of illegal immigrants reside in just seven States, every State is providing education services to some number of immigrant students.

The Federal Government has complete constitutional responsibility for both the protection of our national borders and the immigration laws. When there is an egregious failure of the Federal Government to carry out those responsibilities, then the community in which that failure is projected should not have to pay the cost.

I thank the chairman, and urge my colleagues to support this amendment.

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

At the end of the bill, insert the following new title:

TITLE VI—UNDOCUMENTED STUDENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Undocumented Student Federal Responsibility Act of 1994".

SEC. 602. FINDINGS.

The Congress finds that—

(1) the education of our Nation's children and youth is one of the most sacred of government responsibilities;

(2) local educational agencies have struggled to fund adequately education services in the face of prolonged economic stagnation and increased public safety needs;

(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status;

(4) since the Plyler v. Doe ruling more than a decade ago, the Federal Government has not provided adequate funds to reimburse States for such mandated services;

(5) such services represent short-term costs to the affected communities;

(6) to fund education, local school districts often rely primarily on local property taxes, and immigrants are likely to contribute less for local property taxes than for Federal taxes, such as social security taxes;

(7) immigration policy is solely a responsibility of the Federal Government; and

(8) there is a Federal responsibility for reimbursing States and local school districts for costs associated with educating undocumented students.

SEC. 603. PURPOSE.

It is the purpose of this title to authorize the Federal Government to reimburse State educational agencies and local educational agencies for providing education services to undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of such agencies.

SEC. 604. DEFINITIONS.

As used in this Act:

(1) AVERAGE PER-PUPIL EXPENDITURE.—The term "average per-pupil expenditure" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(4) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(5) UNDOCUMENTED ALIEN.—The term "undocumented alien" means an individual who is present in the United States in violation of the immigration laws.

(6) UNDOCUMENTED STUDENT.—The term "undocumented student" means an individual who—

(A) is an undocumented alien; and

(B) is attending a public elementary or secondary school.

SEC. 605. STATE ALLOCATIONS.

(a) ALLOCATION.—Except as provided in subsection (f) the Secretary shall allocate to each State educational agency for each fiscal year an amount equal to the product of—

(1) the estimated number of undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within that State determined in accordance with subsection (c); and

(2) the net average per-pupil expenditure in the State for such students determined in accordance with subsection (d).

(b) USE OF ALLOCATION.—Each State educational agency receiving an allocation under paragraph (1) only shall use such allocation to reimburse such State educational agency and local educational agencies in the State for the estimated cost of educating undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each such agency within that State in amounts based on—

(1) the respective contributions of each such agency toward the education of such students; and

(2) determinations in accordance with the methodologies described in subsections (c) and (d).

(c) DETERMINATIONS OF NUMBER OF UNDOCUMENTED STUDENTS.—

(1) IN GENERAL.—The Secretary shall issue regulations which prescribe the methodology by which a State educational agency will estimate the number of undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within such State.

(2) CONSIDERATION.—In prescribing the methodology, the Secretary shall consider—

(A) estimates from the Immigration and Naturalization Service regarding the undocumented alien population;

(B) the percentage of undocumented students who are of school age;

(C) public school enrollment rates among undocumented aliens of school age;

(D) in consultation with the Director of the Bureau of the Census, the geographic distribution of foreign-born students among school districts; and

(E) such other factors as the Secretary deems appropriate to provide for equitable distribution of assistance under this title.

(3) PROHIBITION AGAINST SPECIFIC COUNTS.—For the purposes of this Act, State educational agencies and local educational agencies shall be prohibited from gathering immigration status information from student populations in order to determine the number of undocumented students in States or local school districts.

(d) DETERMINATIONS OF NET AVERAGE PER-PUPIL EXPENDITURE.—

(1) IN GENERAL.—The Secretary shall issue regulations which prescribe the methodology by which a State educational agency will calculate the net average per-pupil expenditure for students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within such State.

(2) CONSIDERATION.—In prescribing such methodology, the Secretary shall consider—

(A) the Federal contributions to the State average per-pupil expenditure; and

(B) such other factors as the Secretary deems appropriate.

(e) DATA SOURCES.—All calculations under this section shall be based on official statistics of the Federal Government, such as those reported or estimated by the Bureau of the Census, the Immigration and Naturalization Service, and the National Center for Education Statistics.

(f) RATABLE REDUCTIONS.—

(1) INSUFFICIENT APPROPRIATIONS.—If the sums appropriated for any fiscal year prior to fiscal year 1999 are not sufficient to pay in full the total amount of all State educational agency's allocations under this section, such allocations shall be ratably reduced.

(2) ADDITIONAL APPROPRIATIONS.—If additional funds become available for making payments under this section for any fiscal year after allocations have been made under paragraph (2) for such year, the amounts reduced under such paragraph shall be increased on the same basis as such amounts were reduced.

SEC. 606. STATE APPLICATIONS.

(a) SUBMISSION.—No State educational agency shall receive an allocation under this title for any fiscal year unless such agency, in consultation with the Governor, submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide an estimate of the State's and LEA's proportion of the average per-pupil expenditure in the State;

(2) contain an estimate of the average per-pupil expenditure for all local educational agencies in the State;

(3) provide assurances that such allocation will be distributed among local educational agencies within that State on the basis of

the number of undocumented students determined in accordance with the methodology described in section 605(b); and

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any local educational agency application under section 607 for funds received under this title without first affording the local educational agency submitting such application reasonable notice and opportunity for a hearing.

(b) APPLICATION REVIEW.—

(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section.

(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, except that the Secretary shall not finally disapprove an application under this section unless such agency has been provided reasonable notice, technical assistance, and an opportunity for a hearing.

SEC. 607. LOCAL APPLICATIONS

Each local educational agency desiring assistance from a State educational agency under section 605(b) shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require.

SEC. 608. STATE ADMINISTRATIVE COSTS.

The Secretary is authorized to pay to each State educational agency for a fiscal year an amount equal to the amount expended by such agency for the proper and efficient administration of such agency's functions under this title for such year, except that the total of such payment for any fiscal year shall not exceed 1.5 percent of the allocation to such agency for such year.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999 to carry out this title.

IMMIGRANT EDUCATION AMENDMENT TO S. 1513

Mrs. FEINSTEIN. Mr. President, as you know, California has a large number of undocumented immigrants, both adults and children, who pose a financial burden on the State because of the mandated services provided to them. The education of illegal immigrant children is costing California some $1.4 billion dollars this year.

The amendment to the Emergency Immigrant Education Aid program, that I am pleased to cosponsor with Senator GRAHAM, asserts the Federal Government's financial responsibility to assist States with the costs associated with educating illegal immigrant children, and raises the authorization level of this immigrant education assistance program in order to meet this responsibility.

The Emergency Immigrant Education Assistance program was enacted in 1984 to address the 1982 Supreme Court decision, Plyler versus Doe, that stated that illegal immigrant children are entitled to an education. The Emergency Immigrant Education Aid program address the financial impact of educating newly arrived immigrants, both legal and illegal.

When the immigrant education program was first enacted, lawmakers intended to provide $500 per eligible pupil. However, this goal has never been met. In fact, when the program was first funded in 1984, $30 million was appropriated for 350,000 eligible students, amounting to $86 per student. This year, the appropriation was raised to $39 million, but now over 800,000 students are eligible for this program. This amounts to less than $50 per student, about the cost of one textbook.

The Senate appropriations committee mark increases funding for this program to $50 million for fiscal year 1995—for which I would like to thank Chairman HARKIN and Chairman BYRD—but $50 million still only means $61 per student. This is a mere drop in the bucket when it costs approximately $5,000 annually to educate a child.

For the past year, I have been working to address the problem of illegal immigration. First and foremost, I have consistently asserted the need to prevent illegal immigration by improving the enforcement of our borders. The immigration bill, which I introduced on June 15, addresses the need to improve the border patrol through increased personnel and vastly improved infrastructure and equipment. It stiffens penalties for producing or using false work documents or for knowingly hiring undocumented workers.

The fact is, there are illegal immigrants in this country, and until our border is fully enforced, and until there is immigration reform, illegal immigration will continue to be a problem for States and localities that bear the financial burden of providing federally mandated services to undocumented aliens.

Those States who have a large number of illegal immigrant children have fulfilled the responsibility of providing them with an education, but at a cost. A recent Urban Institute report stated:

> The single largest components of immigrant-related public sector costs is the cost of providing public primary and secondary education, which is approximately $11 billion annually for immigrants.

Using Department of Education data and the Urban Institute's methodology for calculating the number of illegal immigrant children attending school, the estimated total cost of educating illegal immigrant children is $3 billion nationally. For California, the estimated cost of educating illegal immigrant children this year is $1.4 billion, and according to Governor Wilson's estimates, could rise to as much as $1.7 billion in the next year.

During a recent visit to a California school, teachers told me that funding was so low and that class sizes were much too large that they were not able to properly serve their students. The rising number of undocumented students is stretching already scarce resources.

California, of course, is not alone in dealing with this problem. Let me share with you the estimated costs to a few other States. New York educates 89,000 illegal immigrant children at a cost of $466 million. Texas educates some 76,000 illegal immigrant children at a cost of $395 million and Florida educates some 69,000 illegal immigrant children at a cost of $358 million.

It is not the States' responsibility to control our borders. That is the responsibility of the Federal Government. And yet, the States must pay the costs associated with providing an education to illegal immigrant children.

Just over a week ago, the Senate faced its financial responsibility for failed Federal immigration policy by voting to assist States with the cost of incarcerating criminal illegal aliens. Today, the Senate again has the opportunity to act on the financial responsibility of providing services to illegal immigrants, by amending the existing immigrant education assistance program.

Finally, I would like to thank Chairman KENNEDY and the distinguished chairman of the Appropriation Committee, Senator BYRD, for supporting the need to address the costs of educating immigrant children. This amendment is the first step toward reimbursing States and local school districts for the costs of providing education to illegal immigrants. The second step, of course, will be to obtain the necessary funding.

Mr. President, I ask that supporting material be printed in the RECORD.

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

ESTIMATED COSTS OF EDUCATING ILLEGAL IMMIGRANT CHILDREN

NATIONAL ESTIMATES

The total number of illegal immigrant student is approximately 690,000

The total cost of their education is approximately $3.6 billion.

The total cost to states and localities is approximately $3.4 billion.

CALIFORNIA ESTIMATES

The total number of illegal immigrant students is approximately 297,000

The total cost of their education is approximately $1.5 billion.

The total cost to state and localities is approximately $1.4 billion.

TABLES PROVIDED

Cost estimates for 7 states using April 1994 INS data.

Cost estimates for 20 states using October 1992 INS data.

METHODOLOGY

Use INS data, Department of Education per pupil expenditure, and Urban Institute methodology for calculations (background material provided).

ESTIMATED STATE AND LOCAL COSTS OF EDUCATING UNDOCUMENTED ALIENS

[Using October 1992 INS estimates]

State	Number of undocumented aliens	Number of undocumented students	Total cost of education	State and local contribution
United States	3,379,000	614,359	$3,189,750,003	$2,998,365,003
California	1,440,700	261,943	1,360,009,716	1,278,409,133
New York	449,300	81,690	424,135,743	398,687,599
Texas	357,000	64,909	337,005,253	316,784,938
Florida	322,000	58,545	303,965,523	285,727,591
Illinois	176,400	32,072	166,520,243	156,529,028
New Jersey	115,700	21,036	109,219,910	102,666,715
Arizona	57,000	10,364	53,807,561	50,579,108
Massachusetts	44,900	8,164	42,385,255	39,842,139
Virginia	35,400	6,436	33,417,328	31,412,288
Washington	30,400	5,527	28,697,366	26,975,524
Georgia	28,100	5,109	26,526,184	24,934,613
Maryland	27,400	4,982	25,865,389	24,313,466
Colorado	21,500	3,909	20,295,835	19,078,085
Oregon	20,400	3,709	19,257,443	18,101,996
New Mexico	18,700	3,400	17,652,656	16,593,497
Pennsylvania	17,800	3,236	16,803,063	15,794,879
Nevada	17,700	3,218	16,708,664	15,706,144
North Carolina	16,800	3,055	15,859,071	14,907,527
Connecticut	15,300	2,782	14,443,082	13,576,497
District of Columbia	14,100	2,564	13,310,292	12,511,674

Methodology: Using October 1992 INS data and Urban Institute methodology, the above table outlines the estimated costs that states and localities must incur for providing K–12 education to undocumented aliens.

The number of undocumented students is calculated by multiplying the INS estimated number of undocumented aliens by the percentage of that population who are of school age (21.65%—Urban Institute). This number is then multiplied by the percentage of the school age undocumented alien population who are attending school (83.98%—Urban Institute).

The costs are calculated by using the nationwide average annual per pupil expenditure of $5,192 (National Center for Educational Statistics, 1992–93 data, not yet released). The state and local contribution is calculated by subtracting the nationwide average federal contribution to the per-pupil expenditure (6%—Congressional Research Service).

ESTIMATED STATE AND LOCAL COSTS OF EDUCATING UNDOCUMENTED ALIENS

[Using April 1992 INS estimates]

State	Number of undocumented aliens	Number of undocumented students	Total cost of education	State and local contribution
United States	3,800,000	690,903	$3,587,170,764	$3,371,940,518
California	1,634,000	297,088	1,542,483,429	1,449,934,423
New York	494,000	89,817	466,332,199	438,352,267
Texas	418,000	75,999	394,588,784	370,913,457
Florida	380,000	69,090	358,717,076	337,194,052
Illinois	190,000	34,545	179,358,538	168,597,026
New Jersey	114,000	20,727	107,615,123	101,158,216
Arizona	64,600	11,745	60,981,903	57,322,989

Methodology: Using April 1994 INS data and Urban Institute methodology, the above table outlines the estimated costs that states and localities must incur for providing K–12 education to undocumented aliens.

The number of undocumented students is calculated by multiplying the INS estimated number of undocumented aliens by the percentage of that population who are of school age (21.65%—Urban Institute). This number is then multiplied by the percentage of the school age undocumented alien population who are attending school (83.98%—Urban Institute).

The costs are calculated by using the nationwide average annual per pupil expenditure of $5,192 (National Center for Educational Statistics, 1992–93 data, not yet released). The state and local contribution is calculated by subtracting the nationwide average federal contribution to the per-pupil expenditure (6%—Congressional Research Service).

Mrs. KASSEBAUM. I thank the Senator from Massachusetts and the Senator from Vermont for their floor leadership on this bill. I would also like to thank all the staff members that worked on this bill. They worked very hard to draft a bipartisan bill in record time—about 1½ months. It then received an almost unanimous vote in committee and I hope that we can duplicate such a vote here today on final passage of S. 1513.

I would particularly like to thank some of the staff: Lisa Ross, Wendy Cramer, and David Goldfarb of my own staff;

Pam Devitt and Katie Henry with Senator JEFFORDS;

Ellen Guiney, Matt Alexander, Stephanie Goodman, and Clayton Spencer with Senator KENNEDY;

David Evans, Margaret Smith, Michael Dannenberg, and Barbara Bennison with Senator PELL; and,

All the other committee staff that participated in drafting this bill.

As we pass this bill and move on to conference, I hope that we can continue to work in a bipartisan manner to preserve the provisions of this bill that are the most essential to ensuring swift and final passage of the conference bill later this year.

Mr. JEFFORDS. Mr. President, I should be following the senior Senator from Rhode Island for whom I have the utmost praise and admiration. He worked for so many years with my predecessor, Senator Stafford. Their bipartisanship, to which Senator KENNEDY referred, began and hopefully is continuing. He is a role model for all of us, and has made a great difference in my life as well as that of Senator Stafford.

Mr. President, I also want to commend the staff and the Members that I have worked with. This has been an incredible time for me. It has been 2½ days we have been on this floor continuously. It has been a great amount of effort. As always, we have some of the most controversial and sensitive issues to deal with than we ever get in the Congress. And so we have had a difficult time with those. But I have to say that we had an "Olympic moment" when Senator HELMS and Senator KENNEDY agreed on one of the amendments in a sensitive area. We had also progressed in making concessions and agreements on many of these issues.

I also thank Senator KENNEDY for his incredible work and leadership in these areas of education, as well as the other ones I have dealt with. The Senator, on behalf of the people of Massachusetts, and I for Vermonters, have worked together with families, and I deeply appreciated his guidance.

Also, as has been spoken of, we oftentimes fail to give our staffs the full recognition they should have, and we have tremendous staffs. Without them, we could not go anywhere or do anything like we do. I want to say that Ellen Guiney, Matt Alexander, Clayton Spencer, and Stephanie Robinson on Senator KENNEDY'S staff have been very helpful to us. We have been able to get through the bill much quickly because of that. Lisa Ross, Wendy Cramer, and David Goldfarb of Senator KASSEBAUM's staff have been very helpful. Senator KASSEBAUM, my ranking member, has allowed me to have the responsibility of these bills and has offered her leadership. Her ability to get very difficult amendments through and approved is amazing and a pleasure to follow.

Senator PELL and his staff, who I have worked with for 6 years now—David Evans, Michael Dannenberg, Margaret Smith, and Barbara Bennison—were a tremendous help. I am amazed at my own staff and how well they are able to keep me informed. Pam Devitt, in particular, works constantly to be well ahead of where we need to be on these issues. Catherine Henry is a specialist on formulas, and formulas are incredibly difficult to deal with. Kelly Kivler and

Reg Jones of my staff have also worked very hard on this.

Madam President, I do not know if people are anxious to leave, and some are anxious to speak, but I have tried to retain my brevity in the custom of New England throughout this bill.

I would like to spend a few minutes to focus attention not just on the bill we passed but why it is important to handle education in this difficult time in our history.

We have come a long way in this reauthorization. We have thrown out many of the old notions of teaching—which often have had the effect of dumbing down curricula for disadvantaged students—and embraced new concepts, such as demanding high standards for all students, regardless of their backgrounds. S. 1513 incorporates new programs to encourage greater teacher training and the purchase of new technology, funds for infrastructure repair, and renovation and programs to address migrant and bilingual children. It sets out a framework for the future of our education system which will direct the future of our next generations.

Passage of S. 1513 comes on the heels of the Goals 2000 bill which outlines the national education goals for this country to reach by the year 2000. Those goals outline what we as a country expect of our present and future generations and what they can demand in return. The goals underline how essential education is to the well-being of every child in this Nation. Those goals—which have been embraced by educators, parents and policymakers—detail basic expectations of our country. They state that by the end of the decade:

All children will start school ready to learn. That sounds easy, but if you realize that 70 percent of the eligible children for Head Start go unserved, and that less than half of all of the 3- to 5-year-olds from families with incomes less than $30,000 are enrolled in a preschool, you see how far we have to go on that very important goal, as I will talk about later.

The high school graduation rate will increase to at least 90 percent. In 1992, 86 percent of black and 59 percent of Hispanic youth had received a diploma by age 24, as compared to 92 percent of white youth. That may not seem too bad until you compare it with goal three.

Goal three is that an American student will leave grades 4, 8, and 12, having demonstrated competency in challenging subject matter. But right now, fewer than one-in-four fourth and eighth grade students are able to meet those standards of performance in math or reading on the National Assessment of Education progress. In addition to that, 50 percent of these young people that graduate from our high schools now are essentially functionally illiterate. If you say you have a 90 percent graduation rate, but 50 percent of those are functionally illiterate, it is hardly something to be proud of.

U.S. students will be first in the world in science and mathematics. In a 1991 comparison, U.S. students were outperformed by students in seven other industrialized nations in international math and science assessments. Even worse, in 1993, a study was done of 12-year-olds across the world in 13 countries. We came out 12th in science and 13th in math. We have a long way to go.

Every adult will be literate and will possess the knowledge and skills necessary to compete in a global economy. The census indicates that 20 to 30 million adults in this country cannot read, write, or calculate. In other words, they are totally illiterate. Another 45 million cannot effectively handle an entry-level job. That is, 75 million Americans are either functionally illiterate or totally illiterate. We have a long, long way to go.

Every school will be free of drugs and violence. Approximately 3 million thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

The Nation's teaching force will have access to programs for the continued improvement of their profession.

The last goal is that every school will promote partnerships that will increase their parental involvement and participation.

These are elemental provisions of a sound education. I think all of us would certainly expect and believe that our children are, and should be, taught these things. Sadly, for the majority of our young people, this is not the case.

The 1993 National Education Goals Report described our progress in improving our educational achievement as wholly inadequate.

Elementary and secondary students still do poorly in math and reading when compared to the National Education Goals standards. There has been little improvement in the high school graduation rate of 19- and 20-year-olds over the past decade. Nearly one-half of all infants born in the United States begin life with one or more risk factors to their long-term educational development.

These problems and concerns affect not only the present needs of our young people, but also the future economic competitiveness of this Nation.

Hedrick Smith in a recent commentary said:

> One stunning act about America's efforts to compete in the global economy is that U.S. businesses spend $200 billion a year on remedial education for young people hired out of high school.

That is the estimate of the Business Roundtable, and on top of that, another $225 billion that business economists estimate it costs American business in lost productivity caused by less than adequate training and education of American workers.

We have a serious challenge on our hands, and it is time for America to wake up to the challenge because the cost of not doing anything will be far greater than the cost of implementing these programs.

Let me give you a quick sketch of what I mean. Health and Human Services, Housing and Urban Affairs, Department of Education, and the Department of Labor, spent over $208 billion while the States spent another $82 billion on means-tested entitlement programs—collectively referred to as welfare programs. The programs consist of medical benefits, cash aid, food benefits, housing benefits, education benefits, job training, and other benefits.

However, according to the Department of Education, improved education of these needy individuals would have a significant effect on reducing the need for these programs.

In the book, "Winning the Brain Race," a study of low-income disadvantaged children in Michigan indicated that early intervention with the Head Start Program could have a major impact on improving the prospects of these children. Compared to a control group, children who were given comprehensive preschool support were twice as likely to hold a job, be in college, or in a vocational program after high school. Their high school graduation rate was one-third higher, their pregnancy rate was 50 percent lower, and their arrest rate was 40 percent lower.

We need to help these individuals all through the education process. Right now, approximately 20 percent of our students drop out of high school.

Of those that have dropped out of high school, less than half are employed. A total of 52 percent of high school dropouts are unemployed or receiving welfare assistance. A recent study put the cost of providing benefits to this group of recipients at $75 billion per year.

The Institute for Health Policy at Brandeis University in its 1993 report entitled "Substance Abuse: the Nation's Number One Health Problem," estimated the cost of illegal drug activity at $238 billion per year. This represents the cost of lost productivity, premature death, inability to perform usual activities, cost of criminal justice system, destruction of property, and other causes.

Another sad example of the failure of our ability to nurture our young people is the fact that over 65,000 children are in correctional facilities around the country. It costs about $300,000 per year, one-third more than an adult, to pay for detention of a child.

An estimated 15 percent of the population is not covered by health insurance. These individuals are primarily working poor and would be helped by increased educational opportunities.

With improved educational attainment, one can assume that there will be two positive effects on the costs of health care. First, a better educated populace that is earning higher wages can be expected to have a healthier existence. This would result from better wellness habits and from improved living conditions. The second effect would come from the fact that many of these individuals would move from minimum wage jobs with no benefits to jobs with health coverage. We could expect our improved education system to make a significant reduction in the pool of uninsured individuals.

Mr. President, imagine what a different problem health care reform would be, if we found a way to cover the 37 million Americans who do not have health insurance.

Education is the way. By investing in the education of the at-risk population, we can give these people the skills to get the kinds of jobs that will provide health coverage.

Approximately $400 billion of Federal spending is for programs—welfare, unemployment, crime, health care, housing, and training—that were created to assist low-income individuals. These programs would be highly sensitive to increased literacy and higher educational attainment. If we could reach the goals set out in Goals 2000, we could expect major savings in these programs. If one assumes that savings amount to 30 percent, that would translate to a reduction in annual Federal spending of $120 billion.

The largest impact clearly comes in the form of increased economic activity and the resultant growth in corporate and personal income. With full attainment of Goals 2000, I think we could expect to see increased economic activity of at least $250 billion.

It is for these reasons and the fate of our future generation that passage of this bill is so critical. I urge my colleagues to join me as they did in supporting it.

Mr. President, I thank you for listening and I thank my colleagues for listening, and I yield the floor.

FUNDING FOR EDUCATION AT MIGRANT STOPOVER CENTERS

Mr. PRYOR. Mr. President, I rise today to thank the Senator from Massachusetts for including a provision in the manager's amendment to the Elementary and Secondary Education Act which will aid the education component of migrant stopover centers.

I am pleased that the committee recognizes the special function these centers perform for the migrant community. Stopover centers provide basic services to migrant families that are only going to be in the area a short time. The migrants are not there to work; they are just traveling through on their way to another State.

This provision directs the Department of Education to develop a budgetary formula to ensure reliable funding for educational services provided at stopover centers. It recognizes that stopover centers do not provide the same type of services as an ordinary classroom. Typically, the children being served at stopover centers are only at these sites a few days.

Currently, there is no provision to fund educational services provided at stopover centers. In fact, the term stopover center is not even mentioned. This provision will address the unique nature of educational services at stopover centers. It provides for the educational needs of migratory children as they travel through an area.

Migrant families traveling through my home State of Arkansas can go to a stopover site in the city of Hope for a few days to rest and refuel. Hope, AR, is about 1 day's travel between south Texas and northern States where these families look for work harvesting crops. Often, these children are out of school for weeks at a time as they move with their families to a new State. It takes time to get settled in a new home and registered in a new school. There are similar stopover centers in Ohio and Illinois.

At the site in Arkansas there is a coordinated effort to provide services to migrant families. There is a health clinic, temporary housing, and laundry services. Emergency assistance is given if the family needs food, or their car repaired so they can find work. There are also educational and recreational services available to migratory children at the site.

Mr. President, over 10,000 students each year are served by the educational service center in Hope. Since 1978, the center has been in operation providing books and educational materials to eligible students. It also provides school supplies so when a child gets to a new school, he or she has the materials needed—scissors and crayons for younger students, pens and notebooks for the older students. You can't imagine how much it means to these kids when they get a new school—they don't know anybody—that they have the supplies the other students do.

In addition, the Hope center provides tutoring services so the students don't fall further behind in school. They are given career counseling and information on both education programs and other migrant services throughout the country. Mr. President, I can not emphasize how beneficial the education service center is for these children. It encourages them to continue with their education and register for school in their new location. This is important, so let me repeat it, it encourages them to finish school. Migrant farming is a hard life, and these kids will have few opportunities without an education.

In my view, the recreation provided for these children at the Hope center is also important. Kids cannot learn, or just be kids, when they have been cooped up in a car or truck all day. The supervised recreation available at the center gives them a productive outlet for their energy, something both the host community and the parents of migratory children want.

The center also records the students in the Migrant Student Record Transfer System and provides advance notification to the States where these families are headed. With advance notification, the school systems in other States know that the students are coming and can prepare to register them in classes. In some States the students can even preregister, so they can start school as soon as they arrive. This is one of the unique benefits of stopover centers.

Mr. President, I would like to place in the RECORD a letter to The Honorable JOSE SERRANO, chairman of the Congressional Hispanic Caucus, from a young woman in Hope, AR, who wanted to express her support for the migrant center. Jessica Covas grew up in a family of migrant workers and dropped out of school when she was 16 years old. The staff at the Hope center encouraged her to finish high school. She is living proof of the valuable services these stopover centers provide. I am happy to report that Jessica now has a nursing degree and is working with other migrant families at the stopover site.

At this point Mr. President, I want to specifically applaud the men and women who staff and support the Hope stop-over center.

The educational services provided to migrant children at stopover centers is invaluable. This provision will, for the first time, recognize that fact and develop a method to fund these services. It charges the Department of Education with working out a funding formula that is fair and equitable. I am proud to say that this provision has the support of the president of the National Association of State Directors of Migrant Education, and I thank my colleagues on the committee for working with me to include it in the manager's amendment.

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

Hon. JOSÉ E. SERRANO,
Congressional Hispanic Caucus,
Washington, DC.

DEAR CHAIRMAN SERRANO: My name is Jessica Covas, maiden last name is Capetillo. My present job title is Case Manager at The Hope Migrant Center in Hope, Arkansas. I am very thankful to the Lord above for this job. Not a day goes by that I don't say "Thank you Lord. Thank you for giving me the strength, the power, and this wonderful opportunity."

I think back to my migrant days when my parents, my brothers, and sisters and I used to get up early in the morning and go to bed late at night to earn a living out in the fields. I am the youngest, the baby, in a family of six. I was very excited at first, going out in the fields with my family. I remember thinking, this is fun, I am outside with my siblings, having a good time. When I got old enough to really work, and not being able to take a break every time I got tired or bored, it was no longer as fun. It wasn't "fun" at all. I knew then why my brothers, sisters, and parents would be so tired at night when they got home. Why they didn't feel like playing with me or reading to me, or why they would complain of aching all over. Boy, did I ever know why!

Years went by, traveling from state to state seeking for work. I remember my father asking other "companeros," partners, "Do you know where we can find some work?" It was very difficult for all of us. It wasn't so much the finding work part, but the school part. I do not ever remember starting school and finishing a school year in one school, or should I say, in one state. It was very hard for all my brothers and sisters, but especially for me. It was hard for me to make friends. I guess it was because I was shy, not to mention, because I was different. I was "Mexican." As time went by in the new schools, the other students would realize, (I guess) that I was only human. I was just like them. I tried getting into sports and different school activities, just to be liked and like anyone else, anything but different. But that was another difficult task, because most of the school activities and sports were held after school, and I had to hurry home after school in order to go out in the fields and help my family. It seemed that when I finally would make friends and feel comfortable in a school, it was time for us to pick up and move. There was no more work for us there. Leaving friends behind was one thing, or should I say nothing. Trying to catch up with schoolwork, keep up with schoolwork, and find out what the heck they were talking about, was the problem, the major problem, the reason why I finally dropped out of school just as soon as I turned sixteen. When we would move to a different setting, a different state, we'd wait 'til we got settled down before my parents would go and register us in school. Weeks would go by sometimes. As a child, I enjoyed that "vacation" time, but as I got older, I was getting more and more behind with my studies. Every school was different, so I would barely pass my classes. There were times when I thought the teachers passed me just because they felt sorry for me, they would see how hard I had to struggle. Until one day I decided to stop struggling. "Who needs school anyway" I would tell myself. "Working in the fields is the way to make a living anyway." Needless to say, my two oldest sisters and oldest brother had already dropped out of school. When I told my parents that I wanted to drop out of school, they just said, "O.K., you know what that means." Yes, I knew exactly what that meant.

Close to a year went by, and I was still working out in the fields. I tried seeking for work elsewhere, but no one wanted to hire me. I tried groceries stores, but they didn't want a drop out. During the summer they would hire students to sack groceries, but not me. I did not have a high school diploma. So I continued to work out in the fields, I would see them studying, clean and comfortable, and there I was tired, sweaty, and dirty. I envied them, I missed studying and I missed school. Not only that, but I had realized that I did not want to work out in the fields the rest of my life. I wanted a different life for myself, I wanted to be able to get a job where I can work indoors, with decent hours. So I enrolled back in school. It was not easy because I was almost a whole year of studying backed up. But with some hard work, dedication, will power, summer school and help from above, I caught up and graduated from high school.

Throughout our traveling from state to state seeking for work, we would hear other migrant families talk about how they would stop in Hope, Arkansas at the Migrant Center to rest and shower and about all the services they offered there. How they would give books to school age children, toiletries and assistance with food or gas as needed, or as able. But we never did stop here because we were always in a hurry to get where we were going, and because my father would say that it was too out of the way. I remember thinking how a good shower and even a good book would be wonderful since we were on the road two to three days at a time, straight. When my father got tired of driving we would stop at a rest area so that my father would get him enough sleep to continue our journey. While my father slept, my brothers and sisters and I would stay awake to make sure that nothing happened to us while we were there. Until one year, it was the summer of '87, that we finally did stop at the Migrant Center. We were on our way up north to work, we didn't really know where we were going, just somewhere where there was work for us. The lady who registered us at the Migrant Center was very nice. She talked to all of us as if she had known us for years, not as the strangers that we really were. After registering there, we showered and got cleaned up. Then my little niece, who lived with us, and I went across the street to register at the Migrant Education Dept. I was going to be a senior that year, and my niece had passed to the third grade. The people there were extremely nice also. We received books and other school items. My niece and I looked at one another, with that excited look on our faces, as if we had received a new toy. After registering there, my mother accompanied us and we went to the Migrant Mission Center, where we there received other goodies and toiletries. I could not believe all their courteousness and kindness.

After resting a while in the trailers with bunk beds provided at the Migrant Center, my parents had talked to the lady who registered us there. My parents asked her if she knew of anyone who was needing some help, some workers. And it just so happened that there was someone who was needing a helping hand here in Hope, Arkansas. My father looked in to it and thought it was a wonderful opportunity. It was then that we settled down here and I am proud to say, that we are still living here.

That school year, I enrolled at the high school. A new school, my senior year. "What a bummer," I thought to myself. Your senior year is supposed to be the best year of your entire life, and here I was at a new school and knew absolutely no one! But I am glad to say that it did not take me long to make friends there and feel comfortable. Even though it was a whole different atmosphere and the people here seemed somewhat different, but I was used to that. The very next year, I graduated from high school! I was so very proud! My family was very proud of me also. I was the only girl in our family that had graduated from high school. Three out of six of my brothers and sisters had graduated. Though one of my sisters and my oldest brother had gone back to school and received their GED. We were all very proud of them too.

During my senior year, I had met someone very special, who shortly after graduation, we exchanged vows. We were both very happy. But we had realized that we both needed to work in order to make a decent living. Yet even after having my diploma, it was still difficult finding a job. My husband was working at a body shop and I finally got a job. I took a job at The Migrant Center cleaning the trailers after occupancy. Even though it was not a job that I had hoped to get after graduating from high school, but it was a job. Not only that, but I was very tickled to have gotten a job where I was working and relating with migrants. People I'd take my hat off to, people I respected and looked up to. I knew that after getting married I would no longer work in the fields. It was something that I had talked to my husband about and he respected my wishes and desires. My migrant days and working out in the fields were over. I wanted a better life for myself, and I set that goal out for myself, with my husbands help. Yet, that part of my life will always be a part of me! The work was not easy, especially during the busy season, but being able to talk to the migrants and sharing different stories was all worth it. There were even times when I would see people I knew from The Valley, people from my home town, Edinburg, and people I know from going up north. It was a great job, but I realized that I still wanted a better life for myself. I decided to go back to school and make something out of myself. My husband was very supportive of my wishes. I wanted to go back to school and become a NURSE! Something I had always dreamed about.

Just like everything else, it was not a very easy task. Going to college was going to take money, something we did not have. I went and talked to the recruiters at the Migrant Education Dept. and they told me about the different grants and loans that were available. I received all the information needed and some applications that were available. That was not too bad, I thought. I filled out the applications and sent them off. Then I had to look for a college that I wanted to attend that offered nursing classes. Luckily enough there was one here in Hope. I went to The Red River Vocational School and talked to counselors there. There was a nursing class available, but I was not the only one that was wanting to become a nurse. I was told that there was a long list of students but that a class could only hold so many. So I was told to fill out some papers and that I has to take some tests to see if I qualified to take the nursing program. And that if I did pass the instructors. "WOW" I thought to myself, all that? Where do I start, I asked.

After all was said and done, there was a waiting period, where all I could do was wait. My friends at the Migrant Center and Migrant Ed. Center and my family kept telling me not to give up hope, when they could see that I was. And sure enough, that day had was accepted into their nursing program. Then shortly after I had grant and that most of my tuition would be paid. I was so happy! "Thank You Lord!"

Shortly into the nursing program, I realized that getting there was the easy part, getting through the program was going to be the challenge. But with some very hard work and my families encouragement, I made it through the year. During my hard times and studying, I think what really kept me going

was the thought of having had worked out in the fields. How very hard that was and how someday when we had a family of our own, how I did not want to put them through all the suffering that I had gone through. I graduated in May of 1989 with my LPN license. I think I was the proudest one there on that stage.

Shortly after graduation I started working at Medical Park Hospital in Hope. I worked there for approximately 4 years. During that time I did a lot of interpreting for migrants and Hispanic families. They would be so thankful to me for helping them. And I would just tell them "El placer fue mio," it was my pleasure and it was!!

A job opportunity came up this year, 1994, where a case manager was needed for the Migrant Health Center. It was like a prayer answered from up above. After reading the qualifications required, I realized that I did not quite meet them, but I was willing to give it a try. I wanted to be able to work with migrant families and help them in every which way I could. Even though my migrants years were not very pleasant ones, they are still a part of my life that I am now thankful that I experienced. After my interview with my now director, I had a fairly good feeling about the job. And sure enough, I received a call from here soon after that telling me that I had gotten the job. I was so very grateful I was now going to have the opportunity to do something that could not give me more satisfaction. I was going to be able to help the migrants, like being a migrant helped me to get where I am now, I had an indoor job, with decent hours.

Since I started working here, March of this year, I have seen how the Migrant Center and the Migrant Education Center has helped many other families and not just mine. Not a day goes by that I don't hear a migrant say "Thank you all very much." I have talked to some parents and they tell me how grateful they are of all the programs and services that are offered here. How much the kids enjoy the books and other school supplies and how that keeps them entertained during their long journeys. They tell me how much they appreciate the fact that they do register the school age children here and how that helps them get registered where they are going. I think back to the times when we were migrating from state to state, and how it may not have taken as long to register at our destination and how maybe not so much time would have gone by in between and we would not have gotten so far behind in school like I did. If we would have only stopped here sooner, before we did, things may have been different, not as difficult for us, for ME!

Coming from a migrant family and knowing what all these families are going through, I am very honored and grateful to be part of the Migrant Health Center to where I can help them in their time of need. I am very proud to be a part of the team that helps the migrant families. Seeing the children's grateful faces and cheerful smiles, and seeing how grateful the parents are is enough to tell me that I am doing my job, that we are all doing our jobs out here. A smile is worth a thousand words, even a thousand dollars.

During the time that I have worked out here, I have heard people talk about how the Migrant Education Department is in danger of losing their funding. That concerns me because I know how helpful the services that are offered here help every single migrant family that passes through here. The books that are offered, the PFP program that is offered for the preschool children to help them get prepared for school, student counseling, continuing education that also provides information for those who have dropped out of school that would like to get their GED, and lots of other information and brochures on difficult topics. Some of the families that come through here tell me that when they first arrive at the Migrant Center that all the children and sometimes even the parents want to cross the street first, over to the Migrant Education Center, before they even take a shower to get registered for school and receive more books. I had one mother tell me that her children keep and take care of every single book that they have received and that they have been passing through here for 6 years now. There is even a supervised recreation building where the children can play and entertain themselves while the parents rest. And the parents have told me that they really like that because they know that they can rest peacefully without having to worry if they are running around in the streets where they could hurt themselves. The Migrant Center without the Migrant Ed. Center would just not be the same. Every family has a different opinion on why they like the Migrant Ed. Center, but the majority of them say that yes, they do stop to rest and shower but one of the main reasons to go is the Education Center to register the kids for school. And I can sure see when they do!

I am also concerned about there being no more national registry of migrant students should MRSTS close. That was one of our main problems as migrants, enrolling in school where ever our destination may have been. With MRSTS the state, or even the location of each families destination, is notified that the particular family is heading their way. That way the children can be enrolled in school as soon as possible without losing valuable time. I think that is wonderful! Again, I wish we would have had these services when we were migrating, that is if we would have stopped here before we did.

I believe these issues should all be addressed and considered on behalf of all migrants and migrant students. There are so many things that we would all like to do to help mankind, I am just very glad that I am in the position to help those in need just like yourself. Let's all please unite to help the migrants and their needs.

Sincerely,

JESSICA COVAS.

Mr. PELL. Mr. President, as we achieve final passage of S. 1513, I believe it important that we step back and take a look at the comprehensive nature of this reauthorization bill. It is, without question, landmark legislation.

Building on the Goals 2000: Educate America Act, it stresses that all children in America should be taught to high academic and performance standards. In particular, it contains a new focus on helping those students most in need learn to the same high standards as all other students. It targets Federal funds in a more precise fashion than ever before, and sends money to those communities where poverty today robs children of the educational opportunities that ought to be provided.

But that is only the beginning. We have a new focus on professional development to ensure that our children are taught by highly qualified personnel. We have a new emphasis on making sure that the classroom is a safe place in which to learn, and that our children are safe not only from drugs and violence but also from the dangers of inferior facilities. We have a new priority on educational technology, and on making sure that our children have access to the latest, state of the art methods of instruction.

The legislation is also a blend of established, proven programs and new, innovative approaches to education of our children. We continue, for example, the Dropout Prevention Program that has been so successful, and we have new initiatives in areas such as arts education, which seeks to bring the rich benefits of the arts, humanities, and museums into the education of more of our children.

Mr. President, I want to acknowledge the leadership of President Clinton, Secretary Riley, and Assistant Secretary Payzant in formulating this legislation and submitting it for our consideration. I also want to thank the majority leader for his steadfastness in setting and keeping us on course. And I especially want to recognize Senator KENNEDY and Senator JEFFORDS for the magnificent job they have done in guiding this legislation through floor debate and consideration.

There are many other people who deserve a special word of thanks: the Education Subcommittee Senators and their staff members; Wayne Riddle and the Congressional Research Service; mark Sigurski and the Legislative Counsel staff; Russell Jackson and the Senate Service Department. From a personal point, I want to thank the members of my staff on the Education Subcommittee: David Evans, Barbara Bennison, Michael Dannenberg, Daniel Ritter, Jason Rothenberg, Margaret Smith, Rachel Reinhardt Kristin Olivera and our other interns. In particular, David Evans, Michael Dannenberg, and Margaret Smith spent many, many hours putting the legislation together and helping shepherd it through subcommittee, committee and the floor. We owe then a great debt of gratitude.

Mr. President, from the outset, this bill has enjoyed strong bipartisan support. Throughout the development and consideration of this bill, partisan interests have time and again given way to an overarching concern for the education of our children. To my mind, that is the way it should be, and I am sure the bill is better and stronger because we have worked together.

Mr. DURENBERGER. Mr. President, I rise to support final passage of S. 1513, as amended.

This bill represents the last major piece of education legislation we will consider in a Congress that has already completed a great deal of work, including the Head Start reauthorization, Direct Lending, National and Community

Service, Goals 2000, and the School to Work Opportunities Act.

I am proud to have been deeply involved in all these major initiatives, Mr. President. And, I'm pleased to support the ESEA reauthorization now before us.

I also want to take a moment to thank the Chairs and ranking members of the Labor Committee and its Subcommittee on Education, Arts and Humanities. This has been a truly bipartisan initiative. All of us on both sides of the aisle are indebted to our colleagues from Massachusetts, Kansas, Rhode Island, and Vermont for their leadership and for their commitment to improving the quality of education for every child in America.

Mr. President, I want to begin by commenting briefly on several of the major themes in this legislation and by pointing out several specific initiatives that I believe help make this proposal deserving of our support.

FOCUS ON LOW-INCOME KIDS, LINKS TO OTHER REFORM INITIATIVES

Historically, the Federal Government's role in education reform has been to expand access to educational opportunities for low-income students and students with disabilities. I am concerned that in trying to expand access, we have made the mistake of creating more narrow categorical programs and funding streams that in fact have the very opposite effect.

This legislation envisions significant increases in funding for some Federal education programs. It recognizes the reality that the large majority of financing for this country's elementary and secondary schools will continue to come from State and local sources. Finally, it supports the notion that Federal education programs and funding must support school reform initiatives that are designed and carried out at the State and local level.

Those realities, Mr. President, are reflected in a number of provisions scattered all through this legislation. They include:

Better targeting and greater flexibility of title I and other funding for schools and districts that have high concentrations of low-income children.

Direct links between title I and other Federal education programs and the move toward meeting high content and performance standards—but, appropriately, not opportunity to learn standards—stimulated by the Goals 2000 legislation.

More flexibility for districts to seek and use waivers of Federal rules and regulations when they stand in the way of State and local school reform initiatives.

An increased emphasis on teacher training and other forms of professional development in all subject areas—and increased flexibility to use Federal funds from several different programs for professional development activities.

An effort to consolidate and better coordinate a variety of technical assistance programs—both to achieve greater efficiencies and to encourage stronger links between various programs that may be serving many of the same children.

An increased emphasis on parent involvement and on positive links between schools and the larger community that surrounds them. This includes several important additions to the bill—proposed by Senator WOFFORD and myself—that forge links between Federal education programs and community service and service learning.

CHARTER SCHOOL PROGRAM SUPPORTS STATE REFORM INITIATIVES

One provision in this legislation that deserves special mention, Mr. President, is a new $15.0 million Charter Schools Grant Program authorized under title VIII, part C. Charter schools are public schools that are frequently exempt from input-oriented mandates, but accountable to a public agency through a contract that commits the schools to achieving specified academic or other results. Although State laws across the country all vary, charter schools must be public, nonsectarian, may not charge tuition, and may not discriminate in admitting students.

Charter schools enjoy growing, bipartisan support. Advocates include both President Clinton and Education Secretary William Riley; as well as a number of leading Governors including Roy Romer of Colorado, William Weld of Massachusetts, John Engler of Michigan, Pete Wilson of California, and Tommy Thompson of Wisconsin.

Charter schools have now been authorized in 10 States—Minnesota, California, Colorado, Massachusetts, Georgia, New Mexico, Wisconsin, Michigan, Kansas, and Arizona. In addition, Governors and legislators in a dozen or more other States are actively considering legislation to authorize charter schools.

I'm particularly pleased that the Labor Committee agreed to accept my proposed changes in this program which will ensure that all charter schools throughout the country will be eligible for grants. And, it is my hope that we maintain these provisions as this bill moves to conference with the House.

The new grant program authorized under title VII is based in part on S. 429 and H.R. 1113, the Public School Redefinition Act, a charter school grant proposal that I introduced in February 1993 along with a bi-partisan group of Senators and Representatives that included Senators JOSEPH LIEBERMAN, BOB KERREY, and SLADE GORTON, and Representatives DAVE MCCURDY, TOM PETRI, TIM PENNY, and TOM RIDGE. It also enjoyed bi-partisan support on the Labor Committee, including support from Senator BINGAMAN who made several suggestions for improvement in this new program that I am pleased were also accepted.

The Federal Government should not be dictating to States how charter schools should emerge as a part of systemic reform. With that in mind, the Senate bill now allows schools receiving grants to be chartered by "a state education agency, local education agency, or other public agency that has the authority pursuant to state law to authorize or approve a charter school."

Overall, Senate's version of the Charter School Grant Program follows an important principle about the role of various levels of Government in education reform: The National Government should be providing overall leadership to education reform initiatives, but should defer to the States on how to authorize the elements of reform that are—in turn—best designed and carried out by each local community.

By following that principle, States and local communities will claim greater ownership of the elements of reform. And, those elements of reform are more likely to be implemented and more likely to result in improved student performance.

COMMUNITY SCHOOLS PARTNERSHIPS (FORMERLY DOLLARS FOR SCHOLARS)

I am also pleased that the Community Schools Partnerships Act has been accepted as part of this legislation. Senator KENNEDY and I previously introduced this legislation which involves support for grassroots, community-based organizations that promote academic excellence through scholarships for graduating high school seniors.

The Community School Partnership Act will establish and support area program centers to foster the development of local affiliated chapters in high poverty areas that promote education goals for students from low-income families. These students will receive academic support and post secondary scholarship assistance.

The act calls for a one time authorization of $10,000,000 to set up an endowment fund. Local chapters will use the interest from that endowment to leverage private and public funds which in turn will support academic achievement for low income students.

I continue to be a strong supporter of the Pell Grant and Guaranteed Student Loan programs. I also believe it's a wise investment to support private sector activity that promotes and rewards solid academic achievement. I hope that we can maintain the Community School Partnership Act as we move to conference with the House.

Let me repeat what I said earlier, Mr. President, about how proud I am of what's already been accomplished in this Congress to enhance the role that education can play in positioning this Nation for the 21st century.

From pre-school to graduate school and beyond, Americans to again become a Nation of learners—rewarded when they do well and assisted when they fall short. The legislation now before us is an important part of achieving that important and essential goal.

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

NATIONAL ENVIRONMENTAL EDUCATION CENTER

Mr. MOYNIHAN. Mr. President, I rise today to speak on a topic of importance to education. In a 1991 nationwide survey, the Carnegie Commission on Science, Technology and Government determined that 67 percent of all elementary science teachers have inadequate course preparation in science, and 69 percent of science teachers and 71 percent of biology teachers have substandard preparation in their subjects. Looking at these statistics, there would seem to be a connection with the finding of the Educational Testing Service's International Assessment of Educational Progress, which has ranked our students near the bottom in a 15-country assessment of science achievement.

This year, we have stated goals we want the Nation to achieve by the year 2000, and one of those goals reads "By the year 2000, United States students will be first in the world in mathematics and science achievement." Today, I am happy to describe a project which once completed will help our students attain the science achievement goal.

That project is called the National Environmental Education Center, and will represent an expansion of the Wildlife Conservation Society's education facilities at the Bronx Zoo. This center will contain state-of-the-art technology and will be used to train 8,000 teachers from around the United States annually. These teachers will bring the finest environmental education curricula home to more than 500,000 students, and many more will be served from a computer linkage with schools and science institutions across the country. The National Environmental Education Center will provide the opportunity for families to study ecology together, and will utilize unparalleled wildlife collections and award-winning natural habitat exhibits to teach basic biology and conservation ecology.

If we are to make progress toward our National Education Goals, we must be willing to invest in innovative projects which build our educational infrastructure and help our students reach our National Education Goals. This is such a project, and I would hope that the members of the Labor Committee will keep it in mind when they take the Elementary and Secondary Education Act to conference as well as in future legislative opportunities.

Mr. President, I yield the floor.

EDUCATIONAL ADMINISTRATIVE SPENDING

Mr. D'AMATO. I want to commend the managers to the bill for adopting in the manager's amendment package language I proposed that will ensure that the Secretary of Education takes action to better understand how funding provided under this act is used, and to ensure that it is better targeted to classroom instruction as opposed to administrative spending.

As I pointed out when I addressed the Senate on this subject last year during consideration of the fiscal year 1993 supplemental appropriations bill, there is alarming evidence that growing educational bureaucracies across the country are siphoning scarce education dollars from classrooms where they are needed most.

One of the most startling examples of this came from the New York City school system, where one recent study of spending in the high schools during the 1988–1989 school year showed that less than one of every three education dollars actually reached the classroom. The rest was used to pay for administration at the district's central office and high school division, as well as at the individual school level.

And New York City is not alone. A recent audit of spending in the Indianapolis public schools, for example, found that less than 36 percent of education funding actually reached the classroom. A similar study of spending in the Milwaukee public elementary schools found that only one quarter of every education dollar was spent on actual classroom instruction.

Clearly the time has come to examine the extent to which Federal education dollars are being spent to fuel the growth of State and local education bureaucracies.

Last year, the Senate unanimously adopted my amendment to the fiscal year 1993 supplemental appropriations bill, which, for the first time, would have capped the amount of chapter 1 funds received by local school districts that could be used for administrative activities.

While this amendment was narrowly defeated in conference, it remains more vital than ever that we understand where our scarce education dollars are going and then make sure that they are targeted on students in need—and not wasted on unnecessary layers of administrative bureaucracy.

My amendment to the Improving America's Schools Act will achieve this objective by strengthening a provision that was already included in the committee bill. Specifically, this amendment will require the Secretary of Education to conduct and complete the administrative funds study called for under section 10204 of this bill within 1 year of the bill's enactment. This study will examine how funds provided to State and local education agencies under this act are used by these agencies for the administration of programs such as title 1, the Eisenhower Professional Development Program; and the Drug Free Schools and Communities Program. This study will also determine what percentage of grant funds made available to State and local education agencies under these programs is used for administrative purposes.

The amendment will require the Secretary of Education to complete the study within 1 year of the date of enactment of this bill. More important, it will set a deadline of 1 year from the time the study is completed for the Secretary to implement final regulations establishing limitations on the amount of funds that may be used for administration under title 1 and other programs covered under this act.

Again, I commend the distinguished managers of the bill for including this provision in the manager's amendment package. By mandating a comprehensive review of administrative spending in our Federal elementary and secondary education programs, to be followed within 1 year by final regulations establishing clear limits on such spending, this amendment will help assure that hard-fought education dollars are spent not on bureaucratic excess—but children in need.

THE HELMS-SMITH AMENDMENTS

Mr. CHAFEE. I want to take a moment to discuss the substance of the Smith amendment adopted today, and the Helms amendment adopted yesterday. They are virtually identical.

The amendments say that any local educational agency that carries out a program that has the effect of supporting or encouraging homosexuality shall lose its Federal funding.

This sounds simple enough. But in practice, I think the vagueness of the amendments' wording could prove troublesome for schools. It is hard to define what "support" or "encourage" means.

Indeed, it would be possible that the following situations could cause a school to risk losing its funds for supporting or encouraging homosexuality:

A guidance counselor counseling and comforting a young teen who is confused and distressed about his or her sexuality, and who may be considering suicide;

A teacher assigning works of Shakespeare as a reading assignment, and in whose class arises a discussion of Shakespeare's life and times;

A class discussion about "Brideshead Revisited," and some of the characters in which are homosexual;

A school production of the play "The Importance of Being Ernest" by Oscar Wilde, whose homosexuality was well-known.

I doubt that we want to prevent our schools from the above activities. We absolutely must make sure our teachers and guidance counselors are able to help any confused teens—a group already highly susceptible to suicidal

tendencies—when they need it, before they do themselves some harm. We need to make sure that important works of art and literature are not kept from the classroom just because of the sexual orientation of the author, or of the characters involved in the work.

It may be that the Helms-Smith amendments are not meant to encompass the above situations. But it is by no means clear. And if there is any debate about what the Helms-Smith amendments mean, then the matter will probably end up in court. And every dime our schools spend in court is one less dime that goes for textbooks, band equipment, sports activities.

I feel very, very strongly that we must be careful to keep from causing needless litigation problems for the schools. Let's let administrators and teachers get on with the task at hand: educating our children. Let's not approve vague amendments that create a risk for our schools of losing of all Federal funds.

GUNS IN SCHOOLS

Mr. CHAFEE. Mr. President, I would like to take a moment to talk about a possible solution to a critical challenge that—regrettably—is faced by our Nation's educators today: the widespread presence of guns in the schools.

When I was the Governor of my State some years ago, school children never had to worry that another student might have a gun in his or her bookbag or locker. Certainly, students always had their share of arguments and fistfights, but at worst, these disputes usually resulted in nothing more than a black eye.

Now, however, although the number of annual incidents remains fairly small, guns—especially handguns—are showing up more and more frequently in our State's school systems. Indeed, some schools have begun to install walk-through metal detectors, or to use metal-detecting wands to check students as they enter the building, or hire security guards to patrol the corridors.

In an attempt to address this challenge, Senators FEINSTEIN and DORGAN introduced a proposal last month that would require every school system that receives Federal funds to adopt a gun-free-school policy. Such a policy must provide for the 1-year expulsion of any student that brings a gun onto school grounds. While this idea may merit consideration, I want to bring my colleagues' attention to the work we have done in our State that relates to this matter.

I am pleased to say that the State of Rhode Island is ahead of the game on this issue. Under the leadership of Rhode Island Attorney General Jeffrey Pine, and the Task Force to Prevent Violence in the Schools that he created, police and school officials in two-thirds of Rhode Island's cities and towns have adopted a memorandum of understanding that implements a zero tolerance policy toward guns and violence. To the best of my knowledge, no other State has made such progress, and so I congratulate Attorney General Pine and the task force on their fine efforts.

Moreover, these memoranda of understanding strive to push this strategy to rid schools of guns and violence one step further by firming up the lines of communication between the schools and local police departments. Under the agreement, all school staff members are required to report to principal any possession or use of a weapon or any assault that occurs on school grounds. The principal, in turn, will notify the police department. For its part, the police department is obligated to notify school officials of any arrests made of juveniles outside school hours, if those students attend the same school.

Now, our task force raised a concern about the potential long-term consequences of mandatory year-long expulsion, an approach set forth in the Feinstein-Dorgan amendment. Specifically, the task force members wondered whether putting a student who has been expelled from school for gun possession on the street without supervision would do either the child or the local community much good. Accordingly, the task force recommended that each school system work with State government officials to establish alternative educational programs for expelled students that will help them become productive members of society.

It seems to me, Mr. President, that this is a thoughtful, well-reasoned approach to a very difficult problem, and I hope my colleagues who have crafted this education bill, and will go to conference with the House Members on it, will take a look at the Rhode Island approach as they work on the issue of weapons in schools. For the information of Senators, therefore, I ask unanimous consent that a copy of the memorandum of understanding crafted by the task force be placed in the RECORD.

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

MEMORANDUM OF UNDERSTANDING

Between (Name of Police Department) and (Name of School Department) meant to be distributed to all superintendents, principals and teachers.

This document represents an agreement between the (name of police department) and (name of school) to engage in cooperative efforts aimed at the reduction and eventual elimination of violence in schools. It is only through this cooperation that we may restore safety in our schools and promote a secure learning environment. This effort has been supported and will be monitored by the Attorney General's Task Force Against Violence in Schools.

In order to ensure success, the parties to this memorandum include superintendents, principals, teachers, school personnel, school bus drivers, local police, said parties agree that:

1. All school staff members are under obligation to report any and all incidents of the possession or use of weapons by any juvenile on school grounds to the principal. Police will be notified by the principal immediately. (see definitions sheet)

2. All school staff members are under obligation to report any and all incidents of aggravated assaults on other juveniles or school staff to the principal. Principals will determine whether an assault is aggravated so as to constitute police involvement. Police will be notified by the principal accordingly.

3. The principal or his designee will coordinate all procedures in these matters with police and will report said incidents to the superintendent or designee.

4. Upon a report of said incidents, the police department will conduct an investigation with school officials to determine what course of action will be taken. The parents of juveniles subject to an investigation will be notified by the school officials immediately.

5. Where appropriate, and in accordance with the recommendations of the Attorney General's Law Enforcement subcommittee's policy, police will pursue criminal action against said juvenile.

6. School staff members will cooperate with prosecuting authorities as juveniles are charged with such offenses. This includes revealing information to police and testifying at proceedings when necessary.

7. The Juvenile Department of the police will record all such occurrences in a log entitled "Violence in Schools." Such record will include the nature of the incident, school official and law enforcement efforts and the disposition of the case, if any.

8. The school will keep a running log of all such incidents.

9. The police department will be obligated to notify school officials of arrests of juveniles made over the weekend if it appears the person arrested and victim attended the same school. Police will notify school officials the first school day following the weekend.

10. Any suspicions of weapons or assault incidents must be reported to the principal immediately. The principal will share this information with the local police when such suspicion presents a dangerous situation.

11. School administration and Law Enforcement will share such important information in prevention of future violence.

12. The procedures contained in this Memorandum should be consistent with a zero tolerance for violence in schools.

(Signed)
Chief of Police.
Superintendent.
Principal.
Juvenile Chief.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Labor and Human Resources Committee is discharged from further consideration of

H.R. 6, and the Senate will proceed to its immediate consideration.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 6) to extend for 5 years, authorization appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 6 is stricken and the text of S. 1513, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The question is—the Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the passage of H.R. 6, as amended.

The majority leader, Senator MITCHELL.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, this will be the last rollcall vote today. The Senate will, immediately following this vote, proceed to consideration of the VA/HUD appropriations bill on which I anticipate there will be extensive debate this evening and then a vote early tomorrow.

We will not be able to announce the time of the vote at this time. We will do so as soon as possible later this evening.

I thank my colleagues for their cooperation. I especially thank the Senator from Massachusetts and the Senator from Vermont for their diligence in pursuing and aiding enactment of this very important measure.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas, Senator BUMPERS.

Mr. BUMPERS. Mr. President, if I could have the majority leader's attention for just a moment?

I understand this is the last rollcall vote?

Mr. MITCHELL. That is correct.

Mr. BUMPERS. We are getting ready to go to the space station amendment? We are going to stand here and debate by ourselves and then vote on it tomorrow?

Mr. MITCHELL. Perhaps we could discuss that in private here as the vote is occurring.

Mr. BUMPERS. Mr. President, I am not trying to cause the leader any difficulty. I do not mind starting this amendment, but there should be some time tomorrow, because you know what is going to happen the minute this vote is over. I do not know it would change any votes. It might not, but it might. But there ought to be some time in the morning to debate this before a vote is set.

Has the majority leader set a vote?

Mr. MITCHELL. No, I have not. Precisely for the reason I wanted to consult with the Senator from Arkansas before making an announcement in this regard.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The question occurs on final passage of H.R. 6, as amended.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Akaka	Feingold	McCain
Baucus	Feinstein	McConnell
Bennett	Ford	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moseley-Braun
Boren	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Gregg	Murray
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Hollings	Pryor
Campbell	Hutchison	Reid
Chafee	Inouye	Riegle
Coats	Jeffords	Robb
Cochran	Johnston	Rockefeller
Cohen	Kassebaum	Roth
Conrad	Kempthorne	Sarbanes
Coverdell	Kennedy	Sasser
Craig	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wofford
Durenberger	Mack	
Exon	Mathews	

NAYS—6

Brown	Helms	Smith
Faircloth	Nickles	Wallop

So the bill (H.R. 6), as amended, was passed, as follows:

(The bill was not available for printing. It will appear in a future issue of the RECORD.)

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. This legislation represents another main part of our efforts in this Congress to improve American education. Already, this year, we have enacted the Head Start reauthorization bill, to help prepare children more effectively for school. We have enacted the School-to-Work Opportunities Act to provide more effective job training and career counseling for the 75 percent of American students who go directly into the work force without a college degree. And we have enacted Goals 2000, to help schools set and meet high standards for teaching and learning.

The pending bill is designed to overhaul the major Federal aid to education programs to help all students—especially those students who are disadvantaged—to reach high academic standards.

A key reform in this bill is that States must use the same academic standards and assessments for all students. No longer will schools receiving Federal aid be permitted to ask less of low-income students than of other students. Disadvantaged students will be held to the same academic expectations as every other student in a school.

In addition, rather than pulling individual students out of their classrooms for remedial help that often leads to a watered-down curriculum, schools will be encouraged to take a schoolwide approach to reform.

A second key reform in this bill is to direct funds where they are needed most. Current Federal education funds are spread too thin to make a difference in the poorest schools. The new formula for distributing title I money will send a significantly greater percentage of the funds to high-poverty schools, so that these schools will have a realistic chance to improve.

Third, the bill cuts red tape and gives schools the flexibility to implement their own locally developed reforms. The burdensome and often conflicting requirements of different Federal programs will be eased, by permitting schools to consolidate their funds, implement local reforms, and meet the needs of their pupils more effectively.

Fourth, the bill provides significant help for teachers, who are the most important part of education, and who must be a central part of any effort to improve schools. One of the principal provisions of the bill expands the Eisenhower Math and Science program to include teachers in all academic subjects.

Finally, the bill invests in educational technology. Advanced technology is commonplace in many parts of society. But too often, schools are unequipped to train students for the modern world. Under this bill, assistance will be available to enable poor schools to pay for computers, links to networks, and teacher training.

We are on the threshold of a new era in Federal education policy and support for local schools. This reauthorization, which builds on the framework established in the Goals 2000 legislation, provides Federal aid while giving local teachers and administrators greater freedom and flexibility to determine how to improve their schools and provide greater opportunities for the neediest students. I urge the Senate to approve this important step toward school reform.

I commend my colleagues on the Labor Committee for their constructive and bipartisan work on this bill. We reported it out of committee by a strong bipartisan vote of 16–1. Throughout the process, we have worked closely with Senators from both sides of the aisle. In particular, I commend the distinguished chair of the Education Subcommittee, Senator PELL, who has demonstrated once again why he is Mr. Education in the Senate. I also commend Senator KASSEBAUM and Senator JEFFORDS for their tireless efforts on this bill. In addition, the Senate leadership—in particular Senator MITCHELL—deserves a great deal of credit for moving this legislation effectively through the Senate.

I also commend the staff members who have worked so hard on this legislation: on my staff, Ellen Guiney, Clayton Spencer, Stephanie Goodman, Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL'S staff, David Evans, Margaret Smith, and Michael Dannenberg; on Senator KASSEBAUM's staff, Lisa Ross, Wendy Cramer, and David Goldfarb; and on Senator JEFFORDS' staff, Pam Devitt and Katie Henry. Thank you all for your help.

Madam President, I want to take 2 minutes of the Senate's time to first of all thank my friend and colleague, Senator JEFFORDS, for all of his very constructive and helpful work in our committee, and also on the floor. I want to pay a special tribute to my colleague, the chairman of our education committee, CLAIBORNE PELL, who has been "Mr. Education" in this body for years and years, and is really the architect of the bipartisan approach on education which has marked this body over a period of the 30-odd years that I have been in the United States going back to the early 1960's. He has been at his post from the earliest morning to the latest of evening, and his counsel and his insight into all of these matters that we have been considering and other education matters has been absolutely invaluable to all of us.

To Senator KASSEBAUM, who is one of our very really important leaders in education and education policy, and who was instrumental in helping us reach the point where we are today, has differed with us in some areas, but her interventions have always been constructive and have always given the Senate the opportunity to make a better informed judgment on these matters.

I will extend these remarks in identifying the best I can a little later this evening, and not to interfere with the forthcoming debate, some of the various contributions of all Members, Republican and Democrat. This vote could not have taken place unless we had their strong bipartisan support.

But I want to at this time again acknowledge the work of some of the finest staff that we have in the U.S. Senate, and they are on our committee. I want to take the time to acknowledge their extraordinary work. They are Democrats and Republicans. But I must say they have been really enormously helpful and valuable to all of us in helping, assisting, and finding common ground to keep our focus on what is really important; that is, to try to strengthen the education of our young people.

I want to mention on my staff Ellen Guiney and Clayton Spencer, Stephanie Goodman and Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL's staff, David Evans, Margaret Smith, Barbara Bennison, and Michael Dannenberg.

I know that our Republican colleagues will mention their staff. But in many respects I would like to thank Senator KASSEBAUM's staff with Lisa Ross, Wendy Cramer, David Goldfarb; and on Senator JEFFORDS' staff, Catherine Henry, Kelly Kivier, and Pamela Devitt, have really worked for us individually. But more importantly, they have really worked very closely together.

There are a number of other Members and staff I would like to thank.

I would also like to recognize the important contributions to this bill of my colleagues on the Labor Committee. In the difficult work of arriving at a formula, Senator SIMON, aided by his able staff Charles Barone and Bob Shireman, was instrumental in helping us reach a much better, more targeted in-state formula. Senator BINGAMAN was the original author of S. 1040, which was ultimately incorporated as the technology title, title III, and he and his staff Marjorie Steinberg and Brett Scholl deserve great credit. Senator DODD, as always, worked with us on early childhood issues, along with his staff Suzanne Day and Sarah Flanagan, specifically the transition program that will make a great difference to young children. Senator WELLSTONE and his staff person Sherry Ettleson helped us to strengthen parent involvement provisions, and Senator HARKIN and his staff Bobby Silverstein and Bev Shroeder helped work out several difficult amendments, as did Senator METZENBAUM and his staffperson Cheryl Birdsall, and Senator WOFFORD and Julia Frifield. Senator MIKULSKI and her staffer Anita Harewood reviewed many provisions to ensure that girls and women were treated fairly in this bill.

Of the committee, I want to thank Patricia Zell, Bob Arnold, Noelle Kahanu of Indians Affairs, Kim Wallace and Jill Ward of Senator MITCHELL's office, Sue Hildick of Senator HATFIELD's office, Carol Mitchell and Leslie Staples of Senator BYRD's office, David Medina of Senator MOSELEY-BRAUN's office, Amy Abraham of the Budget Committee, Ed Long, Bettilou Taylor and Bill Cordes of the Appropriations Committee, Alexander Russo and Lanie Horowitz of Senator FEINSTEIN's office, David McMillen of Senator LIEBERMAN's office, Chris Wasulla of Senator GRAHAM's office, Kay Davies of Senator DOMENICI's office and Steve Kroll of Senator DORGAN's office.

I see Senator JEFFORDS on his feet. I see Senator PELL on his feet and others that want to address the Senate briefly on these measures. I want to thank all of them for their cooperation and all of the Members for helping us reach what I think will be an important piece of legislation that will make an important difference to many of the economically disadvantaged children in this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 6, and the Chair is authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mrs. FEINSTEIN) appointed Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. WOFFORD, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. THURMOND, Mr. HATCH, and Mr. DURENBERGER conferees on the part of the Senate.

The PRESIDING OFFICER. S. 1513 is indefinitely postponed.

The Senator from Maryland.

VA–HUD APPROPRIATIONS ACT

Ms. MIKULSKI. Madam President, I ask unanimous consent that the Senate now turn to Calendar No. 520, H.R. 4624, the VA–HUD appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4624) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and or sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

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

H.R. 4624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the

Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $17,626,892,000, to remain available until expended: *Provided*, That not to exceed $25,750,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, and in the Veterans' Benefits Act of 1992, Public Law 102–568, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That $6,000,000 of the amount appropriated shall be transferred to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992, Public Law 102–568: *Provided further, That of the $15,622,452,000 made available under this heading for fiscal year 1994 in Public Law 103–124, the $9,863,265,000 restricted by section 509 of Public Law 103–124 for personnel compensation and benefits expenditures is reduced to $9,813,256,000.*

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,286,600,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,760,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $59,371,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during 1995, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,020,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,061, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,034.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $767,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by section 38, U.S.C. chapter 37, subchapter V, as amended, $218,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,232,756,000, plus reimbursements: *Provided*, That of the funds made available under this heading, $771,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1995, and shall remain available for obligation until September 30, 1996.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1996, $252,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,386,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activites not charged to project cost; and research and development in building construction technology; $69,808,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1996.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102-54, section 8, which shall be transferred from the "General post fund": *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102-54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; **[$887,909,000]** *$893,285,000*, of which $25,500,000, for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration, shall not become available for obligation until September 1, 1995, and shall remain available for obligation until September 30, 1996.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,663,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, **[$32,219,000]** *$31,819,000*.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, **[$101,965,000]** *$208,000,000*, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1995, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1995, and (2) by the awarding of a construction contract by September 30, 1996: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $153,540,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), $1,400,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131-8137), **[$37,397,000]** *$47,397,000*, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,378,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1995 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1994.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1995 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Of the budgetary resources available to the Department of Veterans Affairs during fiscal year 1995, $20,742,000 are permanently canceled. The Secretary of Veterans Affairs shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the homeownership and opportunity for people everywhere (HOPE grants) program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitles A, B, and C of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), **[$100,000,000]** *$50,000,000*, to remain available until expended, of which up to one and one-half percent may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this head as authorized under subtitle E of title I of the Housing and Community Development Act of 1992.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the

Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, [$1,275,000,000] *$1,500,000,000*, to remain available until expended.

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

For the National Homeownership Trust Demonstration program, as authorized by title III of the National Affordable Housing Act, as amended by section 182 of the Housing and Community Development Act of 1992, $50,000,000, to remain available until expended.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFERS OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, [$11,473,019,000] *$10,600,000,000*, to remain available until expended: *Provided*, That *to be added to and merged with the foregoing amounts there shall be up to $200,000,000 of amounts of budget authority (and contract authority) reserved or obligated in prior years for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as herein provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1995; and up to $100,000,000 of transfers of unobligated balances from the Urban Development Action program: Provided further, That* of the total amount provided under this head, [$263,000,000] *$300,000,000* shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); and $598,000,000 shall be for the development or acquisition cost of public housing, of which up to .67 per centum shall be available for technical assistance and inspection of public housing agencies by the Secretary: *Provided further*, That of the total amount provided under this head, [$3,600,000,000] *$3,800,000,000* shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to [.54 per centum] *$15,000,000* for the inspection of modernization units and provision of technical assistance by the Secretary and contract expertise to assist in the oversight and management of the public and Indian housing modernization program, including an annual resident survey: [*Provided further*, That of the amounts provided under this head for modernization of existing public housing projects, $85,000,000 may be used for the Tenant Opportunity Program:] *Provided further*, That of the total amount provided under this head, [$2,643,000,000] *$2,144,582,000* shall be for rental assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further, That of the amount provided for rental assistance, up to $350,000,000 shall be available for the Pension Fund Partnership program, as authorized by section 6 of the HUD Demonstration Act of 1993 (Public Law 103-120); $20,000,000 shall be for the Community Viability Fund; $50,000,000 shall be for the Colonias program; and $500,000,000 shall be for the Neighborhood Leveraged Investment Program (LIFT):* [*Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b), 8(o), and 8(e)(2) shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act:] *Provided further*, That of the total amount provided under this head, $17,300,000 shall be available for fees for coordinators under section 23(h)(1) for the family self-sufficiency program (42 U.S.C. 1437u): *Provided further*, That of the total amount provided under this head, [$1,202,100,000] *$765,000,000* shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, and $555,000,000 shall be for section 8 assistance for property [deposition] *disposition*, and [$100,000,000] *$250,000,000* shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intention to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Emergency Low-Income Housing Preservation Act of 1987, as amended: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further*, That of the total amount provided under this head, $156,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; [$150,000,000] *$75,000,000* shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992; and $30,000,000 shall for service coordinators in public housing pursuant to section 9(a)(1)(B)(ii) of the United States Housing Act of 1937; and $30,000,000 shall be for service coordinators in project-based section 8 housing, pursuant to section 8(d)(2)(F)(1) of the Act, tenant-based section 8 housing, pursuant to section 8(q) of the Act and, for service coordinators in multifamily housing assisted under the National Housing Act, pursuant to section 676 of the Housing and Community Development Act of 1992[: *Provided further*, That of the total amount provided under this head, $149,100,000 shall be for moving to opportunity]: *Provided further, That notwithstanding the language preceding the first proviso of this paragraph, $135,000,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in Senate Report 103-311.*

Of the total amount provided under this head, [$1,158,000,000] *$1,300,000,000* shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959: *Provided*, That $22,000,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959 and subtitle E of title VI of the Housing and Community Development Act of 1992, other than section 676 of such Act and section 8(d)(2)(F)(i) of the Act.

Of the total amount provided under this head, $387,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, [$3,705,000,000] *$3,062,000,000*, to remain available until expended: *Provided*, That to the extent the amount in this appropriation is insufficient to fund all expiring section 8 contracts, the Secretary may transfer to and merge with this appropriation such amounts from the "Annual contributions for assisted housing" appropriation as the Secretary shall determine, and amounts earmarked in the foregoing account may be reduced accordingly, at the Secretary's discretion: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the public housing agency or Indian housing authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

[Further, for the foregoing purposes, $800,000,000, to become available for obligation on October 1, 1995, and to remain available for obligation until expended.]

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1995 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided*, That up to $66,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 1995.

HOMEOWNERSHIP ASSISTANCE

(INCLUDING RESCISSION OF FUNDS)

For payments under section 235(r) of the National Housing Act, as amended (12 U.S.C. 1715z) for incentives to mortgagors to refinance mortgages that are insured under such section 235 and for closing and other costs in connection with such refinancing, $6,875,000, to remain available until expended: *Provided*, That up to $50,000,000 of recaptured section 235 budget authority resulting from reducing the interest rate on such refinanced mortgages shall be reused for payments under this heading: *Provided further*, That up to $184,000,000 of additional recaptured section 235 budget authority from refinancing section 235 mortgages shall be rescinded in fiscal year 1995.

CONGREGATE SERVICES

[For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs,

$6,267,000, to remain available until September 30, 1996, in accordance with the provisions of the Congregate Services Act of 1978, as amended.]

For contracts with payments to public housing agencies and nonprofit corporations for congregate services programs, $25,000,000, to remain available until September 30, 1995, of which up to $6,267,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000.

SEVERELY DISTRESSED PUBLIC HOUSING

[For the revitalization of severely distressed public housing program, as authorized by section 24 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $500,000,000, to remain available until expended, of which up to one-half of one percent may be used for technical assistance under this program, to be made available directly, or indirectly under contracts or grants, as appropriate.]

For the HOPE VI/urban revitalization demonstration program under the third paragraph under the head "Homeownership and Opportunity for People Everywhere grants (HOPE grants)" in the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389, 106 Stat. 1571, 1579, $500,000,000, to remain available until expended: Provided, That notwithstanding the first proviso of such third paragraph, the Secretary shall have discretion to approve funding for more than fifteen applicants: Provided further, That notwithstanding the third proviso of such third paragraph, the Secretary may provide funds for more than 500 units for each participating city: Provided further, That in selecting HOPE VI implementation grants recipients in fiscal year 1995, the Secretary must first award such grants to those cities or jurisdictions which have received HOPE VI planning grants in fiscal year 1993 or fiscal year 1994: Provided further, That the requirement of the immediately proceeding proviso shall not limit the Secretary's discretion to limit funding to amounts he deems appropriate, nor shall it prevent the Secretary from guaranteeing that all implementation grant recipients conform with the requirements of the HOPE VI/urban revitalization demonstration program: Provided further, That of the foregoing $500,000,000, the Secretary may use up to $2,500,000 for technical assistance under such urban revitalization demonstration, to be made available directly, or indirectly, under contracts or grants, as appropriate: Provided further, That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901-11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, [$265,000,000] *$315,000,000*, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) [and of which $1,500,000 shall be for grants for an after school demonstration program in public housing projects, run by the 4H Clubs of America and co-sponsored by private sector firms]: *Provided, That not more than $236,250,000 shall be available for grants to housing authorities with greater than 1,250 public housing units: Provided further, That not more than $63,000,000 shall be available for grants to housing authorities with less than 1,250 public housing units: Provided further, That not more than $15,750,000 shall be available for grants for federally-assisted, low-income housing: Provided further, That the Secretary may utilize all funds made available under this heading for a community partnership against crime program if authorized by law prior to November 1, 1994: Provided further, That the Secretary may use the authority provided in the immediately preceding proviso only if the apportionment of funds ensures that public housing authorities with greater than 1,250 units receive three-quarters of all such COMPAC funds.*

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $22,388,000.

YOUTHBUILD PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, $50,000,000, to remain available until expended. In addition, the unexpended balances from the $28,000,000 made available for subtitle D of title IV of such Act under the head "Homeownership and opportunity for people everywhere grants (HOPE Grants)" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 shall be transferred to and merged with this appropriation: *Provided, That none of the funds made available under this heading may be obligated until the Secretary proposes and implements a consolidation plan for all youth-related programs now in operation within the Department: Provided further, That the aforementioned consolidation plan, to meet the requirements of the immediately preceding proviso, must establish a continuum of youth activities that includes apprenticeship activities.*

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $50,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $50,000,000, and all uncommitted balances of excess rental charges as of September 30, 1994, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1995, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1995, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1995, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $180,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $308,846,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $302,056,000 shall be transferred to the appropriation for salaries and expenses; and of which not to exceed $6,790,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), [$152,000,000] *$188,395,000*, to remain available until September 30, 1996, of which up to $132,903,000 is to be derived from the FHA—general and special risk, negative subsidies receipt account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $20,885,072,000: *Provided further, That of the foregoing amount provided to subsidize program costs, not more than $47,098,750 may be obligated by January 1, 1995, not more than $94,197,500 may be obligated by April 1, 1995, not more than $160,135,750 may be obligated by July 1, 1995.*

Gross obligations for the principal amount of direct loans, as authorized by sections

204(g), 207(l), 238(a), and 519(d) of the National Housing Act, shall not exceed $220,000,000; of which not to exceed $200,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $197,470,000, of which $193,299,000 shall be transferred to the appropriation for salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $142,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $8,824,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $8,824,000 shall be transferred to the appropriation for salaries and expenses.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; the shelter plus care program (as authorized under subtitle F of title IV of such Act); and the innovative homeless initiatives demonstration program (as authorized under section 2 of the HUD Demonstration Act of 1993 (Public Law 103–120)), $1,120,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1997: *Provided*, That $46,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and [$61,500,000] *$44,000,000* shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development[: *Provided further*, That $35,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note), including services for families that are homeless or at risk of becoming homeless: *Provided further*, That $10,000,000 shall be made available from the total amount provided to carry out a neighborhood development program under section 123 of said Act (42 U.S.C. 5318 note)].

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $2,054,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, [$40,000,000] *$44,000,000*, to remain available until September 30, 1996.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $33,375,000, to remain available until September 30, 1996: *Provided*, That $26,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS *OF* FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, [$962,173,000] *$953,973,000*, of which $495,355,000 shall be provided from the various funds of the Federal Housing Administration, and $8,824,000 shall be provided from funds of the Government National Mortgage Association.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,388,000, of which $10,961,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER [OR] *OF* FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,451,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided*, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f).

ADMINISTRATIVE PROVISIONS

None of the funds provided under this title to the Department of Housing and Urban Development, which are obligated to State or local governments or to housing finance agencies or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

Of the budgetary resources available to the Department of Housing and Urban Development during fiscal year 1995, $3,538,000 are permanently canceled. The Secretary of Housing and Urban Development shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purpose of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout as specified in 41 U.S.C. 403 (2).

[Of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 745), $1,000,000 made available to the Pennsylvania Housing Finance Agency to complete renovation and revitalization of the Saquoit Silk Mills in Scranton into low-income elderly apartments shall instead be made available for such low-income elderly apartments on the site of the existing Lackawanna Junior College in Lackawanna County, Pennsylvania.

[Notwithstanding any provision of law or regulation thereunder, the requirement that an amendment to an urban development action grant agreement must be integrally related to the approved project is hereby waived for project numbers B87AA360540 and B87AA360521.]

None of the funds made available in this Act may be used in violation of section 214 of the Housing and Community Development Act of 1980 or of any applicable Federal law or regulation of the United States.

[Subparagraph (A) of the first sentence of section 203(b) (2) of the National Housing Act is amended by striking clause (ii) and all that follows through "1992;" and inserting in lieu thereof the following—

["(ii) 85 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the greater of—

["(I) the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994; or

["(II) the applicable average area purchase price determined under section 143(e)(2) of the Internal Revenue Code of 1986, adjusted by the Secretary to reflect a single amount using purchase prices for residences that have been previously occupied, and for residences that have not been so occupied, which amount shall be adjusted by the Secretary annually on the basis of the Constant Quality Housing Price Index;".]

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12

U.S.C. 1709(b)(2)) is amended by striking clause (ii) and all that follows through "May 12, 1992;" and inserting the following:

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994 or 38 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;".

Notwithstanding subsection 306(g) (3) of the National Housing Act, as amended, fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Government National Mortgage Association prior to February 1, 1993, and other related fees, shall be charged in an amount the Association deems appropriate.

Beginning fiscal year 1995, the Government National Mortgage Association shall permit Ginnie Mae II mortgage-backed securities to be eligible as collateral for multiclass securities that such Association guarantees, in accordance with the Notice published at 59 Fed. Reg. 27290 (May 26, 1994) and successor Notices.

Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting at the end the following: "However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act by applying an annual adjustment factor.

Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended by the immediately foregoing amendment to such section, is further amended by inserting at the end the following: "For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act and that provide for rent adjustments using an annual adjustment factor.

The Secretary shall, by regulation, specify that the criteria used to determine existing housing fair market rents under section 8 of the United States Housing Act of 1937 shall include use of the 40th, in lieu of the 45th, percentile rent of standard quality rental housing. Such subsection shall be effective only during fiscal year 1995.

The United States Housing Act of 1937 is amended in each of sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by striking "and (V)" and inserting in lieu thereof the following: "(V) assisting families that include one or more adult members who are employed; and (VI)"; in sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by inserting after the final semicolon in each the following: "subclause (V) shall be effective only during fiscal year 1995;"; and in the penultimate sentence of section 16(c), by striking "under the system" and all that follows up to the period.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations.

[CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

[SALARIES AND EXPENSES

[(RESCISSION)

[Of the funds made available under this heading in Public Law 103-124, $1,730,000 are rescinded.]

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $25,000,000, to remain available until September 30, 1996, of which up to $10,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the costs of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $75,815,000: Provided further, That none of the funds made available under this heading may be used for programs and activities of the Bank Enterprise Act.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, [$43,486,000] *$40,509,000.*

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service in carrying out the programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103-82) (hereinafter referred to as "the Act"), [$490,388,000 to remain available until September 30, 1996, except as provided hereafter] *$610,000,000, of which $411,212,000 is available for obligation for the period September 1, 1995 through August 31, 1996: Provided*, That not more than [$27,400,000] *$29,400,000* is available for administrative expenses authorized under section 501(a)(4) of the Act, of which not more than [$13,700,000] *$14,700,000* shall be for administrative expenses for State commissions pursuant to section 126(a) of subtitle C of title I of the Act: *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than [$125,900,000] *$155,900,000*, to remain available without fiscal year limitation, shall be transferred to the National Service Trust Fund for educational awards as authorized under subtitle D of title I of the Act: *Provided further, That not more than $9,450,000 of the $155,590,000 for the National Service Trust shall be for educational awards authorized under section 129(b) of the subtitle C of title I of the Act: Provided further, That $6,500,000 shall be made available for the Points of Light Foundation for purposes authorized under title III of the Act: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the National Civilian Community Corps, or any portion of any of the Corporation's field offices or staff working on National and Community Service or National Civilian Community Corps programs.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$1,000,000] *$2,000,000.*

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251-7292,

[$9,289,000] *$9,429,000*, to be available without regard to section 509 of this Act, of which not to exceed [$650,000] *$790,000*, to remain available until September 30, 1996, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,017,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

[RESEARCH, PREVENTION AND PROGRAM ACTIVITIES

[For research and development, prevention, abatement, compliance and enforcement activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $9,000 for official reception and representation expenses; $1,600,300,000, to remain available until September 30, 1996: *Provided*, That not more than $250,000,000 of these funds shall be available for operating expenses, including not more than $55,000,000 for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development: *Provided further*, That none of the funds appropriated under this heading shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.]

RESEARCH AND DEVELOPMENT

For research and development activities, including procurement of laboratory equipment and supplies; other operating expenses in support of research and development; and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $350,000,000, to remain available until September 30, 1996: Provided, That not more than $50,567,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,427,000,000, to remain available until September 30, 1996: Provided, That not more than $296,772,500 of these funds shall be available for operating expenses: Provided further, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: Provided further, That none of these funds may be expended for purposes of resource conservation and recovery panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel and related costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; and for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; [$935,000,000] *$922,000,000*.

OFFICE OF INSPECTOR GENERAL

[(INCLUDING TRANSFERS OF FUNDS)]

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, [$44,595,000, of which $15,384,000 shall be derived from the Hazardous Substance Superfund trust fund and $669,000 shall be derived from the Leaking Underground Storage Tank trust fund: *Provided*, That not more than $41,150,000 of these funds shall be available for administrative expenses] *$28,542,000*.

[FACILITIES AND NATIONWIDE SUPPORT

[For construction, repair, improvement, extension, alteration and purchase of fixed equipment or facilities of or for use by the Environmental Protection Agency, and for nationwide support of facilities-related activities, $174,700,000, to remain available until expended.]

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $43,870,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; [$1,435,000,000] *$1,200,000,000* to remain available until expended, consisting of [$1,185,000,000] *$950,000,000* as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $229,391,000 during fiscal year 1995: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further, That $15,384,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995: Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $69,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1995: *Provided further*, That no more than $308,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency: *Provided further*, That none of the funds appropriated in this Act may be made available for program management of Alternative Remedial Contracting Strategy (ARCS) contracts exceeding 11 percent of the total cost of such contract.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $70,000,000, to remain available until expended: *Provided*, That no more than $8,150,000 shall be available for administrative expenses: *Provided further, That $669,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995.*

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $20,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided*, That not more than $8,420,000 of these funds shall be available for administrative expenses.

[WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

[For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, the Water Quality Act of 1987, and the Public Health Service Act, $2,732,000,000, to remain available until expended, of which $1,787,000,000 shall not become available until authorized by law: *Provided*, That of the amount which becomes available on October 1, 1994, $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended, and shall not become available until authorized by law; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; and $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act: *Provided further*, That

the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon.]

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $3,400,000,000, to remain available until expended, of which $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; $47,500,000 shall be made available in consultation with the appropriate border commission for architectural, engineering, and design, and related activities in connection with wastewater facilities in the vicinity of Nogales, Arizona, and Mexicali, Mexico, and planning and design of other high priority wastewater facilities in the area of the Mexican border, the purpose of which facilities is to control municipal wastewater from Mexico; $50,000,000 shall be for grants to the State of Texas, which shall be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State; $10,000,000 shall be for a grant to the State of New Mexico, which is to be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State; $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act; and, notwithstanding any other provision of law, $369,700,000 shall be for making grants with a 55 percent Federal share for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in Senate Report 103-311: Provided, That notwithstanding any other provision of law, $500,000,000 made available under this heading in Public Law 103-124, and earmarked to not become available until May 31, 1994, which date was extended to September 30, 1994, in Public Law 103-211, shall be available immediately and without further authorization for making grants with a 55 percent Federal share for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in Senate Report 103-311: Provided further, That the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon: Provided further, That none of the funds provided under this heading for State revolving funds shall be allocated based on the 1992 Needs Survey Report to Congress.

[ADMINISTRATIVE PROVISION]

ADMINISTRATIVE PROVISIONS

Of the budgetary resources available to the Environmental Protection Agency during fiscal year 1995, $7,525,000 are permanently canceled. The Administrator of the Environmental Protection Agency shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation a rule concerning any new standard for radon in drinking water.

None of the funds provided in this Act may be used during fiscal year 1995 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $997,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[DISASTER RELIEF

[For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, to remain available until expended.]

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,418,000, as authorized by section 319[, and $1,980,000, as authorized by section 417] of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $175,000,000 under section 319 [and not to exceed $3,000,000 under section 417] of the Stafford Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended.

In addition, for administrative expenses to carry out the direct loan program, [$145,000] *$95,000*.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; [$165,000,000] *$162,000,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,400,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404-405), and Reorganization Plan No. 3 of 1978, [$220,345,000] *$212,960,000*.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $130,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $14,913,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $49,229,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1996. In fiscal year 1995, no funds in excess of (1) $32,000,000 for operating expenses, (2) $253,641,000 for agents' commissions and

taxes, and (3) $12,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected in fiscal year 1995 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1995 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1995.

Of the budgetary resources available to the Federal Emergency Management Agency during fiscal year 1995, $1,441,000 are permanently canceled. The Director of the Federal Emergency Management Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,008,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1995 shall not exceed $2,454,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1995 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,166,000: *Provided*, That notwithstanding any other provision of law, that Office may solicit, accept and deposit to this account, during fiscal year 1995, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts: *Provided further*, That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; [$5,592,900,000] *$5,573,900,000*, to remain available until September 30, 1996.

SCIENCE, AERONAUTICS AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,901,200,000, to remain available until September 30, 1996.

Of the amounts provided under the heading, "CONSTRUCTION OF FACILITIES", for the Consortium for International Earth Science Information Network in Public Law 102–389, $10,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

For construction of new national wind tunnel facilities, including final design, modification of existing facilities, necessary equipment, and for acquisition or condemnation of real property as authorized by law, for the National Aeronautics and Space Administration, $400,000,000, to remain available until March 31, 1997.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; [$2,549,587,000] *$2,559,587,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$16,000,000] *$16,800,000*.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

[Of the budgetary resources available to the National Aeronautics and Space Administration during fiscal year 1995, $59,003,000 are permanently canceled. The Administrator of the National Aeronautics and Space Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).]

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1997.

No amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act. The Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the

newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

The fourth proviso in the paragraph under the heading "Science, space, and technology education trust fund" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 101–404, 102 Stat. 1014, 1028) is amended by striking out "for a ten-year period" and inserting in lieu thereof "hereafter".

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration shall convey, without reimbursement, to the City of Slidell, Louisiana, all rights, title, and interest of the United States in the property, including all improvements thereon, known as the Slidell Computer Complex, and consisting of approximately 14 acres in the City of Slidell, St. Tammany Parish, Louisiana: Provided, That appropriated funds may be used to effect this conveyance: Provided further, in consideration of this conveyance, the National Aeronautics and Space Administration may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States.

Of amounts made available within this Act to the National Aeronautics and Space Administration, not more than $108,900,000 shall be obligated to satisfy the requirements set forth in section 9(e)–(r) of the Small Business Act, as amended (15 U.S.C. 638(e)–(r)), and any related requirements, including such requirements enacted in Public Law 102–564.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1995, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1995 shall not exceed $901,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; [$2,216,923,000] *$2,300,000,000*, of which not to exceed $225,430,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1996: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That amounts appropriated in prior fiscal years for the United States Polar Research Programs, the United States Antarctic Logistical Support Activities, and the Critical Technologies Institute shall be transferred to and merged with this appropriation and remain available until expended.

Of the amounts made available under this heading in Public Law 103–124, $35,000,000 are rescinded.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction and procurement projects pursuant to the purposes of the National Science Foundation Act of 1950, as amended, [$105,000,000] *$150,000,000*, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$100,000,000] *$300,000,000*, to remain available until September 30, 1996: [*Provided*, That these funds shall not become available for obligation until March 31, 1995] *Provided, That $190,000,000 of the funds under this heading are available for obligation for the period September 1, 1995 through August 31, 1996.*

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$585,974,000] *$605,974,000*, to remain available until September 30, 1996: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $123,966,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1995 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$4,000,000] *$4,380,000*.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: *Provided*, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1995 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $827,000,000, to remain available until expended.

[FDIC AFFORDABLE HOUSING PROGRAM

[For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $15,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

[Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds.

The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.]

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,000,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

[SEC. 517. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

[(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

[(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

[(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, mis-representation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

[(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government of restructure, modify or renegotiate the assistance agreement; and

[(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement

where savings would be realized by such action.

[SEC. 518. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

[(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.]

SEC. 517. None of the funds in this Act may be used to reimburse grantees for indirect costs at an amount that differs from procedures in use by Federal agencies on June 1, 1994 or from OMB Circular A-21, as published in the Federal Register on July 26, 1993 on pages 39996 through 39999.

This Act may be cited as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Madam President, I ask unanimous consent that two individuals on detail to the VA-HUD subcommittee, Dr. Chris Gabriel, and Ms. Ann Watt, be given unlimited floor privileges during the consideration of H.R. 4624.

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

Ms. MIKULSKI. Madam President, you saw me leap to my feet and overlook the reading of the bill because I am quite anxious to bring to the U.S. Senate the VA-HUD and independent agencies appropriations bill for 1995.

This has been a strong bipartisan effort trying to achieve investments in America's future, promises made, promises kept to our veterans, and at the same time fiscal affordability.

Ordinarily, I would be joined by my ranking minority member, Senator PHIL GRAMM of Texas. He is now involved in the Whitewater hearings and will not be on the floor during this debate. He will submit his statement as appropriate and will speak to the Senate tomorrow morning. So, we understand why he cannot be here.

In the bill before us today, the Committee on Appropriations is recommending just over $70.4 billion in new discretionary budget authority for the programs within the jurisdiction of the VA, HUD, and independent agencies subcommittee.

That means VA, HUD, FEMA, space, the National Science Foundation, and several other independent agencies.

FUNDING SHORTFALL

As my colleagues know, this year we have faced a daunting, if not nearly impossible, task. The Senate VA, HUD, and Independent Agencies Subcommittee has a 602(b) allocation that is $729 million in outlays below the President's budget request.

In addition, the chairman of the House VA-HUD subcommittee and I have jointly identified four areas of need where the President's budget request is inadequate: VA medical care, VA medical research, VA pension claim processing, and public housing operating subsidies. To fix these four areas costs an additional $354 million in outlays.

Combining this shortfall of $729 million and these liens of $354 million, we faced an outlay gap of almost $1.1 billion.

We also received nearly 1,100 requests from Members for individual projects, all with merit, with a dollar total requested of more than $96 billion, about $26 billion more than the subcommittee's 602(b) allocation.

As a result of these demands, the committee has derived savings in this bill, as did our counterparts in the House, by including certain legislative provisions, largely in the housing area, which will generate significant outlay savings.

That means where the money came from. It meant that, with the concurrence of the authorizing, certain legislative provisions in housing will give us these outlays that we need.

However, because the Senate VA-HUD subcommittee had a 602(b) allocation which was $316 million less in outlays than the House, we have been forced to include certain additional housing provisions to make up, in part, for a smaller outlay allocation.

With the use of these provisions, the bill before the Senate represents a balanced package that accomplishes the tasks we set out to do at the beginning of this year: Meet our commitments to veterans; fund a balanced U.S. space program; address the highest priority housing areas; continue our investments in science and technology; preserve the environment; and keep our commitment to national service.

I would like to highlight our efforts in some key areas:

Veterans: We are recommending a total VA appropriation of more than $37.4 billion, $136 million higher than the House and $314 million above the President's budget.

Medical care: We are adding $111 million to the budget request for veterans medical care, for a total medical care budget of more than $16.2 billion—an increase of more than $610 million above the 1994 level.

Prosthetic research: We have added $41 million to the budget for veterans medical and prosthetic research, providing a total of $252 million.

Pension claim processing: Because we were deeply concerned about the backlog for veterans pensions and insurance claims processing, we have added $50 million to the budget request. This will mean a total general operating expenses budget of $893 million, almost $67 million above the 1994 appropriations.

State nursing homes: For State veterans nursing homes we have added $10 million to the budget request, a total of $47.4 million.

In the area of housing, for HUD, we are recommending $25.6 billion in new budget authority. However, using unused and unneeded funds from prior years, we will be able to provide a program level for housing of close to $26 billion.

CDBG: For CDBG, we are retaining the House increase of $200 million above the budget, for a total CDBG program of $4.6 billion.

Elderly housing: We have provided a total of $1.3 billion for elderly housing, restoring the proposed budget cut, and adding about $150 million above the House.

Public housing: We have also restored proposed cuts in public housing, provided $500 million for Hope VI, and retained the House level for operating subsidies.

Home: We have added $225 million for the home program, for a total of $1.5 billion.

Homeless: For the homeless, we have provided the full budget request of $1.25 billion, but agreed to leave FEMA's food and shelter program in FEMA.

Space: For NASA, the bill proposes more than $14.4 billion, more than $200 million above the budget request and $440 million above the House.

Space station: Included in this recommendation is $2.1 billion for the space station, maintaining its core science capability and our partnership with Russia, the European Community, Canada, and Japan.

Space science: The bill recommends full funding for all major NASA space science initiatives, including the Cassini planetary mission to Saturn, the advanced x ray astrophysics facility, and the Mars global surveyor mission.

Mission to Planet Earth: For the Earth observing system, we have added an additional $50 million in order to get spacecraft after the first EOS satellite back to their original schedule.

We are also making a major investment to make our aeronautics industry remain competitive. It has been deeply disturbing to this Senator, and I know to the Presiding Officer, and to other Senators on the floor. It has been our aeronautics industry that has always led the way, both in this Nation and around the world. It was our aeronautics superiority that enabled us to win World War II and continue to be a superpower.

But, at the same time those extraordinary objectives that we achieved—often because of the military objective, because of the kind of Nation we are—we moved into the civilian economy. Now we face new challenges.

Our American aeronautics industry is competing not only with other companies, but with other countries.

Therefore, we wanted to make sure they have the research capability in a public-private partnership to work with them.

Wind tunnels: In addition to NASA's core program, we have added $400 million for a new wind tunnel initiative in aeronautics. This will help our aeronautics industry to be competitive and have the technology-tools to be able to jump-start the agency's work. And working in this public-private partnership, that will keep us not only a military superpower but an economic superpower with aeronautics leading the way.

Water infrastructure: For water infrastructure activities, we are providing nearly $3.4 billion. This includes $700 million for drinking water grants, $100 million for non-point source pollution, $2 billion for wastewater State revolving funds, and just over $500 million for needy city wastewater grants.

Environment: For EPA, we are providing a substantial increase. The committee recommended an appropriation of nearly $7.5 billion, more than $800 million over last year, $300 million above the budget request, and $466 million higher than the House.

Operating Programs: EPA's operating programs would grow by more than 7 percent over 1994, one of the largest increases in the bill. By providing this amount, I think we have answered critics who suggest that full funding of the space station would gobble up funds otherwise going to the environment.

Science: For NSF, we are recommending more than $3.4 billion. This is $436 million above last year, $256 million above the budget request, and $349 million above the House.

Over the past year, the National Science Foundation has willingly accepted the challenges in strategic research which the committee set out for it last year. We believe that Dr. Neal Lane's efforts, and those of his associate directors, should therefore be rewarded.

Research: We are recommending $2.3 billion for basic research, about $83 million more than the House.

Education: We propose $606 million for science education, $20 million above the House.

Facilities modernization: To improve facility modernization at our campuses so they can make sure that our young people are as fit for duty as we can, we are recommending a total of $300 million, including $190 million for a new merit-based inter-agency facilities program run by NSF.

National Service: Finally, for national service, we are providing $610 million, almost the entire budget request.

This is among the President's highest priorities in this legislation and I am happy we could accommodate this priority of his.

Along with this increase, we've added funds for the national service inspector general. We want to make sure that as funding for national service programs increase, our stewardship over these expenditures increases as well.

In summary this has been a tough bill to assemble. I am deeply appreciative of the cooperation I have received from our full committee chairman, Senator BYRD, and his staff.

I also want to thank Senator PHIL GRAMM, my ranking member, all the members of our subcommittee, and the members of the Banking Committee, for their cooperation in putting this bill together.

We have not provided for all the needs for which requests where made. And many will be unhappy that our wallet was not as large as the wish lists of those who sought funds from the subcommittee.

On balance, however, I believe it addresses the highest priority matters of the United States of America in a way that is fair and balanced, and I urge my colleagues to support its passage.

Madam President, I note that Senator KAY BAILEY HUTCHISON, a strong supporter of this bill, would like to make an opening statement. After her statement, we will move to the space station amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President.

First, I want to thank the Senator from Maryland for her leadership in this effort. She has been a proponent of NASA and space because she went to NASA and she saw all the things that were done there that affect the everyday lives of Americans. She could see immediately that we had to be leaders and we had to look to the long term. Madam President, that is what we are talking about today.

Two weeks ago marked the 25th anniversary of the *Apollo 11* Moon landing, the culmination of one of the most significant undertakings this Nation has ever known. On the eve of this historic anniversary, the House voted overwhelmingly, 278-to-155, to support the space station. Yet, the Senate is here today, debating this bill once again. And we will have an amendment to once again eliminate the space station.

President Kennedy started it with his vision that we would be able to do things beyond our dreams when we went into space research. The years proved President Kennedy was right. We have been able to do things that we hardly could dream about when he started this project.

The race to the Moon required great advances in engineering and technology that still fuel our economy today. Some 30,000 spinoff technologies are employed regularly in computers and communications, health and medicine, the environment, home and recreation, and public safety. Less obtrusive hearing aids and better pacemakers. CAT scans and surgical lasers. Velcro closing devices.

The space station will be a test bed for the technologies of the future, and a laboratory for research. For example:

A better understanding of the combustion process in space can lead to energy conservation on Earth. A 2-percent increase in burner efficiency for heaters would save the United States $8 billion per year;

Research on large space vehicles will lead to improved computer software for developing new, lightweight structures such as antennas and solar collectors with precision pointing accuracy. Such developments will greatly benefit the communications, utility, and transportation industries; and

Research already scheduled for the space station will address several perplexing women's diseases, from osteoporosis to ovarian and breast cancer to immune system disorders.

And, like the Apollo program before it, the space station will enable us to develop new and more advanced spinoffs that will help to make life here on Earth better and safer.

Critics in this body have used the budget as an excuse to scuttle the space station. But the reality is that if the space station were terminated, these dollars would be spent on environmental and social programs that have either failed or that we know will never provide a return on our investment.

When we prioritize spending, we have a choice: Do we want the kind of spending that is one time only, that will provide jobs for 10 months or 18 months, or should we spend money where it is going to reap benefits twentyfold, or more, as space research has already shown it will do?

There are people today who are healthy because of space research and because our forefathers and mothers had the ingenuity and foresight to make those investments.

We get a thrill from the new horizons opened with space ventures—we can see the gains because we can see the liftoff and hear the astronauts as they orbit the Earth.

But, big science and research are more than a cheap thrill.

Big research projects give us new technologies, new products. Making these new products requires engineers and factory assemblers.

These new jobs keep our economy vibrant and growing—to absorb our new entrants into the job market.

The parents of every child want more than anything for their child to have a future. Space research will provide that future.

Terminating the space station is the equivalent of eating our seed corn. We must inspire our children to become engineers and scientists. We must then give those engineers and scientists the opportunity to develop new products

and processes that will make us more competitive in the world marketplace.

We have already sent the wrong message once. A year ago, the Congress voted to kill the super collider. That was a mistake. I think many people who voted to kill it a year ago realize that it was a mistake.

It was a mistake because in effect we took a back-seat in high energy physics to our technological competitors. We chose to follow when it was in our grasp to lead. We sent the wrong signal to our scientific community and to our students who we so desperately need to master the basic sciences.

Now the bright minds of today and tomorrow are turning to Europe and to projects like CERN. Their research and their discoveries will lead to new products and new industries and new jobs for our international competitors.

We cannot afford to make the same mistake with the space station.

There is another issue here as well. We cannot afford to walk out on our international partners. These partners—which include Japan, Russia, Britain, France, Germany, Italy, Spain, and eight other European countries—have acted in good faith and have invested millions of dollars. It is unthinkable that America would not be a good partner and would not live up to its commitment.

Those who seek to kill space station funding are looking to yesterday. Leaders must look to tomorrow.

We will hear once again that the hardships are too great, the costs are too high.

But, I would remind my colleagues to put the matter into perspective.

NASA's annual budget accounts for less than 1 percent of total Federal spending.

The space station accounts for one seven-hundredths of the entire Federal budget which breaks down to about $8 per person. So, for the cost of a hamburger, french fries and a Dr Pepper each American can keep the space station program on track.

In return for the investment, America receives 370,000 direct and indirect jobs which are dependent on the space station, and a return of $20 to the U.S. economy for every $1 spent on the space program.

While there will remain some who claim "We cannot afford the space station"—the truth is—we cannot afford not to keep our commitment to big science and the future of this country.

Madam President, I thank the Senator from Maryland and I look forward to debating those who would look back to yesterday rather than look to tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, first of all, I thank my colleague from Arkansas for allowing me to proceed at this time. I think he was prepared to offer his amendment early this evening so we might start consuming the time allotted for his amendment.

I assume he will discuss, at some length, the many reasons for terminating the space station immediately. I would like to take this opportunity to focus on the fact that the administration's promise that bringing Russia into the program will reduce its costs is, in fact, false, as demonstrated by a recent GAO report that I requested.

A year ago, the space station was on the verge of being terminated, but in a desperate effort to save it, the administration brought Russia into the program, asserting that this would reduce the cost to build the space station by $2 billion, from $19.4 billion down to $17.4 billion. This promise of $2 billion in savings was critical to gaining congressional support to save the station last year.

The GAO, however, has recently found this claimed $2 billion is about as empty as the space through which the station would fly. According to GAO, far from saving $2 billion, bringing the Russians into the program will increase the costs by nearly $2 billion. Russian participation does yield about $500 million worth of savings for certain items. But it also requires additional spending for the space station program of about $900 million for such things as a fourth solar array and the cost of integrating the Russian equipment. So within what NASA defines as the space station budget, Russian participation adds a net cost of $400 million.

But, in addition to this, there is another $1.4 billion in added spending that will be required by the Russian participation, but which NASA conveniently failed to include in its estimates of the station's costs.

NASA's failure to include this extra $1.4 billion required by Russian participation reminds me of Steve Martin's routine about how to be a millionaire and pay no taxes.

First, he said, get $1 million. Then, do not pay any taxes. And then when the tax man comes around to find out why, simply slap yourself on the forehead and declare, "I forgot."

Including the Russians in the space station will require two more shuttle flights to build the station. This will cost $746 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station program would require the space shuttle fleet to be enhanced so the station could be built in the Russian's higher inclination orbit. This will cost $185 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station will require a second space shuttle orbiter to be modified so it can dock with the Russian Mir. This will cost an additional $44 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station reduces NASA's launch window to only 5 minutes, and overcoming this limitation will require up to $20 million. Why did NASA not include this in the cost? NASA forgot.

Including the Russians in the space station led to a $400 million contract between NASA and the Russian space agency for the first two phases of this three-phased program, including the development of space station hardware. Why did NASA not include this cost? NASA simply forgot.

Madam President, NASA's creative accounting appears to be a deliberate effort to mislead Congress and the American people. We have had this on many other types of programs. I could go back and cite the B–1B program, whose original cost projections excluded billions associated with the program and which ultimately cost the American taxpayer much more beyond that or, indeed, the B–2 bomber, among others. But rather than joining NASA in forgetting the facts and in forgetting whose money it is we are talking about, I suggest we ought to forget about the space station program.

If these findings were not enough to persuade Senators, GAO also identified problems that could delay the station's schedule and increase the cost even more.

NASA, for example, is developing a new super lightweight fuel tank to help the shuttle reach the Russian orbit. GAO found that "in developing the super lightweight tank, NASA is experiencing significant development problems."

NASA claims that this will not delay the schedule at all, but GAO warned that the fixes that are needed to develop these programs and to correct these problems could "increase tank development costs, reduce the amount of lift gain provided by the new tank, or both." And reducing the shuttle's lift could necessitate more shuttle flights to assemble the station, resulting in schedule delays and large additional costs.

As it is, NASA says the new Russian *Alpha* station will cost about $71 billion to build and to operate. But I would submit that given that the average cost overrun of NASA programs is 77 percent, no one should be surprised when future cost estimates of the station rise above $100 billion. We will not be able to come back and say, "We forgot."

Even at $71 billion, we cannot afford the Russian *Alpha* station any more than we could afford the $120 billion space station *Freedom*, which the administration terminated last year, and neither can our children, from whom we, once again, will be borrowing the money.

NASA cannot afford it. As the GAO and CBO have warned in several dire reports, NASA's budget over the next 5 years falls at least $10 billion, and conceivably $20 billion, short of what it needs to pay for various programs that it plans to conduct.

So a failure to terminate this program will result in NASA stretching out the other programs to live within its budget, wasting billions in taxpayers' dollars, and causing the outright cancellation of other NASA programs that do support real science.

It also means that every year for the next decade there is going to be terrible pressure on all programs funded through the VA-HUD appropriations bill, which includes health care for veterans, programs for the homeless, environmental protection, and real science programs funded by the National Science Foundation.

Terminating the space station now would save $10 billion over the next 5 years, relieving the pressure on these other important programs and allow NASA to carry out some worthwhile research projects.

In this regard, it cannot be repeated too often that the efforts to justify the station on scientific grounds have been refuted by the most credible source possible: The very scientists who purportedly are going to benefit from the station.

Proponents argue that the space station is needed to advance research against cancer. Why, then, does the American Association for Cancer Research oppose the space station as being of "little scientific or technical merit?"

Proponents argue that the space station is needed for ground-breaking research on crystals. Why, then, is the station opposed by the association of American scientists who study crystals, the American Crystallographic Association?

It has been argued that the space station is needed for research on semiconductors. Why, then, is the space station opposed by the principal professional organization of semiconductor researchers, the Institute for Electrical and Electronics Engineers?

Proponents claim the space station is critical to the future of scientific research in this country in general. If that is so, why has Science magazine, the premier scientific journal of the American Association for the Advancement of Science, called it "90 percent public works, 9 percent public relations, and 1 percent science?"

Why have the leading professional associations of American physicists, chemists and biologists call it a "multibillion dollar project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific validity of participating nations?"

The answer is that the scientific justification is the station is simply not there. Even station advocates have acknowledged as much in unguarded moments: 2 years ago, the White House science adviser was asked, "Is there any scientific value to the space station?" And his candid response was, "No. None whatsoever."

What the space station really is, Madam President, is a jobs program, and while we are all for jobs, Senators ought to be aware that this program is really directed to a few selected States. Nearly four-fifths of the money spent and the jobs paid for by the space station will be directed to only three States: California, Texas, and Alabama.

I understand the concerns of those 10,000 employees who are working in these States on the space station. But my concern is with the tens of millions of taxpayers who see half their Federal income taxes go for interest on the debt and too much of the rest squandered on unjustified programs.

My concern is for America's children, who may see two-thirds of their Federal income tax going for interest on the debt because we continue to pile up these astronomical deficits year after year.

My concern is for all those who benefit from and the scientists who do the research on cancer, crystals, semiconductors, chemistry and physics—scientists who almost uniformly say that proceeding with the space station will waste money that can be better spent on real research to fight cancer, advance science and improve our economy.

On behalf of our children and those who would conduct and benefit from such research, I urge my colleagues to vote for the Bumpers amendment when it is offered to terminate the space station now before we waste billions more that we simply cannot afford.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Arkansas.

AMENDMENT NO. 2444

(Purpose: To reduce the appropriation for the implementation of the space station program for the purpose of terminating the program)

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending committee amendment be temporarily laid aside.

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

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. WARNER, Mr. COHEN, Mr. BAUCUS, Mr. KERRY, Mr. SIMON, Mr. BRYAN, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CHAFEE, and Mr. WOFFORD, proposes an amendment numbered 2444.

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

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

The amendment is as follows:

Strike the figure on line 6 on page 70 and insert in lieu thereof the following: "$3,634,200,000, to remain available until September 30, 1996. Provided, that of the funds provided under this heading, no funds shall be expended on the space station program, except for termination costs."

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, this is, I guess, the fifth year in a row in which I have come to the floor on the space station and tried to separate the doers from the talkers on fiscal responsibility.

Let me just start by reviewing the bidding on how we got to this point.

To begin, let me refresh the memory of my colleagues. On the evening of January 25, 1984, at the State of the Union Address by Ronald Reagan, which I attended, President Reagan said as follows:

Tonight I am directing NASA to develop a permanently manned space station and to do it within a decade.

The cost was to be $8 billion. I asked myself then and I have been asking myself for the past 11 years now: Why a space station?

After we went to the Moon ahead of the Soviet Union, there was no point in them going to the Moon, so they decided to build a space station, and they did.

And since 1974, the Soviets and now the Russians have continued to keep a space station in orbit. I think the one up there now is the seventh space station that the Russians have built and launched.

Now, Mr. President, I will come back in a moment to just what benefits the Russians have received from their seven space stations. But I can tell you after I review what the Russians have received out of their seven space stations over the last 20 years, I would again pose the question: Why on Earth do we want to emulate them?

I feel comfortably certain that President Reagan's initial reason for building a space station was because the Soviets had one in orbit. That is a very poor reason. But I remember in the beginning when we started talking about space station *Freedom* what all we were going to do. We were going to put this space station up and we were going to use it for a staging base in case we wanted to go to Mars or the Moon. We were going to use it for a manufacturing facility, to manufacture all kinds of things in space. We were going to make it a space-based observatory, a transportation node, which is a fancy word for high-priced garage and filling

station. It was going to be a servicing facility, an assembly facility, a storage facility, and a research laboratory.

Those were the eight things for which we were designing the space station *Freedom*.

Now, Mr. President, here is another chart that shows you what has happened to those eight reasons for building space station *Freedom*. Staging base, deleted; manufacturing facility, gone; space-based observatory, gone; transportation node, gone; service facility, gone; assembly facility, gone; storage facility, gone. Only a research laboratory remains. The only remaining rationale of the original eight reasons for building the space station is a research laboratory. And we are going to squander and have already squandered over $13 billion and given up on seven of the eight original purposes.

We are in the 11th year, and we did not spend $8 billion as President Reagan said we would spend to build and deploy the space station. We are in the 11th year, and as of this moment, Mr. President, all we have is a design of a space station—nothing up there yet. After 11 years, we have a design called space station *Alpha*.

You are going to hear people pop up on this floor tonight and in the morning saying so far as this research laboratory is concerned, we are going to grow crystals, crystals for semiconductors. You will hear people talk about a cancer cure. You remember that old expression that the last refuge of a scoundrel is patriotism? Well, the last refuge of those who still favor the space station is that it is going to cure cancer. This is either the fifth or sixth year I have stood at this desk trying to kill the thing, and every year I get the same response: We are going to cure cancer. Is that not curious? Do you know who one of the leading opponents of this thing is? The American Cancer Society.

Now, you would think that if this thing had potential for that kind of medical research, the American Cancer Society would certainly favor it, but they do not.

Mr. President, this design called space station *Alpha* is going to be built by the United States, by Russia, by European nations, by Canada, and by Japan. If you look at the plan that NASA put out, it shows you what part of this station is going to be built by each of them. They always say an elephant is a donkey composed by a committee, and that is what we are going to build. The Senator from Maine just talked about the GAO report that came out yesterday that said Russia's participation, for which we were to pay $400 million, is going to actually cost the United States $1.8 billion.

NASA loves to throw around figures like, well, it is only $2.1 billion. That is right, for this year, 1994. And another $2.1 billion next year, 1995. They love to tell you that the $2.1 billion in 1995 translates into 2.2 cents per day for every man, woman, and child in America.

Who can squawk about 2.2 cents a day? Just peanuts. Count me in. I am willing to pay two cents a day except for one thing. It is not 2.2 cents a day. That is only for 1995. That does not count what we have already spent and what we are going to spend, which totes up to $70.8 billion.

If you count the $2.1 billion we are spending this year and what they are going to spend over the next 15 to 20 years—15 years, roughly—that is $70.8 billion.

And the $70.8 billion does not include $1.5 billion for civil service costs which NASA says they inadvertently forgot. Now, if they forget to count $1.5 billion for civil service costs, I do not want to ride on the space station. I do not want to ride on the shuttle to get there, and I do not want to be housed in the space station if they forgot and inadvertently left out $1.5 billion in civil service cost.

But when you add that $1.5 billion that they inadvertently left out, then the cost goes to $72.3 billion; but that is not all of it either. Here is the firecracker. It is not $72.3 billion. Over the next 35 years, if you compound the interest at 7 percent—because every dime we spend is going to be borrowed, and going right smack onto the deficit—Mr. President, that comes out to a tidy sum of $156 billion.

Two point two cents a day. The unmitigated gall of somebody to put out such a figure as that—$156 billion over a 35-year period counting the interest, and that is the real cost. And that is $2,500 for every family of four in America. I invite every Senator who intends to vote against my amendment to go home and tell all the people in his or her State, "I just voted to tax you $2,500 for a space station that will have a life expectancy of 10 years."

While you are at it, tell them that once we get it up there, which we will, it is just a mechanical problem, an engineering problem, to throw it in space. God knows, if the Russians can do it, we ought to be able to do it. There is no trick to that. But once you get it deployed, you have to operate it, which costs $21 million a day. All you big deficit hawks, all you big balanced budget constitutional amendment hawks, go home and tell them that you just got through voting for $156 billion for a space station. Tell them that comes to $2,500 for their family. Then see how rock solid they are about a space station.

Mr. President, while you are at it, tell them that every pound of water we send to the astronauts—make it water, food, supplies, everything—every pound of payload we send up on the shuttle to supply our astronauts is somewhere between $12,880 and $15,200 per pound. We will be happy to supply the astronauts with that good Arkansas Mountain Valley Water for that.

Mr. President, did you know that the space station is going to cost 14 times its weight in gold? I cannot believe these things myself, yet I am sure Members will march through that door in the morning and say, "I vote against Senator BUMPERS' amendment even though the space station costs 14 times more than its weight in gold."

But back to the Mountain Valley Water, which I certainly hope we get the contract for. It is estimated that each of the six astronauts on board will need 9.2 liters of water every day. As Everett Dirksen used to say, it soon runs into money, does it not? Over $15,000 a pound for water. What does that translate into? That is $319,200 a day just for water for each astronaut. I would choke to death on water that expensive, as should every Member of this body.

Do you know what else that translates into, Mr. President? That translates into $466 million a year for water for the astronauts; $.5 billion a year just for water to keep them alive.

Mr. President, for that $13,000 for every pound of water we send to the astronauts on the space station, you could feed a family of four for 2 or 3 months, and have $12,000 left to send to the National Institutes of Health to do real research right here on Earth—the kind that will cure cancer, not "pie in the sky," but honest-to-goodness research in the great medical schools and universities of America.

There is one other point I want to make before I take this particular chart down. A lot of people who are going to come in here tomorrow to vote against my amendment will do so because the space station will provide a few jobs in their State.

You should know that three States get 78 percent of all of the massive amount of money we are going to spend on this—three States.

Tomorrow, when Senators walk onto the Senate floor, I or somebody else will hand them a chart showing them what their States get back from the space station in jobs, and also what it is going to cost each of their States. I am not sure, but I believe the cost in 1995 for the people in my State will be $19.8 million. That is a lot of money for a relatively poor State like Arkansas. For Georgia, it is going to cost $55 million. If you went down and took a vote in Georgia, and said, "How many of you people want to pay a $55 million tax bill for the space station?" you might get three people to say "aye." As long as it is some kind of nebulous, arcane concept on the floor of the U.S. Senate, the people of Georgia are never going to be presented with that proposition.

Do you remember the Exon-Grassley amendment? Senator EXON from Nebraska and Senator GRASSLEY from

Iowa offered an amendment to cut an additional $26 billion from the deficit over the next 5 years. I voted for it because I felt that we could cut $26 billion more over the next 5 years. When they went to conference with the House, they cut that in half, and now we are only obligated to cut $13 billion over the next 5 years.

Look at this chart: it is the most powerful chart I have seen since I have been in the U.S. Senate. It shows that under Exon-Grassley, we have to cut $13 billion over 5 years. We cut $500 million of that for 1995. But next year, for 1996, when we go through the appropriations process, we have to cut $5.4 billion.

Mr. President, this year, as chairman of the Agriculture Appropriations Subcommittee, I had 1,100 requests from my colleagues to increase spending in that bill. "Dear Senator BUMPERS: Please give me $2 million to start this research project at the University of Such-and-Such."

"Dear Senator BUMPERS: We have this nice little laboratory down here and we want to expand it." There are 1,100 of those requests. Senator BYRD, chairman of the Appropriations Committee on Interior, normally gets between 3,000 and 4,000 requests a year from Members of the Senate. "Please help me expand this park; please help me with this, that, and the other."

This year, Agriculture appropriations had to cut $659 million below a freeze. I could not help some of my colleagues. But this year is a picnic compared to next year when we start looking for $5.4 billion. Here on this chart is the Exon-Grassley amendment—$13 billion we must cut over the next 5 years. And if you vote for the Bumpers amendment, you have found $10.4 billion of it. If you vote for my amendment, that is what you save.

When you tell your constituents that the request they sent to you cannot be honored, go home and tell them you would love to do it, but you could not see fit to vote against the $156 billion in spending for a space station.

Mr. President, I will tell you what the real mission of the space station is. It is because NASA wants to go to Mars. If we had a $4.5 trillion surplus and not a $4.5 trillion debt, I would want to go to Mars, too. Though, for the life of me, I cannot imagine what we are looking for there. When I first came to the Senate, I went on the Space Committee. Believe it or not, we used to have a Space Committee in the Senate. That is how important space was several years ago. But I am telling you, it was a spacey committee. I thought I would make the best out of it, but I resented being put on it. I had been Governor of my State, and all of a sudden I wind up on this lowest of all committees, the Space Committee. So I go down to Houston and I look at all these magnificent pictures of the Moon those very brave astronauts took, and I looked at all of the rock they drilled and brought back. It looked just like Arkansas prairie shale to me, or lava. I was not very impressed with it. I do not guess anybody else was either, because we have not been back to the Moon. Nobody has even suggested going back. We beat the Russians there, and that was the goal.

But if you look beyond the Moon to Mars, which is the real aim of NASA, and then you look at the underlying—what can only be described as—scam that they tell us is the real reason, they tell us they want to grow crystals for semiconductors. They say we are going to get all kinds of spinoffs. I suppose if you spend $70 billion, you are likely to get some spinoffs. It would be hard for something not to happen when you spend $70 billion. I have seen Boeing's advertisement, talking about the wonderful virtues of the space station, and one is to grow crystals.

Mr. President, let me read you, at the expense of possibly boring you, what people are saying about the space station. But I want to read, first of all, what T.J. Rodgers, founder of a semiconductor company said. Here is what he says about industrial crystals:

> I run a semiconductor company, and I am the director of Vitesse, a gallium arsenide semiconductor company, so I know about this stuff. All I can say is this program of growing gallium arsenide wafers in space is a colossal con job, and there is no one I know in my industry that wants those wafers. There is no economic benefit to increasing the purity of a crystal beyond the point that we can currently improve it. The cost is huge, and the economic benefit is almost nil for that last stop, going up into space.

Doctor Al Joseph, founder of the same company, said:

> The idea of making better gallium arsenide crystals in space is an absurd business proposition. Even if you can give me perfect and pure crystals made in space, it won't help me much commercially because 90 to 95 percent of my costs and 85 to 90 percent of the integrated circuit yield on a wafer is driven by what I put on the wafer, not by the purity of the wafer itself. The cost of one trip to the space station would finance just about everything the American electronics industry needs to ensure its technological superiority for years to come.

So much for those magnificent crystals.

Here is what the American Physical Society said about the space station. The American Physical Society, Mr. President, is 40,000 physicists. That is all the physicists in this country, 40,000 of them. Here is what they said about this whole thing:

> It is the view of the Council of the American Physical Society that scientific justification is lacking for a permanent manned space station. We are concerned that the potential contributions of a manned space station to the physical scientists have been greatly overstated, and that many of the scientific objectives currently planned for the space station could be accomplished more effectively and at a much lower cost on Earth, on unmanned robotic platforms, or on the space shuttle.

Perhaps you have heard of Dr. James Van Allen, who discovered the Van Allen radiation belt, one of the great all time astrophysicists? Bear in mind that I am quoting some of the greatest minds the world has ever known. Dr. James Van Allen is one of them, and he says:

> For almost all scientific and utilitarian purposes, a human crew in space is neither necessary nor significantly useful. Nearly all the great advances in space science have been achieved by unmanned, automated space craft. With the benefit of three decades of experience in space flight, it is now clear that the conduct of scientific and applicational missions in space by human crews is of very limited value.

Dr. Allen Bromley, Presidential science advisor to George Bush said:

> The human habitation of the space station is fundamentally incompatible with the requirement that the microgravity experiments be unperturbed.

That is, just astronauts walking around in the space station creates enough vibration to ruin research being done in what is called microgravity. Here is what Professor Nicolaas Bloembergen, who was President of the American Physical Society said, and he is a physics professor at Harvard:

> There is no evidence to suggest that a microgravity environment offers any advantage for processing materials or drugs. Indeed, there are sound reasons for doubting that it would.

So much for curing cancer. Nine scientific societies, with 41,000 members—the American Physiological Society; Society for Biochemistry and Molecular Biology; Pharmacology and Experimental Therapeutic; the Society for Investigating Pathology; the Institute for Nutrition; American Association of Immunologists; Society for Cell Biology; American Association of Anatomists—all say no. The American Physical Society went on to say on July 24, 1994, 1 week ago:

> The principal scientific mission of the station is to study the effects on humans of prolonged exposure to a space environment. Medical researchers scoff at claims that these studies might lead to cures for diseases on Earth.

And on and on. The top scientists in the country are saying: Please give us the money for research on Earth, where we can make it count.

Dr. Bromley said, "Microgravity is of micro importance."

Mr. President, the director of the Washington office of the American Physical Society is Dr. Robert Park. Well, I cannot find his quote at the moment.

The other night Walter Cronkite, whom everybody adores, did a 1-hour segment on the space station, and he treated me very fairly. I was quoted a number of times on the program.

But in that program, and I do not mean any disrespect to Mr. Cronkite,

he says, "Senator BUMPERS says he can find no evidence that anything has come out of the Russian space station MIR worthy of mention." And Mr. Cronkite went on to say, "We could not find any Russian scientist to confirm that." That is, he could not find a Russian scientist that would agree with me that they got nothing out of their space station, but neither he nor any Russian scientists suggested anything they had gotten.

I have read every piece of space station literature I could lay my hands on for 6 long years, and I have yet to find one single benefit the Russians have received out of their space station.

I used to say when I was a young man, having grown up relatively poor, I used to say if I were going to start a popcorn stand I would find someone who had been successful in the popcorn business. No matter what kind of business I went into, I would want to find someone successful in that business and I would take their advice.

Here the Russians have been a miserable failure with theirs, and we want to spend $156 billion to copy their failure.

If it is such a red hot idea why have we not joined the Russians in a joint research venture? I do not know that we have ever even broached the subject with them.

Mr. President, last year, I got 40 votes for my amendment and 59 against. When I look at all the literature and everything I am saying which I have carefully researched and documented, I ask myself, what does it take to kill a program around here? And the answer is, nobody knows because we have never killed one.

Mr. President, the economy is booming, people are working, and, more importantly, the deficit is going down dramatically.

I can remember when Ronald Reagan ran for office. Every newspaper in the country was covered from front page to back about how terrible the deficit was and how it was going to sink this great Nation. Everybody talked about it. And when Ronald Reagan became President it went up. It did not just go up. It soared. It was absolutely out of control. We went from $1 trillion to almost $4 trillion in indebtedness while he was President. All the time he was lamenting how terrible the deficit was.

In April 1993, last year, OMB projected we would have a $305 billion deficit on September 30 of this year. And in September 1993, 5 months later, OMB gave us the good news that it was going to be $260 billion, $40 billion less. Then, in January 1994, they said it is going to be even less than that: It is going to be $234 billion. And last week CBO said the deficit is going to be $200 billion. That is over $100 billion less than projected a year and 4 or 5 months ago.

I do not presume to tell the President very much, but I told him that if I were he, I would never make a speech anywhere, whether to the Boy Scouts or to the American Physical Society, that I did not remind them that I said I would reduce the deficit and we are reducing it.

When the deficit was soaring, it was all over the front page. Last week CBO came out with a dramatic announcement that the deficit was going to be $200 billion or less, $100 billion less than projected a year and half ago, and it was reported in two lines in the business section of the Washington Post.

Do you know what I hate about seeing that? As rhapsodic as I am about the deficit going down, I will tell you what I hate about it. I can hear the wheels around here turning. The deficit is going down, the economy is great, and so I will just vote for the space station. I can do it now because the deficit is going down. And that is exactly the mentality that got us into astronomical deficits.

Mr. President, I will give you an interesting figure: Last year, 59 people voted to fund this turkey, 59 voted to spend this monumental amount of money. Of those 59, 43 of them voted for the balanced budget amendment to the Constitution of the United States.

Can you imagine 43 people voting to amend the Constitution of the United States to provide for a balanced budget because it is very popular and they could go back home and make the chamber of commerce applaud and then march onto the floor of the Senate 3 months later and vote for 156 billion dollars worth in spending? To add insult to injury, they see no contradiction. Last year, there were 63 votes for the balanced budget amendment. But 43 of those who voted for a balanced budget amendment voted for this. Everybody hates deficits but everybody loves spending.

To vote for a balanced budget amendment is like saying "Stop me before I kill again. Please do something to make me quit voting for all this spending." That is what it translates into.

Now we come to the point with the space station where it is a foreign policy initiative. The President, and especially the Vice President, say we want the Russians on board. If we bring all these Russian scientists in, they will not be making missiles and selling them to Third World countries.

I say give each one of those Russian scientists $100,000 a year in salary and turn them loose. Make it a welfare program.

If you were to list 50 things that the Russians need desperately, the space station would not even be in sight. If you listed 100 things that Russia needed, the space station would not make the list.

Mr. President, I have said about all I know to say. Just remember that this thing has a 10-year life term. It is going to take about 20 or 30 shuttle missions to get it up there. It is going to take 20 or 30 more to keep them supplied, 5 a year for 10 years. That translates into 50 or so. With that many shuttle flights, the chances of having a disaster are not slim. And how many accidents will we have? I do not know.

Mr. President, I will close with this thought. As a country lawyer in a small town in Arkansas, and certainly no foreign policy expert, I never could relate to the Vietnam war, but I could never bring myself to oppose it.

I guess you could say I was a little naive, but I could not understand what we were doing there and why American boys were dying there, and I could not understand what our national security interest was there. But I did not openly oppose it. It seemed unpatriotic.

When my first son turned 17, graduated from high school and was getting ready to go off to college, and eligible for the draft, I began to look at that war more closely. I never discussed it with him, but I discussed it with my wife, who did oppose it. And I suppose, if push came to shove, I would have let him register and go to Vietnam and maybe have lost him.

But I thought, if I cannot explain the rationale for that war to my 17-year-old son, why am I not opposing it? More importantly, why is Congress not opposing it? Why is Congress continuing to allow that war to go on, and fine, young, innocent men, the flower of our youth in this country, being slaughtered? Why did they not have the courage to stop it?

So when I ran for Governor, I took a strong stand against the Vietnam war, and I thought it might cause me to lose that race because Arkansas is a conservative State.

But here we have this space station that just goes on and on. It has taken a life of its own just by inertia. There are probably few people across the country—not like the Vietnam war—but there are few people across the country that say, "Why doesn't Congress have the courage to kill that program, save that money for valid research that we need desperately? And if you do not want to do that, put it on the deficit, so our children will have some kind of future."

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to strongly support the amendment offered by my good friend and colleague from Arkansas.

I have not taken as much time to learn this issue as has my good friend from Arkansas, but I think the closing statement of the Senator from Arkansas basically hits the nail on the head; namely, it is at a gut level when we stop to think about this—how expensive the space station is, given all our country's other needs, and the large budget deficits that we are presented

with—it is at a very basic gut level of why in the world are we continuing to do this?

I think that Senator BUMPERS' analogy is an apt one. It is an interesting story by itself, and also an apt analogy; that is, if it does not make sense, why are we continuing to do this?

I do not have a quarrel with the space station's mission. I think we all would like to have some kind of a program that would accomplish the same mission. But I do have many questions about its technical merit. And I have serious doubts about the priority given this experiment at this time.

Space exploration may be inspiring. Of course, it is. But that is not enough to justify spending all of this money, particularly at this time. In these days, every dollar we spend on a big project like the space station is a dollar borrowed.

I want to underline that. Every dollar spent on a big project like this, like the space station, is a dollar borrowed. And with the price tag of $1.2 billion this year—not much less than the entire Montana economy—and up to $60 billion in the next 18 years, I do not believe that this is the time for the American taxpayers to foot this bill.

Eleven billion dollars have already trickled away, and we have precious little to show for it. We should not spend tens of billions of dollars more on this one program, while shortchanging other important programs.

Mr. President, the chairman of the committee, Senator MIKULSKI, has done an admirable job constructing this appropriations bill. It is difficult, extremely difficult, to give in to budget caps that we appropriately placed upon ourselves. And she was faced with very tight budget constraints, which were made much worse by the administration's $1.2 billion request for the space station.

The Environmental Protection Agency, Housing and Urban Development, the Department of Veterans Affairs, and even NASA itself must struggle to do their jobs because they do not have enough money.

EPA has yet to completely implement the health and ecological safeguards ensured by Federal laws. Homelessness and housing shortages are more than realities—they are scandals.

Veterans' medical programs operate with massive staff shortages and are often unable to provide the best possible care. NASA's other programs are faltering. Even the National Science Foundation, also funded by this bill, could use some of the money spent on the space station.

The space station is a luxury. It is a giant program whose technical merit and economic payoffs are big question marks. Going ahead with it at this point is simply a bad choice of priorities.

It is like borrowing to buy a Rolls Royce when you have trouble meeting the mortgage payment.

If we fund the space station, we will take on a large long-term spending commitment. At the very same time, we will restrict basic program needs for environmental protection, housing, veterans, and scientific research—all of which are funded by the VA, HUD, and independent agencies appropriations bill.

SPACE STATION IS TECHNICALLY QUESTIONABLE

While there may be noble intent behind the space station, it is of questionable value and a largely speculative venture. Much of its goals are based on untested theory. It is unclear that the station will even survive damaging space debris.

NASA estimates that there is a one in five chance that floating objects in space would seriously harm the station.

NASA seems to have a habit of biting off more than it can chew, and for the time being it should concentrate on getting existing programs right rather than starting big new ones.

CONCLUSION

Mr. President, the Senator from Arkansas is absolutely right. The bottom line on our budget this year is a big deficit. It is minus $225 billion.

It has come down a lot in the past 2 years, but it is still way too big. And with that kind of figure staring us in the face, we have to choose our priorities carefully. We simply cannot afford a space station.

Voting for the Bumpers amendment is a vote to save $60 billion. It is also a vote for environmental protection, a vote for veterans, a vote against homelessness, and a vote for NASA core research programs, all of which will be starved of money if the space station goes ahead.

A vote in favor of this amendment is the right vote, particularly at this time. It is important to stand up and exercise the courage to stop a program that is not needed, particularly when, in the long term, it is going to be so expensive.

I strongly urge our colleagues to do what is right and that is to support the amendment offered by the Senator from Arkansas.

I yield the floor

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield to the distinguished Senator from Ohio such time as he may consume.

I would like to bring to the Senate's attention that if anyone knows the space program, it is our astronaut, Senator JOHN GLENN.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I thank my distinguished colleague from Maryland.

Mr. President, it is always difficult to judge to look into the unknown. Yet in whatever endeavor—whether in microresearch in the laboratory, microscopic research, chemical research, or whether it is looking into macroresearch of expanding our horizons, our geographical horizons; looking into the unknown wonders of space, there are always those who will doubt the value of the risk, risk of the unknown.

The story is told of Disraeli, the British Prime Minister, going into the laboratory with Faraday, where they had developed the capability to store electricity in charged bottles and make a spark jump from one bottle to another. And, after seeing this demonstration, Disraeli asked, "What good is it, though?"

And Faraday's reply, I thought, was very good. And if it is reported correctly he said, "What good is a baby?" In other words, we had made some advance. We had learned something. We did not quite know what it was all about at that point but it was a start.

The same thing has gone on, throughout history, whether it is Columbus' discovery of America, a journey that experienced a lot of anxiety in its time, or whether it was Henry Ford, and the people standing alongside the road who said, "Get a horse, get a horse." And it turned out that the invention that people ridiculed at that time has come to be our basis of transportation today.

If we all had the lack of foresight even of some of our most learned colleagues who have preceded us in this body, we probably would never have moved off the east coast of this country. Of course if one studies the time period of western expansion, one sees that we had not solved all of our problems at that time. There were still poor people. There were still lots of things that needed to be done. Yet, there was the foresight that went beyond the Appalachians, that went to the Ohio River, the Mississippi, and beyond. There was a need to explore the unknown territory of the West, a need to expand our horizons.

We have in this Chamber, over on the other side of the aisle, the desk that was used by Daniel Webster. Daniel Webster rose in the Senate and commented on plans for westward expansion, plans about moving beyond the Mississippi. I hope all of my colleagues who come from States west of the Mississippi will pay attention to this.

Daniel Webster waved his arms, and I am sure pounded on the desk. As my colleagues may have noticed, his desk over there on the other side of the aisle does not have a top on it that can be raised, because supposedly, during his orations, he was so animated that he hit the top of his desk so hard that he kept breaking it. Even today if you go over there to the other side of the aisle, to the desk of the senior Senator from New Hampshire you will notice that it has a solid top on it.

I can just see him standing in the Senate Chamber and uttering the following. He said:

What do we want with this vast, worthless area, this region of savages and wild beasts, of deserts of shifting sands and whirlwinds of dust, of cactus and prairie dogs? To what use could we ever hope to put these great deserts or those endless mountain ranges, impenetrable and covered to their very base with eternal snow? What can we ever hope to do with the western coast, a coast of 3,000 miles, rockbound, cheerless, uninviting, and not a harbor on it? What use have we for this country?

Mr. President, I will never vote 1 cent from the public Treasury to place the Pacific coast 1 inch nearer to Boston than it is now.

That was the view of even such a learned person as Daniel Webster, back in the days when we were thinking about moving a little further to the west. I think it indicates that there is always doubt about moving out into the unknown, about learning new things.

Where do we find ourselves in our time? We find ourselves presented with a new capability, a new frontier. People have looked up to the sky for tens upon tens of thousands of years. They have looked up and wondered what was up there, wondered what it would be like to go up there, wondered what we could learn if we were up there. I consider this generation fortunate enough to be present when we developed the capability to fly in space and to use space, to develop new capabilities in space.

What if we had taken this same attitude as Daniel Webster, I ask my distinguished colleagues what if we had said no more, no more exploration, no more science. Where would that find us now?

Luckily, Mr. President, we have invested billions and billions of dollars through the years, many tens of billions of dollars on research. Let me use agriculture as an example. We have invested much time and money in agricultural research and what has happened? Even though there were doubters as to whether we could grow more corn or wheat, we went ahead and experimented. We set up experiment stations across this country. When I was a boy back in New Concord, OH, a good corn crop was probably 48 or 50 bushels per acre. Do you know what it is now? The record corn crop just a few miles from there last year was 239, I think it was, 239 bushels per acre—239 bushels per acre. And when I was a boy, it was about 48 or 50.

Is that because the farmers are working 4 or 5 or 6 times as hard? No. It is because we did basic research. We learned more about fertilizers and soils and hybrids and all the things nobody had any concept of. There were no results guaranteed when we started to look into some of these things, and there is no result guaranteed in looking into space.

What is the difference, Mr. President, in research done on earth and research that will be performed on the International Space Station? A great difference, Mr. President, one that we are just beginning to understand.

We heard a little while ago here about some of the efforts to look into the area of microgravity research, into crystal growth in particular. We heard those efforts belittled. Yet, microgravity research in the production of protein crystal growth has the potential to pay off tremendously.

A paper was recently published by NASA listing the achievements of the last 10 years of microgravity research. I ask unanimous consent that this paper be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GLENN. Mr. President, let me go through and pick out just a few of the many exciting and promising accomplishments that have been made in this field in the last 10 years. In the period between Skylab and the present we have seen a wide array of basic applied microgravity research, in ground-based and suborbital facilities as well as orbital flight.

Starting back in 1988, scientists began to have some very good results from microgravity studies, especially in the field of protein crystal growth. We have had some 70 different proteins flown in orbit, and this area of research has emerged as one of the notable success stories of NASA's microgravity program.

I will not go through the results of all of these this evening, obviously, but let me just say that proteins are the basic elements of life. These complex chains of amino acids not only form the physical substance of living organisms, but they play an essential role in every biochemical process governing the body. Scientists seek to determine the molecular structures of proteins and the relationship between protein structure and function. This information can provide a better understanding of living systems and help develop new drugs for medical treatments.

We are finding that large high-quality crystals of the protein being studied can be developed in space better than they can on Earth. Crucial proteins fail to adequately form the needed crystals on Earth. In many cases, the failure can be attributed to the effects of Earth's gravity, which not only generates fluid flows which may damage growing crystals but also causes the crystals to sediment to the bottom of their growth container.

In microgravity, these proteins respectively yielded crystals 27 and 1,000 times larger than the ground-control experiments. The publication of the results generated many new questions about the fundamental mechanisms of protein crystal growth and led to the organization of the first International Conference on Crystalization of Biological Macromolecules in 1986 at Stanford. Some of the findings of that conference and the space findings revolutionized thought among investigators in the field.

They have come back then to the space environment as a means to gain insights into growth processes as a method of obtaining better crystals.

Charles Bugg of the University of Alabama at Birmingham, and his collaborators, subsequently grew crystals on a series of space shuttle flights from 1985 to 1986. The experiments contained only a fraction of a milliliter of growth solution and had no temperature control, but excellent crystals were obtained for human serum albumin, for human C-reactive protein, canavalin and concanavalin B, which appeared to diffract to higher resolution of those grown on Earth. These are all involved in drug research for the benefit of every human being right here on Earth.

These early exploratory experiments indicated that larger protein crystals could be grown in space, crystals of better purity and crystals that are larger and more easily studied.

The unprecedented success achieved in growing large high-quality protein crystals on some of these missions convinced many formerly skeptical protein investigators of the utility of the microgravity environment.

In the STS-26 experiment, microgravity-grown crystals of gamma-interferon D, procine elastase, isocitrate lyase were larger, displayed more uniform morphologies and yielded diffraction data to significantly higher resolutions than the best crystals of these proteins grown on Earth.

Let me give just a few more examples of important scientific experiments that have been studied in a microgravity environment.

Porcine elastase: Now why would we wish to study this? Because the use of porcine elastase in current research is used in a new class of inhibitors for treating emphysema. A practical use.

Gamma-interferon D: Crystals of this protein, grown in space, were larger than the best that had ever been produced on the ground. One was approximately 50 percent larger than the largest crystal that had been obtained previously. These large space-grown crystals displayed an increase in resolution data revealing they had higher internal molecular order.

The importance of this? The importance is that pharmaceutical companies are interested in using gamma-interferon as a possible drug for cancer therapy. Can I guarantee that we will have a cure for cancer out of this? No, I cannot. But I know there is enough scientific interest in this that this kind of experimentation should continue.

Human serum albumin, HSA: Why look at this? HSA, human serum albumin, is the most abundant protein in the circulatory system. As I stand here tonight, and those listening to me, it is the most abundant protein in the circulatory system. We are evolving much more knowledge about these kinds of protein crystals.

HSA crystals were grown aboard STS-24. At a recent mission review, Dr. DeLucas reported that exceptionally high-quality crystals of HSA were grown aboard the mission IML-1 in 1992, and the results have allowed the protein structure to be further refined.

The published results of this work, led by Daniel Carter at MSFC, are considered a breakthrough in rational drug design due to the potential utility of HSA for the transport of many biological and pharmaceutical molecules in the bloodstream. We can enhance other medicines through the study of these materials.

We can perhaps begin to see the day when we will tailor drugs of a purity, to a particular use or targeted for a particular disease.

I quote from this report:

Ten years of Spacelab experiments have clearly established that protein crystals of superior size and quality capable of providing increased structure data can be grown in microgravity.

I would add that cannot be duplicated here on Earth. The potential for this type crystal growth is tremendous.

Mr. President, in this same report they just list in tabular form proteins grown in space, and the possible uses of those proteins with some further experiments. I will not read all of these either.

But No. 1, done by Mr. Bugg, in one of his experiments, human purine nucleoside phosphorylase, that is a protein for immunosuppressive and anticancer drugs. Another one of the same type, lysozyme. It is a model protein that degrades bacterial cell walls. Can we learn how to use this for our benefit? Possibly. Human serum transferrin. Iron transport to hemoglobin synthesizing red blood cells. Interferon alpha-2b stimulates the immune system, our own immune system.

I would add another interesting thing. The immune system changes when you are up in space for 2 or 3 days. You cannot measure that. It comes back to normal when you return to Earth. Why? Why does the immune system change? Nobody seems to know that yet, but that is so fundamental it seems to me that experiments in space to find out why that happens may be fundamental to someday discovering a cure for AIDS or cancer or whatever.

But this goes on and on listing a number of these, and since I have entered this in the RECORD it will be available to those who would like to read more of these. It would take a couple hours tonight to go through all of these.

But, Mr. President, the area of protein crystal growth is one that has a tremendous amount of promise in science, regardless if some of the scientists, of course, are not that excited about it because they would rather have some of this money for their own scientific area of expertise. They do not want to see money spent some place else so they are somewhat jealous of this. I understand that. We talked about that with people involved in the program from way back in the earliest days, as to whether there was a general benefit to all of science just by the fact that we were going into space.

The space station represents a new frontier, an opportunity and challenge for the United States and for the whole world, in spite of those who may doubt its benefit. And I do not support this just because I happened to be involved with the program at one of its earliest stages. I support it because, as I said, from the earliest days back when I was in the space program I thought at each stage along the way we should not concentrate just on trying to go out further and further into space, deeper and deeper into space as was alluded to earlier.

I agree with Senator BUMPERS in that regard. Our objective now should not be just going into deeper space. We used to joke about this some time back when I was in the space program. We called it "canned man." You put a man in a can and see how far out in space you can send him or her and bring them back.

That is not the purpose of this program at all. The purpose, as I saw it and as I expressed my views from the earliest days in the space program, was that at each step along the way, as we expanded for the first time ever in human history, we expanded our ability to travel off the Earth, at each step we should maximize the research return available that then makes it valuable for people right here on Earth. And that is still my view to this day. That is what the space station allows us to do. That is the reason I support it.

If I believed that this was just a waste of $150 billion, as the Senator from Arkansas has said, I would not vote for this program in spite of the fact that I was involved with it personally at one time. But I do firmly believe that this program has a potential every bit as much as I alluded to earlier when we talked about Daniel Webster not wanting to spend money to explore beyond, or to buy land or acquire property beyond the Mississippi River, referred to as that area of savages and whirlpools of dust and prairie dogs and so on. "Of what possible use can it be?"

Well, what a myopic view. And I would say the same thing here. We have the ability to do research. We have the ability to develop new technologies and procedures to fight disease. We can understand our environmental challenges to provide a safe and healthy world for our children by looking at the world and making our research from above the Earth's atmosphere.

Mr. President, I understand the Senator from Virginia wished to ask a question. I will be glad to yield for purposes of a question without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized for purposes of asking a question.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

For some several years now, I have been associated with the distinguished Senator from Arkansas, [Mr. BUMPERS], opposing this.

This year, as a means of preparing, I invited to my office one Marcia S. Smith, who is a specialist in aerospace policy, Science Policy Division of the CRS—a very impressive individual who has dedicated much of her professional career to the subject of space and now the space station.

So I asked her, I said to this knowledgeable professional, "Miss Smith, could you summarize for me, what are the benefits if we achieve this space station?" And she stated them orally. I was so astonished, I said, "Could you put that in writing?" She said, "I would be glad to, Senator."

Mr. WARNER. Mr. President, I ask unanimous consent at an appropriate place in the RECORD my remarks together with this may appear in full.

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

(See exhibit 1.)

Mr. WARNER. In summary, she said:

The major benefits——

She was speaking of the Russian space station, and there is a direct parallel between that and this one.

The major benefits to humanity——

That is those of us in this Chamber tonight and across this great Nation of ours.

The major benefits to humanity that have occurred from Russia's space station are (1) understanding the reaction of humans to long durations in space and (2) understanding the Earth and the universe from remote sensing and astronomical research. However, if you believe that people will not travel to Mars (or elsewhere beyond Earth orbit), long duration human studies are not necessary, and remote sensing and astronomical research can be conducted on automated satellites as well as, if not better than, on space stations.

That is it. We are not going to Mars as far as I know. Does the Senator know of any planned trip to Mars? Does it justify this enormous expense simply for the benefit of understanding the reaction of humans to long duration in space?

Mr. GLENN. Will the Senator yield for an answer to his question?

Mr. WARNER. I am asking the Senator, does he agree with this?

Mr. GLENN. No, I do not agree. Obviously, the Senator has not been listening to my talk for the last half-hour or so.

Mr. WARNER. Oh, no, I have over the loudspeaker, Mr. President.

Mr. GLENN. I went into some of the areas—I had not finished yet—some of the advantages of the space program and the space station. But do I think we will go to Mars? Sometime, if that was the question, yes, I think we will, but I do not see this as a direct steppingstone to that. I think sometime we will go to Mars, but I am not for a Mars program at this point. A former Vice President advocated that, but I did not go along with him at that time.

But I have been giving a speech here at considerable length about why we need a space station. I think we are into a new element of microgravity in which we can do a lot of research. I see it just for the protein crystal research that I have been enumerating here; the potential of that is so large that I see that as being worth the expense of the space station if nothing else was involved.

But there is a lot more involved than just that, of course. We are involved in some international cooperation. I think this has an impact on our students and their ability, their willingness to go into math and science, and so on. And I would disagree that all of these things are something that in our time we should just lay down and say that it is not worth the effort. We are going into a whole new laboratory of space, and I think it is myopic to think there will not be big advantages that come from this as we use this for scientific experiments.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. GLENN. For a brief question; otherwise, I would like to finish my debate.

Mr. WARNER. I will make it brief.

The PRESIDING OFFICER. The Senator from Ohio yielded for one question. Does the Senator from Ohio yield for another question?

Mr. GLENN. I want to continue with the debate. Does the Senator have a short question?

Mr. WARNER. I do, I say to my friend.

She addressed the very question to which the Senator from Ohio alluded. I will read just one short paragraph.

Research into "microgravity materials processing" has been a strong focus of Russian space station research. Mir has a module especially dedicated to this type of research which studies, among other things, how crystals grow in microgravity or how particles suspended in a fluid can be separated by electricity (called electrophoresis), a process for creating very pure pharmaceuticals, for example. The value of conducting this research on a space station is controversial because most of the experiments can be conducted better on automated satellites where they are unaffected by the vibrations caused by the crew.

Mr. President, does the Senator from Ohio agree or disagree?

Mr. GLENN. I disagree with that. I think the attendant experiments are better. As they go along, and as things develop, the experimenters on board can adjust the experiment, as they have already done on some of the experiments on existing space lab flights or space flights already.

Mr. President, I would like to finish.

Mr. WARNER. I thank the Senator.

[Exhibit 1]

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 2, 1994.

Memorandum To: Senator John Warner (Attention: George Cartagena).

From: Marcia S. Smith, MSS Specialist in Aerospace Policy, Science Policy Research Division.

Subject: "Benefits to Humanity" from Russia's Space Station Program.

As the Senator requested at our meeting last Thursday, this memo addresses the question of what benefits have accrued to humanity from Russian space station research over the past 23 years and thus what benefits might develop from the new international space station that NASA is proposing to build with Russia, Europe, Japan and Canada.

RUSSIA'S SPACE STATION PROGRAM

Russia is currently operating its 7th space station, Mir (a list of all Russian space stations prepared by CRS for general congressional use is attached). For a national perspective, the space station program has contributed to Russia's (formerly the Soviet Union's) national prestige and provided jobs. They have gained considered experience in how to operate space stations for long periods of time. What benefits have been accrued to humanity as a whole would emerge from research conducted aboard the station in the following disciplines:

Human Reaction to Long Durations in Weightlessness

Research into how humans react to long durations in weightlessness benefits humanity if one believes that humans someday will travel to other destinations in the solar system, like Mars. If one does not believe that humans will travel to Mars, then there is no need for this research. The Russians have said that they want to send people to Mars someday and hence have conducted long-duration missions enabled by the space station program. Two Russian cosmonauts hold the record for longest continuous time in space (12 months); a cosmonaut currently aboard Mir is expected to break that record by staying for 14 months.

Biomedical Research

Biomedical research that, for example, could lead to cures for diseases on Earth has not been a major focus of Russian space station research to date. Sometimes categorized as materials processing rather than biomedical research, cosmonauts did produce quantities of a flu vaccine and interferon (an antiviral protein) on Salyut 7 and Mir. Though both can be produced on Earth, Russian press stories heralded the purity and quantities of the drugs produced on the space station. However, little has been said of this type of research in several years, suggesting that the drugs were not cost-effective to produce in space or were not as good as reported in the press.

Materials Processing Research

Research into "microgravity materials processing" has been a strong focus of Russian space station research. Mir has a module specially dedicated to this type of research which studies, among other things, how crystals grow in microgravity or how particles suspended in a fluid can be separated by electricity (called electrophoresis), a process for creating very pure pharmaceuticals, for example. The value of conducting this research on a space station is controversial because most of the experiments can be conducted better on automated satellites where they are unaffected by the vibrations caused by the crew (the exception is basic research where crew members are needed to interact with the experiments), and because of skepticism that cost-effective products will result. Soviet press stories in the late 1980s and early 1990s asserted that space station materials processing research had generated millions of dollars in revenue. The press reports, however, were discounted by other Russians who said it was a matter of one Ministry selling the products to another Ministry and claiming a profit. There is no public evidence that materials produced aboard Russian space stations are used operationally in Russian industry, although it is possible that some (such as cadmium-mercury-telluride, a substance used in infrared detectors and to which a lot of space station experiments have been devoted) are used in classified military programs without public discussion.

Environmental (Remote Sensing) Studies

"Remote sensing" is a term commonly used to refer to the use of cameras and other instruments to study Earth from space for primarily civilian purposes (remote sensing satellites are close cousins of military reconnaissance satellites). Remote sensing benefits humanity by providing a better understanding of Earth's environment, as well as by generating data that leads to crop forecasts, pollution monitoring, land use studies, and a host of other applications. Remote sensing can be conducted as easily, if not more easily (and cost effectively), by automated satellites rather than space stations. In the case of the Russian space stations, the orbit does not permit a complete view of the globe and remote sensing must compete with other scientific activities conducted by the crew. Still, the Russians have used each of their space stations as bases from which to conduct remote sensing, including visual observations by the crews. In particular, space station crews have studied the environmental degradation of the Aral Sea. [Some of the "remote sensing" studies, during the era of the Soviet Union at least, are thought to have been for military reconnaissance purposes; in fact, two of their early space stations (Salyut 3 and 5) are thought to have been primarily devoted to military reconnaissance rather than civilian remote sensing.]

Astronomical Studies

Several astronomical instruments (primarily for x-ray and ultraviolet astronomy) are aboard the Mir space station. In general, astronomical research benefits humanity by providing a better understanding of the origin and evolution of the universe, including our solar system. Some fields of astronomical research, including x-ray astronomy, must be conducted above the Earth's atmosphere because the atmosphere absorbs certain wavelengths of light. Space-based astronomy usually is conducted on automated satellites (like the Hubble Space Telescope)

rather than space stations because movements by the space station's crew interferes with the precise positioning required by the astronomical instruments. Nevertheless, the Russians have placed astronomical instruments on Mir (as well as earlier space stations) and useful data have resulted, though no major discoveries have been made because of that data.

Summary

The major benefits to humanity that have accrued from Russia's space station research are (1) understanding the reaction of humans to long durations in space and (2) understanding the Earth and the universe from remote sensing and astronomical research. However, if you believe that people will not travel to Mars (or elsewhere beyond Earth orbit), long duration human studies are not necessary, and remote sensing and astronomical research can be conducted on automated satellites as well as, if not better than, on space stations.

INTERNATIONAL SPACE STATION ALPHA

The extent to which the new international space station proposed by NASA would benefit humanity would parallel the Russian experience, although more attention is expected to be focussed on biomedical research on the new space station. It is possible that scientists can gain answers to medical questions by conducting research in microgravity that cannot be answered on Earth. If so, this could have great benefits for humanity, but there is no way to know in advance whether such research will, in fact, produce significant results. The question then is whether it is worth the price of the space station (currently estimated at $72.3 billion for construction plus 10 years of operation from FY 1994 through FY2012) to find out.

CRS prepared studies of Soviet space programs for the Senate from 1962 until 1987 which provide detailed information on space station experiments. If you would like copies of the relevant sections, or other information, please don't hesitate to call (7-7076).

SUCCESSFUL RUSIAN (SOVIET) SPACE STATIONS

Name and Launch and Reentry Dates/Comments

Salyut 1—Apr.-Oct. 1971. Successfully hosted one 3-man crew for three weeks, but all three died during their return to Earth due to improperly closed value in their spacecraft. Prior to their mission, another crew had docked with Salyut 1, but could not enter it due to a problem with the hatch.

Salyut 3—June 1974-Jan. 1975 Successfully hosted one crew for 3 weeks; another crew was unable to dock.

Salyut 4—Dec. 1974-Feb. 1977. Successfully hosted 2 crews on noncontinuous basis. Another crew was launched to the station, but the launch vehicle malfunctioned before they reached orbit; the crew was recovered safely near the Chinese border.

Salyut 5—June 1976-Aug. 1977. Successfully hosted 2 crews on noncontinuous basis; another crew are unable to dock.

Salyut 6—Sept. 1977-July 1982. First of two "second generation" space stations with 2 docking ports, enabling cargo resupply and thus longer duration flights. Successfully hosted 16 crews on non-continuous basis (last crew was in 1981); two other crews were unable to dock.

Salyut 7—Apr. 1982-Feb. 1991. Second-generation space station. Successfully hosted 11 crews on non-continuous basis (last crew was in 1986). One other crew was to be launched, but the launch vehicle erupted in flames on the pad; the crew was safely recovered using the emergency abort tower.

Mir—Feb. 1986-present. "Third-generation" space station, still being assembled. Three scientific or logistics modules (Kyant-1, Kvant-2, and Kristall) are now docket with the Mir core module—each encountered docking problems that eventually were overcome. Two more modules are yet to be launched. Intermittently occupied from 1986-1989; continuously occupied since Sept. 1989 by crews usually rotating on 5-6 month cycles. One crew (1987-1988) remained for 1 year; crew member currently on Mir expected to break that record and stay for 14 months.

At least two other Soviet space stations (Kosmos 557 and Salyut 2) failed before they could be occupied. Prepared by CRS for general congressional use August 1994.

Mr. GLENN. Mr. President, let me summarize some of the things I have been pointing out here. We have always had doubts about looking out into the unknown because nobody can pinpoint what the value is in the unknown until you do the research to find it out. If there is one thing that this Nation has learned, it is that money spent on research seems to have a way of paying off in the future beyond anything that we see at the outset.

Here we are moving into this new laboratory of space, moving out into microgravity where we never had the ability to do research before in a number of different areas; developing new technologies and procedures to fight disease, which I have just barely touched on here.

Mr. President, we are trying to understand environmental challenges, to provide a safe and healthy world for our children, we are trying to improve our competitiveness in the international marketplace by knowing more; we are striving to enhance the quality of our educational system. A permanent manned laboratory in space addresses each of these concerns while expanding knowledge and exploiting for worldwide benefit a new aspect of the human environment. The station is a symbol of our commitment to better our quality of life on Earth through research, the life sciences, biotechnology, and materials processing.

What are the benefits of this program, Mr. President? It continues our civilian space program and its ability to do this kind of research. Manned space missions remain the core of our space activities. It is the next logical step for our manned program. The knowledge of how we adapt to a weightless environment will lay the groundwork for future human exploration. But it also enables us now to do the research on board the spacecraft that I think is of value to us right here on Earth.

Second, the station will provide a manned laboratory to provide materials and life sciences research in a microgravity atmosphere. The space shuttle program has enabled scientists to perform very limited microgravity research. The research has already given us clues, however, to the causes of osteoporosis, clues to diabetes, and other diseases.

The shuttle missions last only a short period of time, and scientists agree that a manned orbiting laboratory is needed to fully realize our microgravity research capabilities.

And, Mr. President, I would like to emphasize this next point. I do not think this should be dismissed. The space station will be an instrument to educate American school children in math and science skills and encourage them in that direction. Recent studies have shown that skills in math, science, and engineering of U.S. schoolchildren has fallen farther and farther behind those of their international counterparts. The space station will provide a concrete example to our children of current and exciting scientific research and discovery and may guide some of them to pursue science and technology as career fields.

All you have to do is talk to the kids about some of these experiences in space, and just look at them and the excitement that is generated by even discussions on the topic and you will know what I am talking about.

The space station, Mr. President, will represent the largest international venture in science and technology ever undertaken. We have a leadership role at this time. We have the cooperation of Russia, Canada, Japan, and our own United States leadership. I think the agreement we have made, and the cooperation, is exemplary.

President Clinton has stated that pursuing advanced technology is essential to a healthy and dynamic U.S. economy. I agree. I think the space station will be a key element in developing and utilizing that advanced technology.

The benefits I have just stated are real. They are ours if we choose to pursue them. The first 30 years of space flight and exploration have provided us with extraordinary advancements with achievements, and discoveries. We have learned not only to travel into space, but to live and work there.

And what will the next 30 years hold? I hope that as much opportunity for new information will come out of this as came out in the past 30 years.

Mr. President, I ask unanimous consent that a series of letters be entered into the RECORD concerning the International Space Station Alpha Program, and regarding recommendations of the Advisory Committee on the Redesign of the Space Station.

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

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, MA, April 4, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, DC.

DEAR JACK: Several of us had the opportunity to travel to Johnson Space Center late last month to explore the status of the

International Space Station Alpha Program and to assess its progress in the context of the June 1993 recommendations of the Advisory Committee on the Redesign of the Space Station. I am writing to pass along my personal observations on this matter and have encouraged others who were present to do likewise.

This program has been dramatically reorganized and has progressed to an extent that greatly exceeded my expectations. This review was informal and intense, but lasted only one and a half days and therefore was of modest depth and detail. Nonetheless. I can state with confidence that the high-level conclusions were self-evident and overwhelmingly positive.

MANAGEMENT COSTING AND ACQUISITION

There has been an absolute sea change in the management and organizational structure of this program. As you know, the Advisory Committee was extremely critical of the organization structure that had evolved for Space Station Freedom. The new organization reflects both the recommendations of the Advisory Committee and the modern management practices brought to the table by Boeing, and it is consistent with the themes of Reinventing Government.

A single prime contractor has been engaged and is firmly in place. Significant levels of management have been removed, and there has been a large reduction in NASA and contractor staff support. The NASA Centers are now used as resources, and their directors have been removed from the line management of the program. The Center at Reston has been closed. The Integrated Product Team [IPT] concept has been implemented effectively and seems to have streamlined decision making and responsibility/authority chains. Program leaders from both NASA and Boeing were impressive in the clarity of their presentations, their command of issues, and their candor.

There has been an evident improvement in the budgeting and contract process, which inspires greater confidence. The single prime contractor approach, synergy between NASA contractor and oversight organization, concurrent fact-finding and constant "real time" problem resolution increase confidence that NASA can say within the cost parameters and guidance given by OMB. My colleagues, who have greater expertise that I in costing matters of complex projects, believe that costs within $2.1B per year and $17.4B run out through 2002 are achievable, but they characterize the budget as "success oriented."

TECHNICAL AND OPERATIONAL MATTERS

The ISSA is now committed to an orbital inclination of 51.6 degrees. Primarily through integration with Russia, there is multiple access to orbit, a well-developed Assured Crew Return Vehicle, an existing propulsion unit for orbital transfer and adjustment, and an increased technology and experience base. This partnership also enables an earlier date for first-element launch.

SCIENCE, TECHNOLOGY, AND ENGINEERING UTILIZATION

The overall situation regarding research utilization of the Space Station has greatly improved since the Advisory Committee report was issued. Strategic planning is underway for utilization of the capabilities of both ISSA and MIR. Plans are being made for the use of MIR to explore such important concepts as active control of experimental racks to enhance the microgravity environment for experiments. A peer review and research prioritization process are planned, but will require continual attention. A stronger line management structure is now in place for science, engineering and technology utilization. There is increased emphasis on technology and engineering research as a Station goal, but more should he done in this regard.

INTERNATIONAL ASPECTS

Comments by representatives of our international partners seemed to indicate that remarkable progress has been made integrating them into the management and operational mainstream. Integration of the Russians at the technical level appears to be proceeding well, but it is critical and must be made more complete. I encourage you to seek directly the views of the international partners, but the signs were very positive. I am particularly placed by this progress, because our recent national record as dependable partners in large scientific and technical projects has not been good.

AREAS OF CONCERN

It is essential that the process of updating the IGAs and MOUs associated with international participation in ISSA proceed expeditiously. The full integration of the Russian Space Agency and contractors into management and day-to-day activities is critical and should be accomplished as rapidly as possible.

The Integrated Product Team (IPT) approach will continue to work well as long as there is enthusiasm, commitment, and expertise on the teams and strong leadership and support from above. Leadership and momentum must be maintained.

Risk assessment and reduction must be an ongoing activity of the highest priority in the program. Nonetheless, I share the concerns of many of my colleagues that the Independent Assessment Team, which has been established, is too large and reduces the concept of continual accountability within the IPT-based organization. This requires careful examination at this time.

It is absolutely essential that budgetary stability and firm national commitment be established. Any deviation from the path that has been mapped out will result in increased costs and wasted effort.

PERSONAL NOTES

The efforts of the Space Station Redesign team, which last spring worked so intensively and effectively and against significant barriers to change—coupled with the recommendations of the Advisory Committee—have helped to bring profound change and potential stability to this program.

The International Space Station Alpha gives the nation an opportunity to show that it can establish large international programs in science and technology and that government can operate efficiently by breaking tradition and following contemporary management practices.

NASA leadership, starting with the Administrator and extending into the new ISSA organization, deserves credit and support for the bold changes they have effected.

Sincerely yours,

CHARLES M. VEST.

HANSEN EXPERIMENTAL PHYSICS LABORATORY, STANFORD UNIVERSITY,

Stanford, CA, March 26, 1994.

Dr. JACK GIBBONS,

Office of Science and Technology Policy, Washington DC.

DEAR JACK, As you know a number of former members of the Vest committee were given an informal briefing on the status of the International Space Station Alpha on the 25th and 26th of March, 1994. I felt it might be useful to provide you with my views. Since the panel to which I originally belonged was focused on Technical and Mission Assessment, these observations are also concentrating on those aspects. If there is value in publicizing these remarks feel free to do so.

I should mention that the available members of the original panel had informal discussions over dinner. The attached remarks generally reflect a consensus of the views expressed. You may not realize that our panel was very skeptical about this whole project when we first convened last year. Since that time, the changes wrought by Dan Golden, and an outstanding new project management team have won us over. Given our original skepticism, this turnabout is quite remarkable. Much of the advice the new team was given has been followed.

I believe this important project deserves to be strongly supported by the administration.

Sincerely,

BRAD PARKINSON.

COMMENTS ON TECHNICAL AND MISSION ASSESSMENT

(By Professor Bradford W. Parkinson after discussion with peers)

OVERVIEW

The ISSA, as defined at this review, has every prospect of becoming an outstanding international space research facility. The current design has addressed and reduced many of the major risk areas that existed in previous designs. An example is the multiple access now provided with three independent launch systems.

I most strongly endorse this new approach to the development of Space Station, especially the positive attitudes and leadership. They have made greater progress than was expected; this was a very pleasant and somewhat unanticipated surprise. Managerial competence, philosophies, and morale all are excellent. Especially encouraging was the very positive assessment by the international participants. The use of IPTs is appropriate; it is an excellent development approach for ISSA.

IMPACT OF MOVE AND CONSOLIDATION

This has been positive in virtually every respect. The sole negative might be some loss of NASA expertise, since only a small number of engineers elected to transfer from Reston to Johnson. Because much of the specific knowledge is still retained by the contractors, I do not consider this a major problem. It is more than offset by the streamlined management and the IPT approach.

RUSSIAN INVOLVEMENT

Given the cost and schedule constraints, I think this is a viable program only because of Russian participation. This is true because of the system improvements, due to their participation, in virtually all measures: capability, cost, schedule, and risk containment or robustness. Russian contributions should optimize the scientific and engineering returns from this world-class research facility. Specific positive attributes of the Russian involvement include:

1. Multiple access to space (mentioned above).

2. A larger, more capable station based on more components with proven space robustness.

3. Enhancment of Western space technology with the many uniquely Russian advances.

4. Valuable insights into proven Russian development processes. We should not be arrogant about Western development abilities,

it may be useful to find other techniques to "pick impeding rocks out of the stream".

5. Off-loading of the logistics for space.

6. Improved dialog in the culture of technology.

7. A blueprint for future international cooperation in space and elsewhere.

8. An off-the shelf (virtually) ACRV.

9. Earlier access to space for the science, engineering and technology communities; including use of MIR.

I recognize that the Russian situation is fluid, it is not clear that they are potentially less reliable than we are.

DEFINITION OF THE RUSSIAN CONTRIBUTION

A statement of work and list of contributions has been completed already. Of course, at this early date this definition is not complete. It is becoming completely defined at an accelerated rate. An open and candid dialog has begun, and the effort has been scoped. ICDs have been identified and their requirements drafted, with the interfaces placed in the most sensible way.

Current success is due, in part, to the close personal relationships developing between the working personnel of all the partners. The next important steps include the completion of a fully integrated schedule, and firm specifications for the furnished and deliverable items. This is being worked, but will require Herculean efforts in the next months. In particular there are a number of high-level strategic issues which remain to be resolved (crew composition, logistic coordination, etc.). I believe the team is up to the challenge.

CONTINGENCY PLANNING

Preliminary planning has been accomplished for total withdrawal of the Russians, and also for the most probable late deliveries. In the event of late deliveries, the current evolutionary approach provides autonomous operation for over a year in the event of such an event.

To address these contingencies further will start to require the serious investment of management time and dollars. I strongly recommend that only those contingencies viewed as reasonably likely by the program be further pursued. In this manner, it should be a part of an overall balanced risk assessment and recovery strategy. Since I do not believe the current program (with its cost and schedule constraints) can be reasonably pursued without Russian help, I suggest that efforts be concentrated on making our total international team successful rather than planning for partial failure.

COST

While cost was not a primary area for our panel, I believe the cost uncertainties are now substantially less due to a more mature and robust design.

SPECIFIC ASPECTS TO MONITOR

Generally, the monitoring of accomplishments against planned dates for specific major milestones will gain insight into progress. A particularly important yardstick will be the completion of the SOW, ICDs, and specifications. Completion of the IGA (which is, in part, a political problem) should give confidence of positive progress. Most importantly the help of Congress must be enlisted. A major element in achieving more support is greater public exposure of the technological and scientific station-associated possibilities, both as they are currently foreseen and as they emerge.

As a great nation we must not let this opportunity slip away. Appropriate furthering of the manned space program is a strong symbol of greatness and self-confidence. This symbol has been important to two generations of America's children. Recent successes show that NASA is returning to greatness. I and many of my colleagues believe that we must be unabashed in advocating a strong, balanced NASA program as a harbinger for the future.

OTHER COMMENTS:

Commercial use

The following comment came from my colleague, Dr. Crawley. It is an appropriate time for the agency and nation to develop and promulgate a consistent policy for commercial use of the Space Station. Such a policy need not be based on an initial, full recovery of cost: it is the role of national governments to develop and provide new research capabilities and underwrite their cost. Such a policy should address: quick and reliable access to space; proprietary data rights; and cost.

Non-research, commercial utilization should also be considered and rationally regulated.

Engineering research on station

I strongly endorse the inclusion of "conducting engineering research" as a major purpose of the ISSA. I assume it's omission in a key viewgraph was only an oversight. However I feel there is not enough evidence of this use in the current organization. Examples include: Micro-Propulsion, Structural Dynamic Research; and Drag-free mechanisms and capabilities

There is a need to give this Engineering Research more priority. It has a strong payoff in the quest for faster, better, and cheaper exploitation of space by all, both manned and unmanned.

AT&T,
BELL LABORATORIES,
Murray Hill, NJ, April 5, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Washington, DC.

DEAR JACK: This letter conveys to you some of my impressions following the brief review of the redesigned space station that was held on 25–26 March in Houston. I had intended to write to you more promptly following the review, but I found myself burdened with a number of urgent tasks.

I found that there had been major changes in the program as related to science, technology, and engineering utilization since the last time that I had an opportunity to review the program (late September 1993). In addition to such obvious improvements in eventual utilization as the presence of six, rather than four, crewpersons, there are major changes in the management structure for utilization and in the attitudinal approach by the management toward the use of the facility. All of these can only be termed as positive. I did not sense at this review such an adversarial stance between the builders of the facility and the "users" as had often been the case in the past. Indeed, in the past, the attitude could often be characterized as one of "we will build this facility and you will do good science (or engineering or whatever) with it". Now there appeared to be more of a team approach to constructing a facility that could be used beneficially for research if that is a national objective.

I should note that a major caveat to the above is that the management is very new overall, and especially in the utilization area. They remain to be tested by fire, as will happen, as the program proceeds. But they are going forward with the right outlook from the start. Nevertheless, I note that the previous program had a formal science/engineering advisory process in place during the program initiation (mid-1980's), and when the users were no longer needed or wanted, they were dismissed (about 1986–'87) and the program went merrily on its way. See the enclosed paper that I co-authored.

In my summary at the review I noted that under what I termed the "philosophy" of the utilization, that the need for strategic planning for the usage looms large. In particular, the planning requires much further and continuing work. It requires a continuing process to identify potentially profitable areas of research (areas in both science and engineering that truly require human presence), and to prioritize rigorously these areas. A strong peer review process needs to be in place for this strategic planning. Use should be made of present results and future research planned with the shuttle and spacelab to help in defining not just facilities for a station, but also research areas to pursue (as well as those to abandon).

I noted two items of concern related to the philosophy of utilization. One of these was that there must be an increase in the contributions to the body of peer-reviewed published knowledge from research made using human spaceflight capabilities. This must happen now, before station completion, as well as after the station is beginning to be used for the research intended. I also noted a possible suggestion for the use of "rotator" scientists and engineers at headquarters, on a one or two year term basis, in the peer review/strategic planning efforts. These would be good, senior people, as is done presently in Code S at headquarters.

As far as I was able to ascertain in the time available, the "fenced-off" costs for utilization appear to be reasonable. And it is good to have such amounts identifiable. Of equal importance are the procedures that will be used to apportion costs between the "users" and the program when problems arise in facility development and/or when new research approaches are warranted from new understandings achieved (such as in the case of the present uncertainties in the capabilities of MIR for supporting certain important research areas). The process described at the review for addressing such issues appears to be good at this time. But it is certainly an area that warrants watching.

I noted several issues that continue to bear watching in the case of the international utilization. First, and of major consequence, is the continued evaluation of the true capabilities of MIR, and the processes for making it the facility that could meet the user "requirements". The planning for this appears to be in the right direction at this time.

The entire matter of joint research between nations in terms of intellectual property rights and technology transfer needs more attention. More detailed guidelines and policies must be developed.

I addressed briefly the issues of the capabilities of the station as outlined in the review. First, the entire matter of the facilities, including the centrifuge, are being taken more seriously than they have been in the past. This is not to say that the issues of costs and schedules have been totally resolved; they haven't. But the process appears to be in place to do the team work to accomplish the goals. The capabilities for research in health maintenance and life support require more attention. It is not merely a matter of "more money", it would appear to me (since budgets are going to be limited), but rather a matter of prioritizing such objectives in the over-all strategic planning process. This needs much attention.

On the basis of discussions with colleagues in attendance, I noted the issue of EVA in the context of human capabilities and involvement. The over-all EVA requirements are larger now than in the past. However, it was pointed out to us that much of the EVA is now, with MIR, less time critical than it was in the past. More research is needed in the area of understanding human capabilities in EVA and the benefits as well as the risks. The best policy would appear to be to continue to try to minimize the EVA demands.

I left the review team and the station management team with one consideration that my colleagues and I developed regarding future oversight of utilization matters. That is, NASA should consider the establishment of a truly independent expert advisory group/visiting committee that would critically assess the science, technology, and engineering research program plans, progress, directions, and results on a quasi-regular basis.

I appreciated the opportunity to serve our country as a member of the station redesign review group. I hope that my contributions have been helpful to the federal government with regard to this major space facility.

Sincerely,

LOUIS J. LANZEROTTI.

JMR. ASSOCIATES,
Las Vegas, NV, April 5, 1994.

Dr. JOHN H. GIBBONS,
Science Advisor to the President, Office of Science and Technology Policy, Washington, DC.

DEAR JACK: After attending the review of the International Space Station in Houston on March 25-26, 1994, I wanted to let you know personally how impressed my colleagues and I were at the progress NASA has made since our last meeting in September. There has been nothing short of a dramatic improvement in the program management, budgeting and contract process.

We spent a full nine hours on March 24th with the NASA and Boeing cost teams. With representatives of NASA IG, GAO, OMB OSTP and NASA Headquarters present, the budget numbers for the reserve contingencies and unresolved adjustments were presented for everyone to see. It is a remarkable statement about the new openness, confidence, candor and philosophy of costing.

The costing process is consistent with previous Committee recommendations. We believe that the International Space Station Alpha program can be implemented with an expected budget authority of $2.1B/year. The team, where appropriate, has departed from the use of parametrics and "Freedom" deltas, and relied more on "bottoms up" and/or zero-based estimates. It is a very tight cost picture and we have much more confidence in the costs now than we did a year ago. In our opinion, NASA has successfully implemented a process which exemplifies the concept of the national performance review.

NASA's incorporation of progressive Integrated Product Team concepts, i.e. each team with authority, accountability and responsibility, will maximize the likely achievement of financial objectives. The new single prime and realigned contractor's approach, synergy between NASA, contractor and oversight organization, concurrent fact-finding and constant "real time" problem resolution, provide confidence that NASA can stay within the cost parameters and guidance given by OMB. The Boeing personnel, led by Mr. Larry Winslow, and NASA's new business manager, Mr. Dan Tam, have the leadership and expertise to successfully implement the current station plans on schedule and on cost. As the "scrubbing" process continues toward definitization of the contract, there appears to be resolution of acceptable costs, reserves and award fee structure.

Areas of uncertainty still exist within the Russian area of participation. The NASA program office has not had the opportunity to finalize costs for upgrading the MIR, a service module, the tug and other modifications. The scope of the Russian participation is not as clearly delineated as other participants. However, both parties are actively pursuing resolution and clarification with a target of June 1994. The Russian reserves and cost estimates appear adequate and the contracting process with a "cap" on incurred costs minimize risk of additional NASA expenditures.

We believe that the costs of $2.1B year and $17.4B run-out through 2002 are success-oriented but achievable. It is critical to understand that it is priced to specific launch and operational readiness dates. At this point, critical elements of a successful space station program include a strong national commitment and appropriation stability.

If I can be of further help, please do not hesitate to call.

Sincerely,

JAY W. CHABROW.

U.S. DEPARTMENT OF COMMERCE,
THE UNDER SECRETARY FOR TECHNOLOGY,
Washington, DC, April 1, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Washington, DC.

DEAR DR. GIBBONS: During the meeting on the International Space Station last week, I relayed a saying from an old friend that seemed to capture what I saw during the review in Houston. "Unless you create a burning platform, you can't get people to do their best." I think we must have created a burning platform under space station management last summer.

The original Vest Panel report was particularly critical of the management structure which had evolved to design, develop, and operate Space Station Freedom. Our earlier assessment included such tough statements as "if you can't fix the management structure, you ought to think twice about doing it at all". Many specific recommendations were made which the panel felt were essential for the ultimate success of the program. A comparison between those recommendations and the current management structure is most encouraging. The specific accomplishments are very impressive since last summer. I've listed some of the key ones below:

A quality, single prime contractor has been engaged and is firmly in place.

The NASA Center Directors have been removed from the direct line of management control for the Space Station project.

Significant levels of management have been removed.

The science team leader has been integrated into the management system in an appropriate way.

There has been a large reduction in NASA and contractor support staff.

The Integrated Product Team concept has been aggressively implemented and seems to have removed the bureaucratic oversight functions which previously frustrated decision making and responsibility/authority decision chains.

Safety and mission assurance and audit functions are now essential parts of the over-all team approach. The audit integration teams are integral parts of the management structure and safety personnel are assigned to each of the integrated product teams.

Training issues have been faced head-on and is a priority for the management team.

The international partners have become much more integrated into the management and operational structure, and their feedback at the meeting indicated a remarkable turnaround in this area.

The quality of the management personnel, especially the prime contractor, seems outstanding. The experience level is completely appropriate to the tasks.

Relationships with the sub-contractors appears to be appropriate and effective.

From my perspectives, the major areas of remaining concern are:

The newly chartered independent assessment group seems to be redundant and has the potential of reverting back to the old paradigm of quality control at the end of the process rather than built in as an integral part of the process. If an external review is deemed necessary, it should be a small, expert group that advises the Administrator on an "as needed" basis. A new 110+ organization represents a "back slide" to the previous management style.

The integration of the Russian Space Agency into the management and day-to-day activities is critical and should be accomplished as rapidly as possible.

The articulation of the rationale for the space station has not reflected a strategy which captures the imagination of the public and the Congress. A more realistic vision of the Station as an advanced technology testbed, as a space laboratory, as a testbed for international cooperation in large science and technology undertakings, and as a vehicle for future space industry development must be developed and communicated.

All in all, I think NASA has made great strides forward in addressing the management concerns we voiced last summer. In Houston, we saw an enthusiastic and highly competent space station team that seems fully capable of leading the development of the station and quickly identifying and resolving unforeseen problems in an expeditious manner.

Sincerely,

MARY GOOD.

ANSER,
Arlington, VA, March 30, 1994.

Dr. JOHN H. GIBBONS,
Office of Science and Technology Policy, Washington, DC.

DEAR JACK: Our meeting in Houston last week clarified a number of issues on the international space station. I was highly pleased with the cultural change, management approach, and implementation of Vest Committee recommendations. Russian participation is now largely defined, lacking only the interface control document level of detail. The new partnership and associated communications are working. My confidence level has reached an all-time high and for the first time I can really call myself a "Station advocate."

The reason for this change is simple—Now it makes sense! The program is viable with its new management structure and Russian participation. The Station will be more capable with Russian components. Development risk is reduced with Russian hardware. Operations will begin sooner, at lower costs with Russian contributions. Early use of the Russian Mir Station will refine and enhance operations while we gain valuable experience

in long duration space flight. We have multiple access and broader Earth coverage using Russian launch sites. Logistical support, using Russian launchers, will decrease dependence on the Space Shuttle. We will perform more science with the larger crew, including Russians.

It is often stated that "Russian participation in the Station program is motivated by U.S. foreign policy objectives." Clearly this is as true as it should be; and as it has ever been. However, the statement misses the point. Russian participation brings added capability and credibility to a previously much maligned and troubled Space Station program.

I now strongly endorse the program. NASA has performed a remarkable management turnaround and the Administration's Russian initiative has brought great strength and agility at reduced cost, while supporting broader foreign policy goals.

I am pleased to have been able to participate in this effort.

Sincerely,

JOHN M. FABIAN.

WIND TUNNEL STATUS—MAY 20, 1994

The National Facilities Study led by NASA with DOD, Commerce, Transportation, and Energy participation, was released May 9. The study recommends the construction of two new wind tunnels to provide U.S. industry with a competitive edge in the next round of wide-body commercial transport competition. The latest cost estimate for the tunnels is $2.55B; however, the Administration's cost target is two tunnels for $2B.

On April 12, a notice was published in Commerce Business Daily announcing NASA's intent to award a sole source contract to Boeing to perform studies associated with the proposed tunnels. These technical studies are needed to better estimate the capabilities and cost of the tunnels. The contract may be awarded within the next few weeks.

NASA has $74M which was appropriated in FY 1994 to perform studies; it is NASA's intent to use those funds over FY 1994 and FY 1995 to perform technical studies, preliminary design activities and relevant siting and environmental activities. In the near-term, only non-site specific activities will be conducted.

An industry teaming agreement was signed on May 9 to conduct Phases 1 and 2 of the wind tunnel program. Boeing is the team leader (and prime contractor for above-mentioned contract). Other participants are McDonnell Douglas, Lockheed, Pratt and Whitney and General Electric Aircraft Engines. Rockwell and Northrop also may join the team. The industry team has agreed in principle to an innovative approach to manage, finance, and construct the tunnels, which would make them more affordable, including an equity investment by industry.

On May 16, the industry team met with Administration officials from OMB, OSTP, National Economic Council, Council of Economic Advisors, Department of Treasury, National Security Council, Commerce, and NASA to discuss the economic rationale and national need for the tunnels. Additional meetings are scheduled.

Regarding siting of the proposed tunnels, the goal is a fair and open evaluation and selection process, driven by best commercial practices. A final site selection may come as late as late 1995, pending successful conclusion of the Environmental Impact Statement process at one or more candidate sites. The proposed process will be reviewed with the Administration and Congress before implementation.

A "go/no go" decision on this initiative will be made by the Administration as part of the FY 1996 budget process.

Mr. GLENN. I know I have talked awhile tonight.

I urge my colleagues to vote against the amendment proposed by Senator BUMPERS. I think it would be tragic if we went this far and then did not avail ourselves of the opportunity we have with the space station.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in support of the Bumpers amendment.

I think we have to recognize that we have to make some tough choices around here. This is one of those things that is, frankly, just not necessary. I think the evidence on that is overwhelming.

I would like to first of all commend Senator BUMPERS. He has been a tiger on this. I saw an earlier chart with a balanced budget amendment. My hope is that Senator BUMPERS will join the Presiding Officer and me and others in voting for the balanced budget amendment. The reality is we do not have to make the tough choices around here because we do not have that fiscal discipline.

Thomas Jefferson was right when he suggested the need for a balanced budget amendment, as he was on so many other things.

This is going to cost $2.1 billion for the next couple of years, and then it goes up from there. What could we do with $2.1 billion? First of all, I hear a lot of talk about the GATT treaty and where we are going on that. If we adopt the Bumpers amendment, that takes care of the cost of the GATT treaty. We could double the amount we spend on cancer research at the National Cancer Institute. We could double AIDS research. In 2 months of the space station, we could pay for the entire Rwanda relief program.

I heard my friend, Senator GLENN, and I have great respect for Senator GLENN. I think he is one of the really fine, capable Members of this body. If anybody ever has any question about his courage, just look at that little tiny thing he got into, which is infinitely smaller than these shuttles that we send up to space now. It took incredible courage to get into that thing and be the first American to go into space. But he mentioned the math benefits. For $2.1 billion, we could have the finest summer institutes for every grade school, high school, and college math teacher and science teacher—summer institutes to bring them up to grade and really do something in education, infinitely more than we are going to do here.

Listen to what Lennard Fisk, former NASA administrator for space science, has to say. This was in Aerospace America magazine in May of this year:

Space science is poised to decline, and human space flight is left with a Faustian bargain. It can spend over $6 million a day plus related shuttle costs, pursuing an ever-elusive station. Or, by Herculean effort and perhaps sheer good fortune, it can actually build the station—in which case NASA will be burdened for a political eternity with operational costs, restricting it from making a meaningful contribution to the advancement of technology and science.

That is the former NASA administrator.

James Van Allen, for whom the Van Allen radiation belts are named, in Discover magazine of July, a month ago, wrote:

The shuttle and space station represent precisely the opposite of everything (Dan) Goldin says he wants . . . they are bigger, slower, more expensive, and worse.

The evidence from the scientific community is simply overwhelming, unlike some other things that we have turned down. I am not saying we were wrong in turning them down, but the big project in Texas, the scientific community was overwhelmingly for it, and we said no, we do not have the funds for it. Here the scientific community is overwhelmingly against it, and we seem determined to go ahead with it. I will be pleasantly surprised if DALE BUMPERS prevails on this amendment. But I occasionally have been pleasantly surprised around here.

Let me quote from a CBO study:

NASA's strong tendency to underestimate the costs of its project is a third characteristic that compounds the risk of the agency's marginal adjustment strategy.

Finally, it says:

The analysis suggests that if spinoffs from NASA's program were important in the past, they are unlikely to be as important in the future.

We have to make tough choices, and I think this is one where the American people—while there is some popularity to a space station, it simply is not worth the expenditure.

I am pleased to cosponsor and support the Bumpers amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the Bumpers amendment at 9 a.m. on Wednesday, August 3; that there then be a time limitation of 1 hour and 45 minutes remaining on the amendment, with 30 minutes under Senator MIKULSKI's control, 16 minutes under Senator BUMPERS' control, and 15 minutes under Senator METZENBAUM'S control; that a vote occur on or in relation to the Bumpers amendment at 10:45 a.m.; that no amendments be in order to the Bumpers amendment; and that no other space station amendments be in order to the bill; and that at 9:30 a.m. tomorrow, Senator GRAMM of Texas be recognized to speak on Senator MIKULSKI's time for up to 15 minutes.

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

Mr. MITCHELL. Mr. President, I thank my colleagues. A vote will occur on or in relation to this amendment at 10:45 a.m. tomorrow morning.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. I ask unanimous consent that a legislative fellow serving in my office, Deborah Reilly, be granted the privilege of the floor during the consideration of this bill.

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

Mr. HEFLIN. Mr. President, it is my understanding that while the Bumpers amendment strikes the amount of money allocated toward the space station, it does not direct where it will go. It is not a deficit reduction amendment. It is an amendment that, in effect, means that the Appropriations Committee could allocate in ways that it might deem appropriate to certain other areas of activity. Some could be in this particular area, the VA-HUD Independent Agencies, or some could go to others. So there is no assurance, according to what we have here, as to where the money might go. So a person who is weighing in balance one program against another program therefore has nothing to weigh. So you do not know where it is.

In effect, by voting for the Bumpers amendment, you are giving the Appropriations Committee a pig in a poke, and saying "Here is over—what I believe is around $3 billion," somewhere in that neighborhood of what it strikes altogether—saying, "You go ahead and take this money. The Appropriations Committee has met and has gone through their allotments, and they have divided it up, and we do not know exactly where it might go into the future."

Therefore, a person who is called upon to vote, who normally would weigh various projects in balance and say, well, we need this program as opposed to that program, is not given that opportunity. So I just wanted to mention that in the beginning here.

I am in strong opposition to the amendment before us, and it is my privilege to report to the Senate today on the remarkable accomplishments of NASA and the new International Space Station management team, headed by a very able and outstanding administrator, Dan Goldin. I have been, and continue to be, a strong and vocal supporter of the International Space Station and vigorously oppose this attempt to terminate the program.

I share with many in this Nation and this Congress a vision of maintaining and expanding the human experience in space. We have taken a huge step forward on the path to realizing this vision, and I am pleased to share with you the accomplishments of the new project management team.

The program now has a distinct management structure with clear lines of responsibility and authority. One center has been designated as a host center to facilitate program administration, and one contractor was selected as the prime, with all others working as subcontractors. Transition to the new configuration and management structure is complete. The new management structure includes a concept widely embraced within the private sector, a tenet of total quality management known as the Integrated Product Team. These teams are a flexible management tool designed to bring together experts from several fields to work individual issues, solve problems, improve communications, and speed decisionmaking.

Each station product will be managed by a team of NASA, contractor, and international partner experts. Teams include operations, science utilization, safety, procurement, and program control analysts to ensure all requirements are met. Early interaction with hardware and software suppliers assures requirements are understood and checked throughout development. The Integrated Product Teams control their own technical plans, schedules, and budgets.

All team members are accountable for results and understand that their decisions affect overall station resources, costs, schedules, and success. Team members may change as life cycle development requires different areas of expertise. Use of the Integrated Product Team places both authority and responsibility right where it belongs, where the work is being done.

This is a level of accountability which encourages everyone to get the job done, and get it done right the first time. The incredible amount of work delivered over the past year reinforces the value of the Integrated Product Team and demonstrates what our talented, skilled, and experienced workforce is capable of accomplishing when given the proper environment to excel.

The accomplishments of 1993 and to date are many. The system design review in March of this year provides the following information relative to the status of the space station program.

The critical design review has been completed for five major components, including the U.S. laboratory module.

All subcontractor design reviews have been completed and over 90 percent of review actions coming out of them have been closed.

Over 4,800—or 89 percent—of the flight hardware design drawings have been released.

Thirty-eight thousand five hundred pages of software requirements and detailed design documents have been released.

A space station environmental control and life support experiment was fabricated and flown on a recent shuttle flight.

Portions of node 1, the payload for the first U.S. launch, have been completed. Several sections of the main truss structure, the backbone of the station, are complete. Solar array equipment is being built and tested, and test components are being delivered to Russia. Over 25,000 pounds of test hardware have been built, much of which will serve as flight hardware. By this time next year, over 75,000 pounds will be completed.

The international space station design incorporates approximately 75 percent of its predecessor's hardware. It is not as though previous plans were completely scrubbed and the redesign sketched on a clean sheet of paper. In fact the new design provides some significant advantages.

Compared to the *Freedom* design, the international space station has nearly twice the power, almost double the pressurized volume, and twice the number of laboratory modules. The station will orbit at a higher inclination, broadening the band of the Earth's surface and atmosphere visible to the station. The crew size has been increased from four to six full-time crew members. The amount of extra-vehicular activity, or spacewalks required to construct the station has been drastically reduced, thereby reducing program risk.

Dedicated and skilled men and women from around the country, and around the world, have been working hard toward accomplishing their goal of building the world's first international orbiting laboratory in space.

Our international partners report their progress toward our mutual goal:

Canada completed the critical design review for its component in 1993.

Japan completed its preliminary design review for the Japanese experiment module in 1992, and has its critical design review schedule for 1996.

The European Space Agency's attached pressurized module will be ready for its scheduled launch date, and the Ariane 5 launcher is under development.

The Memorandum of Understanding and Joint Management Plan with Russia is nearly completed. The Statement of Work leading to a fixed-price contract has been developed.

Several members of the Advisory Committee on the Redesign of the Space Station, which is commonly known to those in the space and scientific area as the Vest Committee, chaired by the Massachusetts Institute of Technology, has had the opportunity to review the status and progress of the space station program when they met with program managers in Houston during the spring. The committee had been formed as an independent group of academic, scientific, and business leaders to evaluate the redesign effort last year. The findings of the committee, published in June 1993, expressed some

rather pointed concerns relative to the execution of the program and made a number of recommendations intended to enhance program management.

I was pleased to learn of the reaction of the Vest Committee members to the briefings presented during the system design review. The members were encouraged to share their personal observations regarding the status of the program. Their review was intense and their comments are dramatic.

Dr. Charles Vest, president of the Massachusetts Institute of Technology and committee Chair reported that there had been an absolute "sea" change, meaning a complete wave change in the management and organizational structure of the program and that it had progressed to an extent that greatly exceeded his expectations. He detailed evident improvements in the budgeting and contracting process which inspired greater confidence that NASA and its prime contractor can stay within the cost parameters and guidance given by OMB.

He noted improvements in technical and operational matters, as well as in research utilization of the completed station. He observed remarkable progress in integrating our international partners into the management and operational mainstream.

Dr. Vest stated categorically that it is absolutely essential that budgetary stability and firm national commitment be established.

And to me this vote that we are having today will go a long way toward giving us budgetary stability and firm national commitment. I feel if we win this vote in the neighborhood of 60 votes it ought to send a message that we ought to have budgetary stability and firm national commitment and to proceed with certainty in order to have proper planning.

John Fabian, a member of the Vest Committee and president and CEO of Anser states "My confidence level has reached an all-time high and for the first time I can call myself a 'Station advocate'."

Let's repeat that. He says that. . . . "for the first time I can call myself a 'station advocate'."

Professor Bradford Parkinson of the Hansen Experimental Physics Laboratory at Stanford University provided extensive comments relative to technical and mission assessment. He states that the Russian contributions should optimize the scientific and engineering returns from this world-class research facility. He concludes by stating that he and many of his colleagues believe that we must be unabashed in advocating a strong, balanced NASA program as a harbinger for the future.

I applaud the efforts of the Vest Committee Members and value their assessment.

I would like to also take the time at this time to applaud the efforts of the administrator Dan Golden, who has worked so diligently and has provided great leadership in regard to the redesign of the space station and in regard to the management of a proper approach that we have today and for his approach toward the fiscal matters pertaining thereto. He has done a tremendous job.

Proponents of this amendment contend that within the NASA budget space science mission have been delayed, starved, or cancelled for want of funds while NASA spends an ever greater share of its budget on manned space flight. Actually, shuttle operations have been cut 15 percent per year for the past 3 years, and the science budget has increased from 22.4 percent of the budget in 1994 to 24.3 percent in 1995. Since 1991, funding for Mission to Planet Earth has increased 69 percent, Aeronautics funding increased by 42 percent and Microgravity and Life Sciences funding is up 40 percent. Two new robotic planetary missions were started this year, and a low-cost, rapid-schedule mission is planned for 1996. Long-distance, high-endurance missions are best performed through robotics. There are other missions which require the flexibility and judgment to receive, interpret, and manipulate data, and adapt as the mission progresses. These missions require a more sophisticated computer—the human mind. The goal is to program the right balance between these two types of missions. And thanks in large part to the dedicated efforts of both NASA programmers and the members of the Subcommittee on VA-HUD and independent agencies, we have before us a balanced program which provides for both types of missions.

Another comment frequently made on this floor is that the station, and NASA, have eroded the budgets of the other agencies represented in this bill. That charge is completely unfounded. A comparison of the fiscal year 1994 and fiscal year 1995 recommendations for the major agencies contained in this bill clearly shows that NASA is the only appropriation whose budget recommendation declined. The VA appropriation went up 3 percent, the HUD appropriation went up 3 percent, the EPA appropriation went up 13 percent, and the NSF appropriation increased by 15 percent. Clearly, NASA and the space station are not being funded at the expense of other agencies.

Mr. President, the international space station is well on its way to reality. I am convinced that the time is right for the Senate to state—categorically—its commitment to the international space station. The House has voted overwhelmingly—278 to 155—in support of the station. The administration is firmly committed to achieving the promise of this program. NASA, its contractors, and the thousands of men and women around the world who are dedicated to the construction and operation of the international space station have done everything we have asked of them, fixed each of our concerns. We must tell them today that we have seen their hard work and recognize their accomplishments.

I strongly encourage my fellow colleagues to stand with me in supporting the completion of this truly visionary project.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. I thank the Chair.

Mr. President, I rise this evening to support the amendment offered by the senior Senator from Arkansas [Mr. BUMPERS]. If I did nothing else tonight, I want to take this opportunity to again say that the senior Senator from Arkansas has really been an inspiration since I have been here on the deficit reduction issue. A lot of us who were elected in 1992 thought we would come here as a new group and we would have to sort of stimulate the deficit reduction issue here. But I found that there is no one who is more dedicated to try to cut out waste in our Federal Government than Senator BUMPERS. I greatly appreciate his making this effort with regard to the space station possible.

With this amendment, Mr. President, we have an opportunity and really, unfortunately, I have to say, yet another opportunity, to terminate funding for the space station.

I have been somewhat gratified by the work this Congress and President Clinton have done in reducing the Federal budget deficit. We have done a fair amount in the last year and a half.

Through targeted revenue increases and substantial cuts in Federal spending programs, the Federal budget deficit is anticipated to be well under $200 billion for fiscal year 1995. And while we should all be pleased with the direction we are going in terms of deficit reduction, Mr. President, getting the deficit under $200 billion is similar to the mountain climber who has climbed just half way up the mountain. We have come a long way, but we have much more progress to make, and perhaps the toughest work and the most painful decisions lie ahead of us.

Mr. President, I think this is true, even if our goal is not to completely eliminate the Federal deficit, which is what I would prefer. Even if we want to maintain a level of annual deficits, say, of $150 billion a year, where we are approaching at this point, we will have to make many more tough decisions, and those decisions will have to include, in my view, further cuts in the Federal Government.

I know that over the course of this debate several Senators will mention that we have recently celebrated the

25th anniversary of the first manned lunar landing. Thanks to the vision and commitment of President John F. Kennedy and many others, the United States was able to complete this remarkable achievement in less than a decade after President Kennedy had suggested that such an endeavor could occur and could be achieved.

I recall, as a small child, when Alan Shepard first went into space. I recall very well being told in grade school when our dear colleague, Senator GLENN, did his famous mission. And I remember 1969, when the three astronauts landed on the Moon. I was aware of that; every child in America was aware of that, and we felt tremendous patriotic pride each time one of those events occurred.

But what I did not know was going on, which was also good, was at that time during the 1960's, the primary decade that the United States was investing billions of dollars into the space program, the average annual deficit in the Federal budget was only $5.5 billion. In 1969, the year the Apollo 11 landed on the Moon, we had a surplus in the Federal budget of about $3 billion.

This was, in fact, the last time we had a surplus in the Federal budget. Since 1969, the year of the landing on the Moon, the size of the annual deficits has risen dramatically, and through 1994, the average annual budget deficit for the 1990's has been a staggering $253 billion. With this in mind, we must ask ourselves if we can truly afford a project that will cost us at least $75 billion using even the most conservative estimates.

Many of my colleagues have made strong arguments with regard to the merits of building the space station. It is possible that investing in the space station may harvest long-term scientific benefits. But I am certainly not willing to gamble on this possibility with the financial future of our children and grandchildren.

Since President Reagan initiated the space station *Freedom* project in 1984, we have spent over $11 billion. Many of my colleagues and fellow space station opponents assert that we have spent this $11 billion and have nothing to show for it—no hardware, no shuttle launches, and certainly no breakthroughs to date in medical research. What we do have to show for this is an additional $11 billion tacked on to our nearly $5 trillion debt, not to mention the interest we will be paying on this tab over the next several years.

Now, after countless redesigns and funding reestimates, NASA is again coming to us and saying "Trust us, this time we know what we are doing—and, oh, by the way we need another $2.1 billion for operating and construction expenses this year." Though NASA tells us that the total cost estimates through 2002 will be only $17 billion—only $17 billion—these are only the construction costs to build the station and do not take into account the $13 billion it will take to operate the station and the over $32 billion in shuttle launches that NASA tells us will be necessary over the 10-year life of the space station. When you add up the real costs of the space station you find that the total price tag will be at least $75 billion. And again, this does not take into account how much our children and grandchildren will be paying in interest payments on this $75 billion that we will need to borrow.

I would also like to point out, Mr. President, that in opposing the space station, I am not necessarily indicating opposition to all space programs and scientific research initiatives. I support many of the programs NASA is currently involved with. Part of my concern about the space station funding comes from the recent report by the Congressional Budget Office that this program, with its tremendous costs, is draining scarce NASA funds away from other research-oriented projects, and funneling virtually all of that money into the space station.

Moreover, one of the great promises of the space station is that it will lead to enhanced efforts in medical research and biotechnology. I must point out that the $1.9 billion we are debating here today rivals the roughly $1.9 billion that constitutes the entire annual budget for the National Institute of Cancer. I welcome the opportunity to discuss and compare with any of my colleagues the recent track records of those who are constructing the space station and those invaluable scientists and medical professionals who have made dramatic progress in discovering effective treatments and cures for various forms of cancer.

Finally, I recognize that there are many jobs that could be put at risk if the funding for the space station is terminated. No question these are good-paying, high-technology jobs in the aerospace industry, the kind of jobs that we as a nation should be investing in. I am prepared to work with my colleagues from Texas, Alabama, California, and other affected States in finding alternatives to completely eliminating these jobs. I think it is reasonable to look at that. If it means retraining programs, I am prepared to consider that. The aerospace industry is an important one, and shifting our spending priorities within the space program does not necessarily mean that we have no more use for these workers. I firmly believe however, that we cannot continue a Federal spending program for the sole reason that it provides high-paying jobs in a select number of States. We must look at more important factors, such as the merits of the programs and whether we as a nation can afford to spend billions of dollars on a project of questionable value.

I would like to conclude by reminding my colleagues that we have all heard the grandiose speeches calling for spending cuts. But time and time again those speeches are disregarded when it comes time to vote in the U.S. Senate on specific spending items. I have repeatedly voted for spending reductions, not always necessarily because I oppose those particular programs, but because I am convinced that the dangers of continued bloated deficits far outweigh the merits of those programs I voted to cut. I do not see a lot of difference between this debate and last year's debate over the superconducting super collider which this Congress, somehow—almost miraculously was able to defeat. That debate seemed to send a message that Members of Congress were willing to put all spending programs on the table, and even projects with arguable scientific merit should be closely scrutinized at a time of fiscal crisis. I am deeply troubled that when the final vote on this debate is taken, that this body will have taken a giant step backward even though a host of nonprofit organizations including the National Taxpayers Union, Citizens Against Government Waste, and Friends of the Earth all agree that this is one of the biggest pork-barrel items in the Federal budget. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin yields the floor.

The Chair recognizes the Senator from Alabama [Mr. SHELBY].

Mr. SHELBY. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Arkansas, Senator BUMPERS.

Commitment, Mr. President, that is what this debate is about. It is about this country's commitment to the future, to improving life on Earth and to creating new opportunities and hope for our children and our children's children. It is about sustaining human life beyond this planet.

The world, the universe we live in is only as big or small as we choose to make it, Mr. President. Columbus' discovery of the new world demonstrated this; although trying to prove the latter rather than the former, it was his foresight, his forbearance, his sacrifice and his commitment to discovery that set him on a course toward the unchartered boundaries of the world he lived in.

Where would we be today if Congress had pulled the plug on the space program in the early sixties because of the high cost and low return on the NASA space program? I suggest we might be reading about Yuri Gagarin in our history books instead of Neil Armstrong as being the first man to walk on the Moon.

Conquering new frontiers is expensive and it is a long-term effort to be

sure. But, Mr. President, this is undisputed: The issue raised here is not whether or not the space station costs a lot of money, it is whether we should spend all of our money on today or invest a little bit in tomorrow.

Opponents suggest that as a practical, budgetary matter, the Space Station costs more than it is worth and that we should therefore stop funding it now and redistribute that money to more pressing social programs.

As a practical, budgetary matter, we would be foolish to withdraw our investment in the space station now.

It would cost us more now to back out of this international venture than it would to continue. And it could cost us more than the billions of dollars we have already invested in developing the space station.

It could cost us years of hard won preeminence in space research and exploration; it could cost us international credibility as a world leader; it could cost us incalculable opportunities and discoveries—about this world and the universe we live in.

We do not know what all the costs are because we don't know what we may be missing out on by canceling funding for this program.

As I see it, one of the most important Federal priorities of any government is to create opportunities for a better life in the future. We can not effectively do that anymore by just pumping money into life on Earth today. We must look ahead. We must search for ways to sustain our society, our culture, our life into tomorrow.

Indeed, the answers to many of our problems on Earth today may be answered from our knowledge and understanding of space. There is no way we can conduct the kind of advanced research and development necessary to such an understanding by looking through a telescope. We need to be in orbit not on Earth.

The space station is not some pie in the sky ideal, some multibillion-dollar floating piece of nuts and bolts as the cynics would argue—rather, it is only as real and tangible and successful as we choose to make it.

The space station represents a legacy for our children and our grandchildren—and it may be the only positive, beneficial legacy we leave them at the rate we are going in this country.

About all this body does, sometimes is spend for the present and worry about the future tomorrow. It is our trademark. Half of every Federal dollar is already spent on direct benefits to individuals. What is $2 billion out of a budget of $1.5 trillion? I say it is a small, but significant, investment in tomorrow.

The administration thinks this program is important, the majority of Congress thinks this program is important and the American people think this program is important—and it is.

Look at your corner marquee, or drop by your neighborhood video store, or check your local listings.

What was once considered the stuff of fantasy or science fiction is now accepted as predictions into our future—previews of the reality of tomorrow. "Star Wars," "Star Trek," "Buck Rogers"—much of our modern culture sees space exploration and travel as the logical evolution of our civilization. And, I believe it is well-placed, it could be the future of our civilization if we choose to make that commitment—that commitment of leadership, that commitment of purpose, and that commitment of resources that is prerequisite to any successful space program.

So, tonight I ask my colleagues to join me in reaffirming this country's commitment to our future by opposing this short-sighted attempt to strip funding from the space station.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY] yields the floor.

The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the presiding officer very much.

Mr. President, I rise in opposition to this amendment that calls for an end to the space station—complete, total end.

Everybody in this body knows how the Senator from Arkansas feels about the space station. He has had the conviction and the courage to wage this fight for many, many years. I respect him for that. But in the meantime, a lot has changed to convince me that the Congress now should support, and should fund, and should take an immense interest in NASA's space station program.

Last year, I became chair of the Senate Subcommittee on Science, Space and Technology, and that entailed on my part the immediate obligation to take a very fresh look at NASA's mission, the entire agency's mission, and our country's objectives in our overall space program. I take that work seriously and I will continue to take that work seriously.

I made a special point of taking an intense and, frankly, somewhat wary look at the space station program. At the very same time, it turned out that the new administration had exactly the same questions and the same interest in addressing past criticisms, some of which had been valid. They were willing to look at problems forthrightly that had cast such dark shadows over NASA as a whole and this particular program for far too long.

Within his first months in office, President Clinton directed a major redesign of the space station to reduce its costs. I know that is the kind of thing people say, but I talked with the President during the campaign a number of times about this, as I did the Vice President, and he was determined in this mission: Redesign, better use of money, better efficiency, better purpose.

But his charge was really much more than saving money. He called on NASA to rethink its programs's objectives—the entire agency—and address some very valid concerns of our main international partners in space then—Japan, Europe, and Canada.

As a result of this, when NASA ultimately produced the station's redesign last year, it won the seal of approval from a very good West Virginian, who happens to be the president of the Massachusetts Institute of Technology, Dr. Charles Vest, and a resounding endorsement from a team of highly respected independent experts assigned to review the new program.

My conversations with Charles Vest have been very important to me because he is a stringent critic in general of science, and he deals with it, obviously, at his institution. He had major questions. He is a very different person about the space station now than he was several years ago. I know that from experience.

President Clinton, for his part, went on to recommend to Congress the idea of supporting a very bold initiative: Russian participation in the space station program, something most Americans would have never thought about or thought possible if they did think about it.

From a purely cost-saving perspective, and budget has been brought up tonight, NASA has estimated that Russia's participation will lower our own costs of development through the purchase of existing Russian space hardware and technology. In fact, Mr. President, in exchange, NASA values Russia's contribution to the program at roughly $5 billion—$5 billion—that they pay that we do not.

Over the past 20 months, I have worked very closely with my colleagues in the Senate and the House of Representatives and key officials from NASA and the administration, to review the progress made to reinvent NASA in the post-cold-war era. With my very good friend and colleague, the Senator from Montana, CONRAD BURNS, who is the ranking member, I have held a number of hearings on NASA, including its relevance to the economy. And here the Senator from Maryland and I, once again, share very strong solidarity. Relevance to the economy is important in everything, to the American economy now. Also, its performance and its annual budget requests.

But by far the greatest amount of time that I spend on NASA has been spent on this one program—the space station.

Meeting with experts and outside groups, I have had intense discussions with the Vice President and the NASA

Administrator on the role the space station plays within NASA and its importance to the foreign policy and science objectives of the United States.

A word on Dan Goldin. NASA has not had a leader like Dan Goldin. Dan Goldin, Mr. President, if you have met and talked with him, is abrasive, abrupt, fairly curt, and almost always right.

I have not seen an Administrator like that in my time in the Senate. I am impressed by Dan Goldin. In my remarks, I have given sort of the image of Dan Goldin directing not only NASA but the importance of the space station within NASA. He is an extraordinary leader of that agency.

So based on all of this, I have concluded that the space station program that we have today is sustainable, and is sustainable on many grounds. My distinguished colleague from Arkansas has argued that we should terminate funding for the space station today because we have funded the program for 10 years with nothing to show for it. My friend from Wisconsin, made the same point.

I acknowledge the validity of that point if we were standing on this floor a couple of years ago. But we are not. Again, we are now debating a redesigned, rejuvenated, and redirected program housed in an agency that also is expected to get leaner and better at everything that it does. Layers of management and bureaucracy have disappeared from NASA to reduce the station's development costs.

And now finally, Americans can look forward to the first element launch of the space station in 1997, only 3 years away, and permanent human capability in the year 2002.

My colleague has also questioned how Congress can vote for deficit reduction and yet fund the space station, and my colleague from Wisconsin raised the same point. I start by pointing out that Federal funding in this country for research and development has continued to shrink as a percentage of our budget.

This is not welcome news and, yes, Congress has to make the difficult choices among competing demands that are put before us. Just within this appropriations bill, which is extraordinarily complex, many tough decisions were made to make resources available for some priorities at the expense of other requests that did not seem as urgent and essential. A lot of very tough decisionmaking was made in this appropriations bill. That will not be appreciated by many because they did not have to go through what the Senator from Maryland has gone through, but she has gone through it and has done it, and there are extraordinary decisions that are made here.

However, our responsibility to future generations—and I think this is an important point. We talk constantly about the budget deficit. I voted for Gramm-Rudman-Hollings, I voted for the Budget Act, reconciliation bill. I did not use to be as concerned about budget deficits as I am now. I now take it as part of my being that we must spend less, do more with less.

It is a challenge to a modern legislator. But I repeat, our responsibility to future generations is not summed up in one act, and that is the one act of reducing the Federal deficit. That is not the entirety of what defines our responsibility to those who follow us. If we pursue that necessary and worthy goal by cutting a destructive path on the way, we will do far more harm than good. Ask a family, ask a business whether it understands the difference between investments and paying off debt. You have to do both, and you have to do them at the same time if you are looking ahead.

That is what funding the space station is about. We can continue to reduce the deficit, as some of us insured through what I really do consider an historic vote for the economic plan that we passed last year, but at the same time we can invest in the elements of a country whose strength is about breaking barriers, whose vision and magic is about exploring frontiers, making progress in knowledge and in technology. If we are to reach our 11- and 12-year-olds and 13-year-olds, and have any expectation that they will desire someday to be engineers and scientists, we have to reach them in more ways than simply the classroom and the books that they read in the classroom alone. There has to be a larger vision. There has to be an imagination which is uniquely American, which captures their attention and redirects some of them off into our future makers of genius.

The space station is one of the key science and technology investments that we must make to maintain the vitality of our industrial base, Mr. President. That is especially true as we try to find ways to pour less into defense and more into the civilian sector and into what produces jobs and skills for our people.

A final point is how important today's concept of the space station is to something called foreign policy and international cooperation. The creation of NASA in 1958 and the race to the moon that the Senator from Wisconsin was speaking about sprang from the hostilities of the cold war. Forging a partnership with Russia on the space station, in addition to those already forged with Japan, Europe and Canada, encourages our countries to work together, to work peacefully in the new frontiers of outer space. It is a very exciting start—very, very exciting. Our own national and global security in fact is tied to a stable Russia that is an engaged, constructive member of the international community.

The space station may be our country's best example of international cooperation in the post-cold-war era. That is quite apart from all of the other arguments for it. We are no longer debating a program mired in confusing agendas and careless planning. I voted against the space station several years ago because of confused agendas and no sense of purpose and no sense of leadership. I did not have confidence. I have confidence now in the leadership, in the product, in the planning, and the management of NASA in general and the space station in particular.

This Congress has properly demanded a program that has a mission, a design worthy of support. I believe it has earned our respect. I believe it is now a program that should go forward and chart an exciting part of the future that will help us conduct better research on Earth, that has united the space faring nations and provides a path for former adversaries to work towards a common goal.

West Virginia steelworkers and software engineers and thousands of other Americans have needed roles in this program. There is nothing wrong with that argument.

Gathered together, these tangible and intangible benefits of the space station leave no doubt in my mind that we must continue its support. I therefore urge my colleagues to vote against this amendment, and I would like to specifically thank Senator MIKULSKI for her valuable leadership in this debate and commend her for successfully balancing very complex, very important priorities in this very complicated appropriations bill.

I thank the Chair and yield the floor.

Mr. DODD. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Arkansas. Much of the discussion presented thus far has focused on the national aspects of this program, but I feel compelled to raise some broader points in support of the international space station.

As a member of the Senate Foreign Relations Committee, I have strong reservations about any unilateral action to terminate the space station program. America's investment in the space station is not just an investment in the American space program—it is an investment in the international exploration of space. It is a commitment to a new level of international scientific coordination that we must honor.

Questions have been raised about the cost of such a venture. I think it is important to realize just how seriously NASA and its international partners have taken those questions. Over the past year, engineers, scientists, and program directors from the entire space community have come together to meet the challenge of building and integrating a completely new, less costly space station.

Today, the fruits of that effort are tangible. The international effort has produced an unparalleled product—and for less cost than the original space station *Freedom* design. Clearly, NASA and our international partners have answered the cost challenge.

Likewise, financial commitments from our international partners have increased. Today, our international partners have expended almost $4 billion on the space station program. That figure will likely increase to almost $8 billion with continued contributions to the annual operations cost of maintaining the station. The message is clear—our international partners have put their money where their mouths are, and we should do no less.

Consider for a moment the synergistic benefits of such an investment. Each international partner will bring crucial and innovative technologies to the orbiting laboratory, and each will take new approaches to the problems that we seek to solve in the weightless environment of space. Our joint planning efforts are nearing completion. A new and even more ambitious space station design is ready. We are literally on the brink of a new international effort to explore the last frontier.

This new level of cooperation and exploration could bring the cumulative knowledge and experience of the world's greatest space programs together for the purpose of peaceful scientific research. Imagine the possibilities.

This is not a dream. It is a serious commitment to the future of extended space exploration and research. It brings together the talents, the experience and the financial investment of the international community to further the goal of peace. It is a commitment we must not, and cannot, abandon.

Our commitment is crucial, and it must not waver. We must not permit the naysayers to cloud the argument. America must continue its commitment to space.

I therefore, respectfully urge my colleagues to reject the amendment offered by the Senator from Arkansas.

Mr. BRYAN. Mr. President, I rise in strong support of the amendment offered by the Senator from Arkansas [Mr. BUMPERS].

The most important argument against the space station is quite simple: We cannot afford it.

As the cost of the space station continues to escalate, its potential usefulness continues to decline. The latest NASA estimates reveal an anticipated total cost to complete the space station and operate it for a decade of $72.3 billion—or nearly 10 times the initial estimate of $8 billion proposed by President Reagan in 1984.

We have already wasted $11 billion on the space station. The amendment offered by Senator BUMPERS simply cuts our losses, and saves the American taxpayer over $60 billion in future expenses for this unwise and imprudent project.

Standing on its own, the $2.1 billion a year funding for this space station is questionable, at best. In conjunction with the federal budget deficit, and its effects on other programs, spending $2.1 billion a year on the space station is inexcusable.

Under constant budgetary pressures, the space station program has fallen into a trap all too common in the Federal Government. It is driven solely by the budget number NASA can get through Congress. Scientific concerns, candid evaluations of its mission, and long range thinking about the place for the space station in the context of our overall investment in science are all secondary to the budget. The overriding factor in determining the future of the space station is its budget—a sure recipe for failure.

A strong case can be made that the space station is, in fact, killing NASA. Like many Federal agencies, the NASA budget is essentially a zero sum game. For every new program proposed, an old program must be cut. In an agency dominated by one program to the extent that NASA is dominated by the space station, starting a new program is extremely difficult, if not impossible. Continuing to fund the space station spells disaster for the future of NASA. In essence, we are sacrificing the future of America in space to fund a decade old program with little merit or relevance in today's scientific environment.

As the cost of the space station has increased nearly tenfold, its planned mission has been vastly reduced. When proposed in 1984, the space station was intended to be an observatory for the stars and for the Earth, an assemble point for deep space missions, a satellite servicing center, a factory in space, and a laboratory for life sciences and microgravity research. As currently designed, the space station will serve only as a laboratory.

Even its function as a laboratory has been significantly compromised. The number of racks available for scientific research has been greatly reduced, and it now apepars that many of the types of experiments proposed for the space station could, and probably will, be performed for less cost on Earth, on the space shuttle, or on other, lower cost spacecraft.

I am also concerned by the recent changes which tie the space station so strongly to the Russian space program. While I share with most people the great interest in what is happening in the former Soviet Union, it is clear that Russia, or any other of the former Soviet Republics, is not a suitable partner for a scientific project of such magnitude. In fact, accommodations made to make our space station compatible with Russian involvement have further compromised the design of the space station. Quite simply, Russia is unstable, and we should not be spending $2.1 billion on a space station program dependent upon its future involvement with the United States.

I am willing to make the prediction that the space station as it is currently proposed will never be completed. At some point, NASA will be forced to terminate the space station project. It is in the interests of the American taxpayer, as well as NASA, that this termination occur sooner, rather than later. I urge my colleagues save the taxpayer's $60 billion by supporting the amendment offered by the Senate from Arkansas.

Ms. MIKULSKI. Mr. President, I rise as the chair of the subcommittee and in opposition to the Bumpers amendment. But before I do, I would like to thank the Senator from West Virginia for his very gracious comments about my work as an appropriator. But where an appropriator can work with an authorizer, the task is made easier and I believe makes for wiser, more prudent and targeted decisions. The Senator from West Virginia chairs both the Subcommittee on Space in the Commerce Committee and chairs the full Committee on Veterans Affairs. So we have been a one-two team here, working in tandem, and it has been a personal delight. But I also believe America has been well served by our partnership in focusing on what are the real needs and how to address them in specific and pragmatic ways.

Mr. President, I have been listening to the debate on the space station. Of course, I have been listening to the debate on the space station for 8 years because I chair this subcommittee. I want to say to the Senator from Arkansas, who has offered the amendment to defund the space station, that I admire him. I know he cares deeply about the people of Arkansas and about the people of the United States. And he has been a very articulate voice every year on controlling the deficit.

We have been cutting our deficit. We have been cutting our deficit without cutting our future. There are two types of public spending: Those that you did not get anything for your money and those that are public investments that ultimately generate the new ideas that lead to the new products which lead to the new jobs. That is what I believe the space station is. It is a public investment in research and new technologies that will have important value to both space science and also will be value added to commercial products.

I believe the Senator from Arkansas is making the wrong recommendation with his amendment. I believe it is wrong for our economic future, and I believe it is wrong for foreign policy.

Mr. President, 25 years ago, our Nation launched a space program that is

one of the greatest accomplishments of this century. On July 20, 1969, our astronauts, Buzz Aldrin and Neil Armstrong, became the first human beings to walk on the Moon, the crowning moment of the Apollo space program. We were all inspired by that. Not only were we inspired, but out of the Apollo program came technologies that are benefiting American citizens in their day-to-day lives right now. And like all of America, I lived through the drama of the cold war space race. I was a young woman in college in the 1950's when Sputnik shattered America's complacency about its technology superiority.

In 1969, I was fighting the war on poverty in the streets of Baltimore when Armstrong and Aldrin planted a flag on the Moon and made America proud again. They landed, they walked, and they broadcast their astronomical feats to the world. I was mesmerized by the moment. And ever since I became the chairperson of this subcommittee on appropriations I have been a strong supporter of the national space agency, and America's balanced space program. And I am a strong supporter of the space station because it is going to be a significant scientific laboratory. If we manage the project with fiscal discipline, and if we meet the commitments that we have made with international partners, we will be able to hold our head high. And I believe we are accomplishing these things with the International Space Station *Alpha* Program.

A lot of things have happened in the space station program since we had this debate in the Senate last year, and since we began this kind of rolling debate since 1988. I believe now the international space station *Alpha* looks better than ever. We streamlined the management of the space station, reduced its four centers to a single center, and we have a single prime contractor, clear lines of authority, budget accountability, and the cost of it brought down by $2 billion.

In the redesigned space station there will be more space, more electrical power, and more crew members to do research and experiments. With all these improvements, we will be able to save 75 percent of the plans we originally had for space station *Freedom*.

During the debate last year the administration had begun to negotiate with the Russian space agency. Last year, we had not yet finished our redesign of the space station. We had a lot of questions about the program, and yet people still voted to fund it. This year I am going to be able to say that their faith was well balanced. We now have a space station that is a major international scientific collaboration including Europeans, Canadians, the Japanese, and now the Russians.

Back in 1989 while we were furiously building bombs, and bomb shelters, and missiles to aim at the Soviet Union, and they were building bombs, bomb shelters, and missiles to aim at us, we were also involved in a space race. And did anyone dare to hope that in 25 years we would be working together in an international scientific laboratory where all these nations could work on research in space, where we go out together from Earth to explore, to learn, and to work together to learn about our solar system and our universe, and to build new technologies that will improve the lives of our children and our grandchildren here and around the world?

The research we will do on the space station will continue to generate the kind of knowledge that will create the products we cannot now even imagine and treatments once confined to our dreams.

Space technology has already helped us wage the war on heart disease by developing laser systems. It has helped increase advanced and pediatric pacemakers enabling little kids to live longer, and without a lot of surgical intervention. Right this minute there is a little girl being tucked in by her dad, and who is alive because of the pediatric pacemaker and who will be able to replace it as she grows older, stronger, larger because of what this space program has done.

It has created a hearing aid that can be implanted. We have reduced cardiac deaths. We have developed new body imaging techniques for early detection. Right now it is being used in breast cancer research.

This is a wise investment even in lean times because we are saving lives, generating jobs, developing products for global export. But we must invest today to be ready for the world tomorrow.

The space station is responsible for 40,000 good jobs in this country right now, jobs for men and women, blue and white collar, manufacturing workers, scientists, engineers, technicians, and clerks. These are the kinds of jobs that will carry us into the next millennium.

The new Senator from Wisconsin, Senator FEINGOLD, called this the biggest pork project. Well, I did not want to stand up and interrupt his argument. But this is not pork. Pork goes "oink, oink." It does not go "go, go." Pork is an add on, like a baroque object that looks good, but does not necessarily add intrinsic value. It serves either ego or a special interest, and it is fat.

What is the space program and the space station? It is not pork. This is not because of ego. This is because of a strategic plan to be able to take us into the 21st century.

Jobs from the new economy will be based not only in traditional industries and services but also on new technologies, and new products. These are the kinds of investments that will ensure that this Nation is not left out and not left behind. We have addressed the concerns that some scientists had years ago about the space station. And I know the Senator from Arkansas who has returned to the floor would say, "I remember when it was overweight and underpowered." Well, so do I. Now we have been able to streamline that. The design is more efficient, more effective, and more targeted to research. He is going to say, "Well, I remember when it was a transportation mode."

Then the Senator from Virginia, Senator WARNER, said, "Well, it is only good if you want to go to the Moon." I also remember when its original design was to be a conduit in the sky for astronauts going to Mars. But we knew that astronauts going to Mars is going to be a $500 billion undertaking. And we said no way, the subcommittee both in authorizing and appropriations, because we knew this was not a goal that was fiscally achievable in this century.

What we did say is that we need a space station to do the type of scientific research that cannot be done on Earth such as life science microgravity, and other areas of activity.

I believe the space station is on the right track. And I believe our collaboration, now with the involvement of the Russians, will enhance our work and actually save us money because they have some products that we can incorporate, and some technologies that will actually enhance the timeline.

In May 1995 there will be a docking between the United States astronauts and the Russians on *Mir*. For the first time, Russians and American astronauts will rendezvous in space, and not only will they do an extraordinary handshake of peace and friendship and collaboration symbolizing the end of the cold war not only on Earth but in space, but that new handshake will take us to, I truly believe, new cures for cancer, new products of materials that will be safe, will be resilient, will be the kinds of things, alloys, that we cannot yet now dream.

I believe that in May 1995 it would be a national and international embarrassment if we jettisoned the space station and American astronauts and the Soviet astronauts along with the Canadians and Japanese would look across the solar system and be emptyhanded because of the shortsighted nature, the well-intentioned but shortsighted nature, of the Bumpers amendment.

Mr. President, I yield the floor.

Before I yield the floor, I say to my colleague from Arkansas, does the Senator wish to continue speaking on this or are we ready to move to closure on this night's session? I thought it was very excellent debate.

Mr. BUMPERS. Mr. President, I have just 3 or 4 minutes to wrap up.

Ms. MIKULSKI. I thank the Senator from Arkansas being willing to stay

late, to lead the debate, and to bring his supporters over. We have tried to do the same. I thought the debate was rich in content and in a tone civil and courteous.

We look forward to the wrapup tomorrow morning.

Mr. BUMPERS. I thank the Senator from Maryland very much.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I know that the distinguished Senator from Maryland knows that I have the utmost respect for her and her work as the chairperson of this very important subcommittee on appropriations, dealing with the space station as well as housing, and so on.

I have listened as carefully as I could to some of the statements that have been made by people who support the space station. Without being disrespectful, or denigrating to any of them, I would just simply say that many times when I was a trial lawyer it was much more gratifying than debating an issue on the Senate floor.

When I had 12 jurors to speak to who were anxious to hear what I had to say about a case, I knew I had a fighting chance. That is the beauty of the American system of justice. But it has plenty of flaws. As a trial lawyer, I knew that jury of 12 men and women were going to listen. I knew they were going to make up their minds based on the evidence they heard, and what the lawyers said to them in what we call summations. I must tell you one of the things that makes this a depressing place is that speaking in the Senate is not like speaking to 12 jurors. You are speaking to people who, for the most part, have made up their minds. It does not make any difference what the argument is—the vote is not going to change.

My guess is that I will receive about the same number of votes I received last year. The Director of NASA, Dan Goldin, has gone up and down the corridors of the Senate office buildings with a Russian astronaut, making the case that this is critical to American-Russian relations. The Vice President—my former seatmate, who sat right here, my dear friend, who believes strongly not only in the space station, but especially the foreign policy initiative of having the Russians join us in the space station—has lobbied virtually every Senator that he thought might be in doubt.

So, yes, Mr. President, you do not have the luxury of talking to jurors who are undecided and who are going to cast their votes in the jury room based on what they heard. No lobbyists, no $160,000 jobs, just deciding on the merits.

Mr. President, that brings me to a couple of the arguments I heard tonight—as I knew I would—about the merits of the space station; namely, how we would grow protein and material crystals on the space station. Everybody including the people who are in the semiconductor business, and who use crystals, say they do not need it; that there is nothing critical about a wafer or a crystal grown in space that is different from any crystal created on the ground. The difference is that one costs $156 billion, and the other one costs an awful lot less.

Here is what Robert Park said before the Committee on Commerce, Science, and Transportation. Now, Dr. Park is, the director of the Washington office of the American Physical Society. As I pointed out earlier, the American Physical Society is 45,000 physicists in this country. In his testimony, he called it the "microgravity myth"—the idea that you can grow crystals for semiconductors or medicine in space that are purer than crystals made on Earth. Here is what he said:

> The only unique property of a space station environment is microgravity. It is not surprising, therefore, that much has been made of that property in attempts to sell the space station. But many years of research on shuttle flights, and in continuous operations of the Russian space station, Mir, has produced absolutely no evidence that this environment offers any advantage for processing materials or drugs. Indeed, there are sound reasons for doubting that it could. Gravitational forces are simply too weak to significantly affect most processes.

He goes on to say:

> In November, however, a team of Americans that collaborated in protein crystal growth experiments on the space station Mir and on the U.S. space shuttle, reported in Nature magazine that 10 years of work, at stupendous costs, have produced no significant breakthrough in protein crystal growth. No protein has been observed to crystallize in microgravity that does not crystallize on Earth.

Mr. President, everybody who has looked at the growing of protein crystals in space says this is utter nonsense.

But I am not speaking to 12 jurors; I am speaking to Senators who have already made up their minds to spend this $156 billion. I said earlier—and I misspoke myself—that we had never participated with the Russians in a single scientific experiment in space. I stand corrected. We did experiment with them on the growth of crystals and found out it was nothing. Yet, Senator after Senator will get up on this floor and talk about that being one of the principal reasons for going into space, to grow crystals and to cure cancer.

Mr. President, I have never been as certain in my own mind of the righteousness of what I believe as I am about this. I have been a deficit hawk for as long as I can remember, and I am absolutely rapt solid as to how the deficit has been falling. It is the most dramatic deficit reduction by far in the history of the country. But the mentality here is that the deficit is going down; therefore, it will not hurt to go ahead and vote for the space station.

Here it is: $2.1 billion for the next 3 years. Beginning in 1997, almost $4 billion a year. One Senator said that when you consider the fact that we have a $5 trillion debt, that is not very much. What we would spend on the space station in 1997 would run my State for 2 years. That is not very much, folks, but it is big bucks in Arkansas.

So here you see it, Mr. President, $3.9 billion for those years—3.6, 3.3, 3.2, and 3.1 each year after it is deployed. That is $10 million a day. You are not going to believe this, but of this $3.1 billion, almost $500 million of that is for water—to supply the astronauts with water. That ought to be laughable if it were not so serious.

But when Senators start stampeding through that door over there, these arguments do not mean a thing, and once again we will fund the space station and jeopardize the future of the country and the future of our children.

Mr. President, one final thing about the Soviet space station *Mir*. You remember I said they had seven up there. Since 1974, the Russians and the Soviets have had seven space stations deployed. They have one up there now called the *Mir*. It is an interesting thing, they said they developed a flu vaccine years ago, and it was on the front page of every Russian newspaper about how the Russians discovered a flu vaccine they could make in space. And nobody ever heard from it again. Do you know why? Because they found out they could make it cheaper on ground than they could in space. And so it goes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas yields the floor.

The Chair recognizes the Senator from Utah, [Mr. BENNETT].

Mr. BENNETT. Mr. President, I enjoyed listening to my colleague from Arkansas, with whom I sometimes join and with whom I sometimes cross swords. This happens to be one of the occasions when we will cross swords because I am in a different mode with respect to the space station than is he.

I respect his efforts and I respect his integrity for speaking out for what he believes.

The times when he and I have been together have come on issues relating to appropriate business practices, because I come from a business environment. My background is in business. And I am doing everything I can to maintain a businessman's point of view while I am in the Senate and try to avoid the Potomac fever that causes people to lose the perspective that they have after they are first elected. After I've been around here a little longer, that may happen to me. But I am doing what I can to prevent that.

So, I look at this from a business point of view. You may think, Mr. President, I am now going to start to list all of the benefits that will come out of the space station in a bottom line balance sheet fashion. I could do that, but there are other Senators who do that as well or better than I, and I would simply be redundant. Instead I take you to a business experience summarized in a conversation I had when I was the CEO of a company that was growing very rapidly but was still at the time quite small.

I was spending money as the CEO of that company in a research and development mode. Some of the people were concerned that we might not have the money. "Maybe you will postpone spending on those kinds of things until we get really stable. You do not know what you are going to get out of having these R&D people around. And, Bob, why are you spending the money?"

I remember saying to them, "If you do not spend the money on your future, you are not likely to have one."

It just kind of popped out on the occasion, but I liked it, and I repeated it. And I want to repeat it here in this context. If we do not spend some money on our future, we are not likely to have one, even if we cannot at this point quantify exactly what will come as a result of that spending.

Just 2 weeks ago, on July 20, 25 years previously American astronauts landed on the Moon. As I say, just 2 weeks ago we celebrated that anniversary. This is an event that I think changed our perception of the universe and our place in it forever. It inspired the Nation to continue its efforts in space. It also acted as a catalyst to bring our people together in a sense of rejoicing over an accomplishment that virtually nothing else has ever done.

The Apollo landing stands out as one of the most significant events in our Nation's history. Look back over the great civilizations of history. Each one is marked by a crowning achievement that lasts down through the ages: the pyramids in Egypt, the building of the Taj Mahal in India, demonstrating the apex of their architectural excellence, and Angkor Wat in Thailand, and so on—these represent the golden eras of these civilizations.

I think our Nation will be remembered for, among other things, the realization of the dream of human space flight and exploration, and Apollo will be one of those monuments. But if we do not add to Apollo with further monuments, we will end up looking back on that with the same kind of nostalgia that we now use to look back on the Greeks and the Egyptians and others who do not play a major role in the modern world.

I salute the men and women who made the Apollo landings possible, both the astronauts who made the historic voyage and the people on the ground who made the trip not only possible but safe and successful.

When I think on the 25th anniversary of Apollo, it is appropriate that we commemorate that by demonstrating our commitment to keep it up.

As I say, I could give you a list of all of the benefits that come out of space and space exploration in terms of things that have changed our lives here.

I remember seeing a video presentation on public television where an individual was standing in a room filled with medical equipment and said: "I am here in a room with the very latest medical equipment to show you the benefits of space. I am now going to remove from this room everything that owes its beginnings and its technological advances to the space program."

You can anticipate what is coming. In the next visual the room was empty. Everything owed its genesis to the space program.

So I could give you that list. As I say, I will not do that because other Senators have done that, and we have that in the RECORD, and we have that in the speeches on the floor.

I want to concentrate on the issue I have already raised, the issue of investing in the future, the issue of our vision and our concern about wonder.

My colleague from Ohio, Senator GLENN, has already touched on this with his story about Daniel Webster and his inability to see what could come out of the future.

G.K. Chesterton once said, "We are perishing for lack of wonder, not for lack of wonders."

We are indeed surrounded by wonders. But do we have that sense of wonder that I am sure he is referring to? As I say, this is the issue and this is the idea that I want to emphasize today. Think of it. It is a wondrous thing to send a man through space. It is a wondrous thing that men have walked on the Moon. Somewhere, in our debate about appropriations bills and crime, health care procedures, we seem to have lost our wonder.

Mr. President, I am here as the successor to Jake Garn, and those who remember Jake remember him for two things. No. 1, he used to complain bitterly about late night sessions. I am here at a late night session perhaps in honor to Jake's complaint. But, No. 2, he loved space. And he came back to the Senate and made a statement to the appropriations subcommittee about this which I would like to repeat here because it focuses on this issue of wonder.

He says, now quoting former Senator Jake Garn:

> Each time the shuttle flies is a miracle of human capabilities, both on the ground and in orbit. Each flight may not be as flashy or as notable as the Hubble mission, or Endeavor's maiden voyage. But each one provides a treasure of knowledge with great potential for advancement and improvement of the human condition * * *. The possibilities are mind-boggling.
>
> I have been "out among the people" now for the past year and a half. I have spoken to thousands of people in a wide variety of settings and when I speak to them about space, it's not the science or the technology that seems to strike the deepest chords with them; it's the "vision" it's the majesty of it all; the excitement of discovery. In these days when so much of society seems to respond only to things which provide instant gratification, it is heartwarming to me to find so much interest and such an overwhelming response to the "vision thing."
>
> History is filled with examples of once great nations who lost their drive to explore, who turned inward and lost sight of their real place in the world. When they lost that vision, they lost their place of leadership.
>
> Leadership, like trust, must be earned. It must be reaffirmed and proven by consistency in word and actions. My challenge to the President is to demonstrate this leadership; to support and expand this nation's space program; to not be swayed by the naysayers who claim who cannot afford it. I challenge him to allow the space program to embody the fundamental and instinctive need of human beings to explore and expand their horizons—to allow it to hold out the vision of a better understanding of who and what we are, and what part we play in the universe in which we live.

I know that that is in the report language, but I think it is appropriate to repeat it here on the floor because Senator Garn reacted to the wonder of this incredible opportunity and was its champion here on the floor of the Senate for 18 years. And, as a tribute to him, as I say, I think it is appropriate that I repeat this and, it is equally appropriate, as a tribute to him, that I do it in a late-night session.

We will now vote on whether or not to keep the space station. We will look at the charts. We will look at the bottom line. We will make the decision on a sound economic basis.

I am certainly not urging us to do anything that would be economically foolish or reckless or based on pure fantasy. I believe that support for the space station can be justified economically and we can demonstrate that the Nation will indeed get its money's worth.

But I do want to inject this note in the whole debate: Was it worth it for this Nation to go to the Moon? Was it worth it to pay what it cost us to allow the whole Nation to gather around one figuratively giant TV set and watch Neil Armstrong announce his "one giant leap for mankind"? Was that worth it to us as a people?

I venture to say that we will all say yes, not only from what happened on the balance sheet, but for what it did to us as a community. It was worth it because of the wonder. It remains one of the great moments in American history.

So looking back on the first quarter century of American space exploration as marked by Apollo, recognizing, of

course, there was much that went on before that, I find inspiration to continue our march of destiny beyond the Earth. And we cannot continue it without taking the next giant leap for mankind, which is to break beyond our present technology, go into a frontier we have not tried before, and build the space station.

For that reason, Mr. President, I urge all of my colleagues to support the space station and help America keep its sense of wonder.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah yields the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Utah for his excellent remarks. I recall with fondness the work that I did, together with Senator Garn, on this appropriation.

It is a special treat to this Senator to have the support from Senator BENNETT. That certainly was very much in the Garn tradition.

MORNING BUSINESS

JUDGE H. LEE SAROKIN

Mr. DOLE. Mr. President, in the coming days, we are going to hear a lot of overheated rhetoric about how great the crime bill is, but when it comes to fighting crime, actions always speak louder than words.

Yes, we can put more police on the streets. We can toughen the criminal laws. We can build more prison space. But these efforts, no matter how worthwhile, will quickly go down the crime-fighting drain if the Federal bench is dominated by judges who seek to expand the rights of criminal defendants and hamstring law enforcement in the process.

One judicial nominee whose views did not square with President Clinton's tough-on-crime rhetoric was Judge Rosemary Barkett. Another such nominee may be Judge H. Lee Sarokin, who was recently selected by President Clinton to fill a vacancy on one of the Nation's highest courts, the third circuit court of appeals.

In an article appearing in the West Virginia Law Review, Judge Sarokin suggests that the pre-trial and pre-conviction detention of those charged with violent crimes violates the "presumption of innocence." If Judge Sarokin's views were to prevail, it appears that vicious criminals like the World Trade Center bombers would be free to roam the streets of our country at any and all times prior to their actual convictions. The Senate, of course, recognizes that pre-trial detention is an important public safety measure. And that is why we passed an anticrime bill last November that encouraged the States to adopt pre-trial detention laws for those charged with violent crimes.

In the same West Virginia Law Review article, Judge Sarokin also takes aim at mandatory sentencing, insisting that "mandatory and uniform sentencing * * * deprives judges of the right to grant mercy in those instances in which the facts cry out for it." And he argues for an air-tight exclusionary rule, even when the police act in a good faith belief that their search is lawful. The Supreme Court, of course, took a contrary view in the Leon decision, upholding a "good faith" exception to the exclusionary rule.

Mr. President, not only is Judge Sarokin's soft-on-crime judicial philosophy a source of concern, his judicial temperament is a big issue as well.

As a member of the Federal District Court in New Jersey, Judge Sarokin presided over a case in which several tobacco companies were the defendants. During the trial, Judge Sarokin's bias against the defendants was apparently so blatant and so well-publicized that the third circuit court of appeals took the extraordinary step of actually removing him from the case. Even the New York Times applauded the removal, saying that Sarokin had been "far out of line" and had "flunked an important test of credibility."

Mr. President, I have not made up my mind on the Sarokin nomination, and I will continue to examine his record carefully. But from what I see so far, it appears that Judge Sarokin will have a lot of explaining to do at his confirmation hearing tomorrow.

Mr. President, I ask unanimous consent that the article from the West Virginia Law Review and the New York Times editorial be reprinted in the RECORD immediately after my remarks.

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

[From the West Virginia Law Review]

BEWARE THE SOLUTIONS!

(By the Honorable H. Lee Sarokin)

I assume law schools still teach that a good lawyer is one who recognizes the problem. But in this day and age I suggest that the current generation should beware the solutions to those problems.

Although there is some dispute as to the existence of the so-called litigation explosion, it cannot be denied that more and more people are turning to the courts. It is popular to suggest that increased litigation is caused by the growing number of lawyers and their need to feed, clothe and shelter themselves and their families; but I suggest that the real reason is a general loss of faith in the other branches of government to protect individual rights coupled with an abiding confidence in the courts to protect those rights. Despite the apparent low popularity rating of lawyers, more and more people are turning to them for assistance. Providing them this assistance is the challenge for this generation.

The real danger is not what the lawyers are doing, but what is being done to the law. The judicial system is blamed for crime, for drugs, for abortion, for increased insurance premiums, for illegal aliens, for excessive verdicts, for the collapse of religion (no small accusation), for reverse discrimination, for the spread of pornography and obscenity, and for freeing the guilty. We are only responsible for about half those things.

The judicial system was not meant to cure all the social ills of our society. It was created as a forum to resolve disputes in a fair way and to protect rights in civil and criminal matters. The system also serves to set standards of conduct. We tend to forget that one of the purposes of tort liability is deterrence—it discourages defective and shoddy workmanship and negligent and harmful conduct.

But look at the proposals—some of which have been adopted already: Put people in jail before they are convicted; let illegally obtained evidence be used if the officer meant well; require judges to impose certain jail sentences even though the particular case warrants otherwise; make lawyers disclose how much they were paid by their clients and make them give it back if the source was illegal; put a cap on tort awards irrespective of the injuries sustained; test everyone for drugs, even though they have never given any indication that they ever indulged; and most recently, do not tell the accused that they have constitutional rights because they might exercise them. The law schools and in particular the law reviews have a vital role to play in these areas.

There is a strange tension in the law. All cases are decided based upon precedent. That of course is necessary to the stability of the law. How can lawyers advise their clients if they cannot rely upon the continuity of the law? On the other hand, the law is constantly being expanded and even reversed. The news is filled every day with examples. The press rarely reports that a previous decision has been followed. Instead, the reports focus on changes, reinterpretations, and reversals.

Law reviews can serve us best if they analyze the changes that are proposed either through court decisions or legislation. Law review writers should make judgments as to whether the proposed solutions are necessary and, more importantly, whether they conflict with any of those guarantees which we cherish as a society.

If we want to live in a democracy, if we want freedom and individual rights, society must pay a price. Every generation must decide whether the price is too high. Many of society's ills can be reduced or eliminated by a reduction in our individual rights. Somebody once asked the president of a famous car manufacturer why the industry did not make an automobile that was totally safe—one that could not injure the driver or passengers on impact. He said: "We have one. It's called a tank, but it would cost a million dollars to buy it."

There are many remedies to our problems, but they likewise are too expensive—not in terms of money, but in terms of freedom. The future leaders of the profession and its present spokespersons must decide and speak out as to whether the expense is worth the remedy.

Look at what is happening in the criminal area. We have pretrial detention of the accused in direct contradiction of the presumption of innocence. We have lawyers being forced to disclose the source of their fees and run the risk of forfeiture in direct opposition to the lawyer-client privilege and the right to effective assistance of counsel. Mandatory

and uniform sentencing is in the wings depriving judges of the right to grant mercy in those instances in which the facts may cry out for it.

And now the Justice Department calls for a retreat from Miranda. What is the rationale? The Justice Department cannot abolish the fifth amendment, so it proposes not to tell the accused that privileges exist for fear that if an accused was made aware of his constitutional rights he might exercise them. Who will this affect? Certainly not the inside traders, the elected officials, or other white collar persons charged with crimes. Rather it will affect the poor and uneducated, and perhaps even the innocent.

So what we, as individuals and as members of the legal profession, must decide is whether discovering and convicting criminals is more important than the constitutional rights that were created to protect everyone. Crimes would certainly be solved more quickly, and possibly more convictions obtained if we did not have to worry about the fourth and fifth amendments. But is that a result worth achieving? Is the cost too great?

The same analysis is necessary in connection with the drug problem. Indeed, it is closely related to the growth of crime. What price are we willing to pay in order to find out who is using drugs? Illegal handguns are used in robberies and murders every day. Would we think of searching every house and apartment in a large city to find and confiscate them? We probably would find a number of robbers and murderers in the process. The reason we do not do this is because the price is not worth it. As a free society, we have decided that it is more important to be protected in our property and persons than to find criminals. If we searched everyone or every house to find the guilty, we undoubtedly would be successful; but we cannot judge the worth of the Bill of Rights by considering what the benefits would be if its guarantees were not enforced. Those guarantees are invaluable, even though they may protect criminals and interfere with investigations and convictions.

Drugs are a menace. They are devastating our country. They cause crime, affect productivity, and seduce our children. We can help or discipline the users if we can identify them. So should we surrender our rights of privacy or our rights against unreasonable search and seizure and attack this cancer, or should we insist upon the preservation of our rights no matter how just the cause or great the need.

I suggest that the legal profession not look to public opinion for the answer. The will of the majority is not the guide here. The Bill of Rights is peculiarly necessary to protect minorities and minority viewpoints. The politicians can look to the polls for guidance; the legal profession should not and, indeed, cannot.

The greatness of our judicial system is that its decision need not be popular. We could combat crime by concealing the fifth amendment from the accused. We could discover the drug user by invading his privacy. We could protect the public by keeping accused criminals incarcerated before trial despite the presumption of innocence. We could track ill-gotten gains by forcing lawyers to disclose the source of their fees, despite the effect on the lawyer-client privilege and an accused's right to counsel. We could limit recovery of injured parties even though it would deprive them of what they need to survive. We could use illegally obtained evidence to convict, if we no longer wished to deter police lawlessness.

All of these suggestions and solutions need exposition. They require a balancing of the highest order. My bias is reflected in the way that I phrase these questions, but it need not be yours. Re-examine what is old; and, if you believe that it is no longer valid, urge its change. Challenge what is new and proposed if you believe that it destroys rights and principles worth saving. Law reviews serve an important function when they summarize the law in a particular area, but they are at their best when they enhance the law or defend against its encroachment where necessary. Think of the valuable insight that can be given on pretrial detention, retention of the Miranda rule, mandatory sentencing, the legality of drug testing in the public and private sector, surrogate mothers, restrictions on advertising as now proposed regarding cigarettes, all of the ramifications of liability involving the cigarette industry, and tort reform in general.

When the law is changed by decisions or legislation so as to affect individual rights, our spirits should soar! We should not feel a gnawing doubt in the pit of our stomachs. If a change has occurred or is proposed with which you cannot agree, then use your training, your wisdom, your pens (or now more probably word processors) to speak out.

The law is under siege. Join with the revolutionaries if you think the attack is warranted but mount the bastions to defend it if you think it is not.

[From the New York Times, Sept. 10, 1992]

TOPICS OF THE TIMES; JUSTICE BECLOUDED

When Judge Lee Sarokin of U.S. District Court in New Jersey issued a key ruling against tobacco manufacturers in February, he began with a thorough denunciation of the industry. He declared that "despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation."

That may be so, but the judge was far out of line to say it. He had been assigned to preside over an eventual trial on the very issue he opined about so colorfully: whether cigarette makers had conspired to withhold information about the dangers of smoking. The U.S. Court of Appeals rightly pulled the judge, able and hard-working as he is, off the case.

Even with its record of slick marketing and efforts to smokescreen evidence that cigarettes kill, the tobacco industry is entitled to a judge who has not given the appearance of strong feelings that go to the merits of its lawsuit.

Judge Sarokin had been asked to decide whether certain industry documents must be produced over the industry's objection that they are private legal papers. The judge could compel their disclosure if they showed fraud. Since fraud was also the central issue in the lawsuit, he had to be especially careful in issuing his ruling.

Instead, on his opinion's first page, Judge Sarokin charged that: "All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sales over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their own prosperity!"

That was powerful stuff, which generated news across the country. But with it, Judge Sarokin flunked an important test of credibility. Granted that the defendants have long wished for a different judge, they are entitled to just that rather than one who has put his own impartiality in question.

SUSAN G. KOMEN BREAST CANCER FOUNDATION

Mr. CAMPBELL. Mr. President, I am happy to be here today to talk about the Susan G. Komen Breast Cancer Foundation and their tremendously successful Race for the Cure. As you know, the Susan G. Komen Breast Cancer Foundation is one of the major funders of breast cancer research in the country. They have raised over $19 million since 1982—and they are committed to raising more money for research and education through Race for the Cure events in 48 cities this year.

Breast cancer is the leading cause of death for women between the ages of 35 and 52. There are 1.8 million women in this country who have been diagnosed with breast cancer, and an additional 1 million who do not yet know they have this disease. Until we find a cure, early detection through mammography screening and clinical breast examination is the best approach we have to fight breast cancer. But the Susan G. Komen Breast Cancer Foundation is looking for a cure, and Race for the Cure events are a major source of funding for these efforts.

I am pleased to join the efforts of Colorado Race for the Cure volunteers this year to lead the first ever Ride for the Cure in Aspen, CO with my wife Linda and my daughter Shanan. As you may know, my family rides motorcycles together as often as we can. And this July 30, we hope to be joined by hundreds of other bikers, breast cancer survivors, and friends as we Ride for the Cure into the Rockies and then back to Aspen for a special barbecue. It is all part of Aspen's fourth annual Race for the Cure benefit. Hundreds of volunteers have been working on Race for the Cure for many months in Colorado. I am happy to participate in this event and invite all of my colleagues and constituents to join Linda, Shanan, and me in our ride for the Cure in Colorado and across the Nation.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. As I have done each week the 103d Congress has been in session, I rise to report to the Senate on the gruesome toll taken by gun violence in New York City. This past week, 17 persons were killed by gunshot, bringing this year's total to 584.

THE RETIREMENT OF MRS. DORIS ELERDING

Mr. MURKOWSKI. Mr. President, a long time member of my staff, Mrs. Doris Elerding, has decided to depart

Washington and her service to the Senate for what is perhaps the best of all reasons—to be closer to her children and grandchildren.

I rise today to say a few words of tribute to Doris and her superb service to me, the Senate, and the people of Alaska.

Doris moved to Ketchikan, AK, from Bellingham, WA, with her husband, Ira Elerding, in 1962.

Ira had received an offer to work as an electrician at the Ketchikan pulp mill, so Ira and Doris decided to go to Alaska for what they thought would be an adventure lasting just a few years.

Once in Ketchikan, attentions turned to raising a family, Doris and Ira got involved in the community, and as often happens in Ketchikan, the moss began to grow under their feet. They decided to stay.

I first came to know Doris when I was involved in the banking business. Doris was working at the First National Bank of Ketchikan, working as a secretary to the bank's president, Bill Moran, Sr.

Shortly after I was elected to the Senate in November 1980, I received a phone call from Doris. Her beloved husband, Ira, had passed away, and her boss was getting ready to retire from the bank, so Doris was interested in working with me in Washington.

It is not easy to find Alaskans who are willing to leave Alaska to work in Washington, DC, so I told her she could have a job, provided she was sure she would like living on the east coast.

Doris figured it was time for another adventure and reported for work in February 1981. She has served as our receptionist ever since.

In her many years of answering phones, dispensing gallery passes, arranging White House tours, and much more, Doris has touched the lives of thousands of people, Alaskans and non-Alaskans alike.

I know that she has touched so many lives because I rarely return to Alaska without someone walking up to me and asking: "How's Doris? Please tell her I said hello."

It even happens here in Washington. I will be at one of the many functions or dinners that we must attend here in Washington and someone will often approach to ask: "How's Doris?"

In addition to making visiting Alaskans and other visitors feel at home, Doris has always kept a watchful eye on the young Alaskans and others who have worked for me over the years.

At one time Doris owned a home here on Capitol Hill that she would open up to young people looking to rent a room, or to new staff needing a place to stay until they could find apartments of their own. If you rented a room from Doris, and were a little late getting home, or were a new staffer just arriving on a plane from Alaska, you could always count on the fact that Doris would be waiting up for you. Doris often took young people under her wing and kept an eye on them.

Doris' graciousness and willingness to help others is deeply rooted in her strong faith and devotion. Many who worship at St. Joseph's know Doris from morning Mass.

You could find Doris there each and every morning—even the morning it was icy and she slipped on the sidewalk and broke her ankle.

It was not too long before Doris was back, in a full leg cast, struggling up the stairs to attend Mass once again.

The final story I will share occurred very recently, after Doris told me of her plans to leave.

It was the evening of the congressional barbecue at the White House. My wife Nancy was in Alaska, so I asked Doris if she could accompany me.

Doris did not hesitate. She grabbed her camera and joined in the festivities.

At one point, seated among a table of Senators and other dignitaries, she asked what she described as "a nice young man" to snap a picture of the group with her camera.

The "nice young man" readily and graciously agreed. When someone leaned over to Doris and told her that she was having her picture taken by the Secretary of Transportation, she shrieked in delight and insisted that he join in the picture as well.

I do not know precisely what the press reported the next day about the White House barbecue, but I am able to report to my colleagues that Doris was the life of the party.

Over the years, Doris has taken good care of us. Unfortunately for us, the time has come where she has determined that her children and grandchildren need her more.

She ended her service to the Senate on July 10, and is moving to Portland, OR to be close to children and grandchildren in Portland as well as Sitka and Ketchikan, AK.

We will miss her, but trust in her ability to keep in touch and visit us often.

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

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through July 29, 1994. 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. 387), show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–1998. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated July 26, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1994.

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 1994 budget and is current through July 29, 1994. 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. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 25, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT, FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JULY 29, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
On-budget:			
Budget Authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,551.8	−180.1
Off-Budget:			
Social Security Outlays:			
1994	274.8	274.8	(3)
1994–1998	1,486.5	1,486.5	(3)
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 of the Deficit-Neutral reserve fund.

[2] 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.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS JULY 29, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation [1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsettting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Federal Housing Administration Supplemental (P.L. 103–275)	(5)	(2)	
Total enacted this session	(2,748)	(645)	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [2]	(5,562)	1,326	
Total Current Level [3, 4]	1,218,395	1,217,054	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,854	1,095	
Over Budget Resolution			80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,203 million in budget authority and $9,079 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

[5] Less than $500 thousand.

Notes.—Numbers in parenthesis are negative. Detail may not add due to rounding.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

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

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

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,636,361,778,400.62 as of the close of business Friday, July 29, the most recent day that information was available this afternoon. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,783.53.

TRIBUTE TO JAMES P. CONNOR

Mr. BIDEN. Mr. President, on another August day, 50 years ago, a battle patrol—part of the 3d Infantry Division of the 7th Regiment, United States Army—landed at a place in southern France, known on that day and ever after as "Red Beach." The advance platoon was involved in one of the most difficult missions of the second wave invasion of occupied Europe, Operation Anvil-Dragon, to clear the mined beach, and to destroy heavily fortified enemy positions, for the amphibious vehicles that would follow ashore.

Shortly after the landing, the platoon's lieutenant and sergeant were killed. Command fell on the shoulders of a 25-year-old draftee, a graduate of St. Mary's Commercial School in his home town of Wilmington, DE, a leather worker by trade. In the 3 years since he had been drafted, he had made sergeant himself, and now, with a 36-man platoon that was reduced ultimately to just seven soldiers, with no senior or career officers, James P. Connor took command on Red Beach.

Sergeant Connor inspired his outmanned and outgunned troops to continue the fight, and to believe that they could—and would—win. He was wounded three times, but even when he could no longer stand, Sergeant Connor refused medical treatment and continued to issue orders and to push his troops forward. He was heard to shout, "They can hit me, but they can't stop me." The platoon of 7 reached the enemy position and captured 40 Germans. The beach was secured in 3 hours.

For his uncommon valor—for his heroism—Sgt. James P. Connor received the Medal of Honor, one of only two citizens of our small State to earn that highest of all military recognitions in the 20th century. Sergeant Connor's citation hailed his driving spirit, by which he had practically carried the platoon, through mines and gunfire, to the successful completion of its mission.

After his discharge from the Army in 1945, Jim Connor returned home to Delaware. He got married and raised a family, four sons. He started a new job with the Veterans Administration, where he worked until his retirement, helping others who had also served our Nation in uniform. He lived, as he had before 1941, and like so many of his neighbors and friends, what we too often think of as just a regular, productive, law-abiding citizen.

When James P. Connor died last week at the age of 75, his wife said, simply but profoundly, that he had been a private person. Although his Medal of Honor gave him opportunities—deserved opportunities—to be in the spotlight, Jim Connor was never comfortable there. Like so many in the World War II generation, he felt that he had simply done his job, done what he was supposed to do as an ordinary American citizen, and an ordinary American citizen was all he ever wanted to be.

Mr. Connor personified the kind of character, the kind of values, that are incompatible with self-promotion. He was the kind of patriot who does not seek applause or reward, but serves out of a genuine and instinctive sense of duty, and with a sense of obligation to those who died in their own service to our Nation. He was, not only during those 3 hours on Red Beach but for all the years of his life that followed, the embodiment of the lessons taught so well by his generation.

It is the lesson that liberty and the blessings it allows cannot be taken for granted by those who enjoy them, that the defense of freedom and its integrity must always be the mission of ordinary Americans. It is the lesson that our best remembrance of, and highest tribute to, those who have served and sacrificed for us lies not in the words we say when the spotlight is on us, but in the lives we live every day.

Our highest tribute is to refuse to abandon the faith in our common purpose that led Sergeant James P. Connor to shout, "they can't stop me"; to refuse to abandon the belief in one another—the belief and the trust—that inspired that platoon of seven to keep fighting together, that made a hero out of Jim Connor, and so many other, ordinary Americans; to refuse to abandon the dream whose value we feel instinctively, the dream of America.

Our highest tribute is to build this country and our communities, to build lives like that of a private and ordinary man named Jim Connor, whose dedication to family, friends and fellow citizens made him a hero every day of his life. To be worthy of such extraordinary ordinary citizens, who by their driving spirit carry us toward our promise as a people, we must continue to keep the faith in our common purpose, and to build the hope, the belief in one another, the dream.

Someone once said that, "What we have done for ourselves alone dies with us; what we have done for others and the world remains and is immortal." We will mourn the death of James P. Connor, for a very long time, but the celebration of Jim Connor's life—of what he did for us, and for his family and friends—will never end.

We extend our sympathies to Mr. Connor's wife of 48 years, Elizabeth Chlepciak Connor, to their 4 sons, James, Donald, Jeffrey and Michael, to his sister, Dorothy Brown, and to the 8

grandchildren whom he no doubt would claim as his dearest legacy. In doing so, we honor a private man whose courage and character in service to us all reminded us that the ranks of our history's heroes are filled by ordinary Americans. May we always keep this Nation worthy of such citizens.

NATIONAL POW/MIA RECOGNITION DAY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 196, National POW/MIA Day, and I ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 196) designating September 16, 1994, as "National POW/MIA Day" and authorizing display of the National League of Families POW/MIA flag.

The Senate proceeded to consider the joint resolution.

Mr. BENNETT. Mr. President, I ask that the joint resolution proceed to third reading and final passage.

The PRESIDING OFFICER. Without objection, the joint resolution is deemed read three times and passed.

So the joint resolution (S.J. Res. 196) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 196

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of the Americans whom are still missing in action and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 16, 1994, is designated "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2 REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed, as a symbol of the concern and commitment of the United States to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for and to ending the uncertainty for their families and the Nation—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1994 (Memorial Day), September 16, 1994 (National POW/MIA Recognition Day), and November 11, 1994 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 16, 1994.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House;

(2) the Capitol Building; and

(3) the buildings containing the primary offices of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990 (36 U.S.C. 189).

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2319

Mr. BENNETT. Mr. President, I ask unanimous consent that S. 2319 be star printed to reflect the following changes, which I now send to the desk.

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

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM-138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying, report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of March 3, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraq's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos.

12724 and 12817 (the "Executive orders"). The report covers events from February 2, 1994, through August 1, 1994.

1. During the reporting period, there were no amendments to the Iraqi Sanctions Regulations.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. There are currently 30 enforcement actions pending. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq. Three penalties totaling $38,450 were collected from three banks for violation of the prohibitions against Iraq, and noncompliance with reporting requirements and an Office of Foreign Assets Control directive license.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq. One Jordanian-Iraqi joint venture company prominently involved in shipments to Iraq was identified as an SDN of Iraq on May 4, 1994. A copy of the notice is attached.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On March 1, 1994, following payments by the Governments of the United Kingdom ($447,761.19), the Netherlands ($1,566,994.55), Australia ($476,110.00), and the European Community ($3,758,310.31), respectively, to the special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $6,240,176.05 from the blocked account it holds to the United Nations-controlled account. Similarly, on March 22, 1994, following the payment of $525,182.50 by the Government of the Netherlands, $2,478,089.89 by the European Community, $2,352,800.00 by the Government of the United Kingdom, $444,444.44 by the Government of Denmark, $1,204,899.30 by the Government of Sweden, and $3,100,000.00 by the Government of Japan, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $10,105,416.13 to the United Nations-controlled account. Again on June 30, 1994, the Federal Reserve Bank of New York was directed to transfer $6,969,862.89 to the United Nations-controlled account, an amount corresponding to the aggregate total of recent payments by the governments of other Member States: European Community ($1,042,774.31), United Kingdom ($1,570,804.48), the Netherlands ($1,062,219.51), Kuwait ($2,000,000.00), and Sweden ($1,294,064.59). Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $130,928,726.04 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to the United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 496 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 52 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexisting intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1994, through August 1, 1994, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.3 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Four years after the invasion, a pattern of defiance persists: a refusal to recognize the international boundary with Kuwait or to account for missing Kuwaiti detainees, sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors, and ongoing widespread human rights violations, among other things. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a complete blockade of food, fuel, and medicine on northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Nearly a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to

the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1994.*

MESSAGES FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 195. Joint Resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BEVILL, Mr. FAZIO, Mr. CHAPMAN, Mr. PETERSON of Florida, Mr. PASTOR, Mrs. MEEK of Florida, Mr. OBEY, Mr. MYERS of Indiana, Mr. GALLO, Mr. ROGERS, and Mr. MCDADE as the managers of the conference on the part of the House.

At 4:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1690. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

H.R. 3898. An act to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes.

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

H.R. 4724. An act to amend title 38, United States Code, relating to veterans housing programs, and for other purposes.

H.R. 4768. An act to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes.

H.R. 4776. An act to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1690. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Relations.

H.R. 3898. An act to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4724. An act to amend title 38, United States Code, relating to veterans housing programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4768. An act to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4776. An act to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes; to the Committee on Veterans' Affairs.

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent and referred as indicated:

H.R. 2266. An act for the relief of Orlando Wayne Naraysingh; to the Committee on the Judiciary.

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-3136. A communication from the President of the United States, transmitting, pursuant to law, a report requesting a supplemental appropriation for the Department of Housing and Urban Development; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. 2351. An original bill to achieve universal health insurance coverage, and for other purposes (Rept. No. 103-323).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

H.R. 4569. A bill to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

William T. Coleman, III, of Michigan, to be General Counsel of the Department of the Army.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. SIMON:

S. 2348. A bill to repeal the prohibitions against recommendations relating to Federal employment and United States Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GORTON:

S. 2349. A bill to amend the Elwha River Ecosystem and Fisheries Restoration Act with respect to the licensing of certain hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2350. A bill to establish a Meat, Poultry, and Eggs Inspection Agency to administer the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to expand the application of such Acts, to provide for the establishment of safe cooking standards for meat and poultry products, to improve scientific research and understanding of foodborne illnesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2351. An original bill to achieve universal health insurance coverage, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. KENNEDY:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON:

S. 2348. A bill to repeal the prohibitions against recommendations relating to Federal employment and U.S. Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CIVIL SERVICE JOBS LEGISLATION

• Mr. SIMON. Mr. President, today I am introducing a bill that repeals a provision of the Hatch Act that prevents Members of Congress from making recommendations, oral or written, on behalf of people applying for Federal Civil Service or U.S. Postal Service jobs.

Last summer Congress amended the Hatch Act to prohibit Members of Congress from writing a simple letter of

recommendation for anyone applying for a nonpolitical civil service position. Mr. President, I think that's going a bit too far.

My bill repeals the prohibition on recommendations. It does, however, leave intact reasonable guidelines. Under my proposed legislation, recommendations must be based on personal knowledge or records of the applicant, and may only include evaluation of work performance, ability, general qualifications, comments on character, loyalty, suitability, et cetera.

Mr. President, I am sure there have been times when an elected official has recommended an individual for Government employment simply because that individual has been a loyal friend. I am equally sure that these types of abuses are the exception rather than the rule. I don't believe there is anything wrong with an elected official sending a written letter of recommendation on behalf of someone who is applying for a job with the Federal civil service or with the Postal Service—as long as the recommendations fellow reasonable guidelines.

I do understand the need for tightly written guidelines for such letters of recommendation. But I think we can leave it up to the House and Senate ethics committees to delineate what is and is not appropriate with regard to these recommendations. My understanding is that they already have that power under their existing rulemaking authority.

I have many outstanding employees and interns. Some of them choose to go on to apply for jobs with Federal agencies, Federal judges, the U.S. Postal Service, the executive branch, et cetera. I see no reason why they should not be allowed to ask me—their former employer—for a letter emphasizing their suitability for a job. It's common practice in the private sector. We don't prohibit CEO's of major corporations from making recommendations for these same positions. Many of these executives have just as much, if not more, leverage in the job world.

Mr. President, I hope that you and my colleagues agree that this law could be tempered a bit. I would like to see this prohibition repealed as soon as possible.●

By Mr. GORTON:

S. 2349. A bill to amend the Elwha River Ecosystem and Fisheries Restoration Act with respect to the licensing of certain hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT AMENDMENT ACT OF 1994

● Mr. GORTON. Madam President, today I am introducing legislation to amend and improve Public Law 102-495, the Elwha River Ecosystem and Fisheries Restoration Act. I recently testified before the Senate Energy Committee in relation to this legislation, and ask unanimous consent that a copy of my testimony be printed in the RECORD. I further ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2349

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. (a) The Congress finds and declares that—

(1) Salmon and steelhead are important biological, commercial, recreational, and cultural resources in the Olympic Peninsula;

(2) Many salmon and steelhead runs in the Olympic Peninsula have become greatly depleted;

(3) Due to the depressed economy of the Olympic Peninsula region, restoration of salmon and steelhead runs, and establishment of consistent recreational, commercial and tribal fisheries is of critical importance;

(4) The Congress of the United States recognized the importance of Elwha River anadromous fisheries by the enactment of the Elwha River Ecosystem and Fisheries Restoration Act, P.L. 102-495;

(5) Significant Federal budget limitations make it uncertain whether funding for acquisition and removal of the Elwha dams pursuant to P.L. 102-95 will be provided in the next several years;

(6) There are other means of enhancing regional anadromous fish populations that appear to be more cost-effective than dam removal.

(7) Should funds for dam acquisition and removal not be provided, uncertainty over the disposition of the dams creates unacceptable financial risk for the owner of the dams and the local industrial consumer, and threatens a significant number of jobs in the Olympic Peninsula region.

(b) The purpose of this Act is to provide for the immediate restoration of native anadromous fisheries in the Olympic Peninsula in order to prevent possible listing of such stocks under the Endangered Species Act, to provide reasonable financial security for the owner of the Elwha dams and the local industrial consumer, and to protect important jobs in the Olympic Peninsula region.

SEC. 2. For the purposes of this Act the term "streams of the Olympic Peninsula" means streams which drain from the Olympic National Park or the Olympic National Forest, all tributaries of such streams, and any other streams in the immediate region which the Secretary deems appropriate.

SEC. 3. Section 5 of the Elwha River Ecosystem and Fisheries Restoration Act (P.L. 102-495, 106 Stat. 3173) is amended by adding a new subsection (d) as follows:

"(d) If by September 30, 1997 the Elwha Project and the Glines Project are not acquired pursuant to section 3, the Commission is authorized and directed to issue a license for such projects pursuant to the Federal Power Act. Such license shall include provisions for facility modifications and operational changes that will enhance Elwha River anadromous fish populations, but such provisions shall be cost-effective and economically justifiable over the term of the license.".

SEC. 4. Section 9 of The Elwha River Ecosystem and Fisheries Restoration Act is amended—

(1) by striking "for expenditure through the Assistant Secretary for Fish, Wildlife, and Parks"; and

(2) by striking "for expenditure through the National Marine Fisheries Service".

SEC. 5. The Elwha River Ecosystem and Fisheries Restoration Act is amended by redesignating section 9 as section 10, and by inserting a new section as follows:

"SEC. 9. OLYMPIC PENINSULA NATIVE ANADROMOUS FISHERIES RESTORATION.

"(a) The Secretary shall immediately prepare a program for the restoration of the Olympic Peninsula native anadromous fisheries in consultation with the Secretary of Commerce, the State, local Indian tribes and other parties that the Secretary may deem appropriate.

"(b) Implementation of the program shall commence not later than January 1, 1997.

"(c) The program shall provide for the recovery and enhancement of the native, anadromous fishes of the Olympic Peninsula, consistent with the rights of any Indian tribe secured by treaty or other Federal law, and applicable State law.

"(d) In developing the recovery program, the Secretary—

"(1) shall consider the use of experimental fisheries restoration techniques; and

"(2) shall ensure that native wild stock will not be adversely affected to a significant extent if hatchery-raised fish are used.".

SEC. 6. In addition to the sums authorized to be appropriated by the Elwha River Ecosystem and Fisheries Restoration Act, there are hereby authorized to be appropriated to carry out the purposes of Sec. 9 of the Elwha River Ecosystem and Fisheries Restoration Act the sum of $25 million.

STATEMENT OF SENATOR SLADE GORTON ON THE ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT

Mr. Chairman, thank you for allowing me to testify before the subcommittee today, particularly on such short notice.

When I joined you, Mr. Chairman, and the rest of the Washington Congressional delegation in passing the Elwha River Restoration Act, I think we all agreed on one thing—that the struggle over the fate of the Elwha River dams was deadlocked, and could only be resolved by an act of Congress.

Beyond that point, there was, and is, a wide range of opinion on what is ultimately the best solution for the Elwha. Personally, I do not feel that dam removal is the most cost-effective means of restoring salmon runs throughout the region. I think we can do as much for salmon with less money by pursuing other enhancement projects, while at the same time preserving jobs, the local water supply, a renewable energy source and the Port Angeles economy.

But regardless of whether or not you accept this notion, I think we can all agree that the status quo is unacceptable.

Each year that goes by without the dams being either removed or relicensed is another year in which we do nothing for Elwha salmon runs. Each year without action is another year in which the Port Angeles community cannot plan its economic future.

Congress and the Administration simply must make a decision.

The Elwha River Restoration Act was designed to establish a framework in which this decision could be made. But upon reflection, Mr. Chairman, that legislation was seriously flawed. The Elwha Act does not offer a true choice among legitimate options, and it threatens to leave the Elwha in the same deadlock that we have all been trying to break.

If the Administration and Congress do decide to appropriate funding for acquisition of

the dams, the deadlock will indeed be broken.

But after observing this year's appropriations process, it is not at all clear that Congress will approve dam acquisition even if funds for the project are requested by the Administration.

What if funding in not appropriated?

Most of us involved in passing the Elwha Act were under the impression that the dams would revert to their prior licensing status if money for dam acquisition was not appropriated within five years. The dams' owner, FERC and everybody else would be thrown back into court to fend for themselves. This provision was to be an incentive for all parties to work towards securing appropriations for dam acquisition.

But upon closer reading of the Act, it appears to me and others with whom I have consulted that failure to appropriate funding for dam acquisition would simply result in annual operating licenses for the dams, ad infinitum.

Regardless of which interpretation is correct, Mr. Chairman, in the absence of dam acquisition it may be years, if not decades, before the Elwha debate is settled and we actually began doing something constructive for the salmon. Though I do not believe dam removal is the best option, even that option is better than the status quo.

I therefore intend to introduce legislation to resolve the Elwha issue—one way or the other.

The foundation of this bill is a provision to improve Olympic Peninsula salmon runs. It authorizes $25 million for implementation of a peninsula-wide salmon enhancement program in the event that the dams are not acquired by the Federal government.

The bill gives the Administration and Congress two more years to find the $29.5 million necessary to acquire the dams in accordance with the original Elwha Act.

If the dams are not acquired at the end of those two years, FERC would be directed to relicense the dams. As a condition of relicensing, the dams' owners would be required to install fish passage facilities and fund other reasonable mitigation measures as required by FERC and the National Marine Fisheries Service.

Finally, the bill will include the text of legislation already introduced by the Chairman and Sen. Murray. That legislation, which is the subject of today's hearing, gives the Administration broader authority over which agencies could fund dam acquisition and removal.

I am working with interested parties to develop this legislation further, and hope to introduce a bill very soon. I believe it is a responsible proposal that provides Congress and the Administration with two salmon recovery options.

My bill will force us to make a choice.

It will force us to do something for the region's salmon runs.

And it will force us to resolve the Elwha issue so that the Port Angeles community can plan for the future.

My bill will not, Mr. Chairman, scuttle the process established in the Elwha Act. It is rather an attempt to put a time limit on that process, and to provide a more cost-effective alternative to dam removal.

I look forward to working with the committee on this proposal, as well as the legislation already introduced by Sen. Murray. I thank the Chairman for giving me this opportunity to testify.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2350. A bill to establish a Meat, Poultry, and Eggs Inspection Agency to administer the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to expand the application of such acts, to provide for the establishment of safe cooking standards for meat and poultry products, to improve scientific research and understanding of foodborne illnesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE KATIE O'CONNELL SAFE FOOD ACT

● Mr. BRADLEY. Mr. President, I introduce legislation to ensure the safety of America's food supply. The Katie O'Connell Safe Food Act is a comprehensive measure that would reform our outmoded meat and poultry inspection system, and take steps to prevent foodborne illness from affecting the lives of Americans.

Katie O'Connell was a 2-year-old girl from my home State of New Jersey. She died from eating a hamburger at a fast food restaurant that was contaminated with a deadly pathogen called E coli. The meat Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Mr. President, Katie died from a disease that should have been detected through our Federal meat inspection system. That system failed her and her family, and has failed thousands of others across the country. The legislation I am introducing today is designed to make sure that our system does not fail again.

Diseases caused by foodborne illness often strike those most vulnerable in our society: our children. As we stand here today, health officials in New Jersey are battling an outbreak of the disease that killed Katie O'Connell—one of the victims is a 21-month-old infant who is in intensive care. Her life is in danger because she ate meat that had been declared safe by Federal inspectors in the Department of Agriculture.

These cases in New Jersey are far from isolated: The Centers for Disease Control estimates that over 9,000 people die, and another 6.5 million become sick, from foodborne illness every year. The system is failing our citizens, and we have to do something to change it.

The inspection process currently used by the Department of Agriculture's Food and Safety Inspection Service is antiquated and inadequate. Their basic methods of inspection have changed little since the first inspection laws were established in 1906. The tools that inspectors use are still sight, smell, and feel—these methods do absolutely nothing to detect contaminants such as E coli. When these methods were implemented, the Model-T was considered high technology. Now we are in the space age, and we have an inspection system that is still a Model-T.

There is no excuse for these outmoded methods: For over 15 years, the General Accounting Office has reported that the existing inspection system is obsolete, and has repeatedly urged that it be replaced with a scientific inspection system to protect the public from foodborne illness. The Department of Agriculture has had more than enough chances, and more than enough time, to change its outmoded system. They have failed to do so, and it is time to change it for them.

The Katie O'Connell Safe Food Act will transfer the responsibility for enforcing meat, poultry, and egg inspections from the Department of Agriculture to an independent Federal health agency. Foodborne diseases are a public health issue and a serious one. The prevention of such diseases has no place being lodged in a Department whose charter is the promotion of meat and poultry products. In removing this function from the Department of Agriculture, this legislation will remove the conflict of interest that currently exists.

Moreover, the lack of scientific methods currently used to ensure the safety of food is alarming and, indeed, negligent. This bill will direct immediate research into the development of inspection methods that will detect pathogens such as E coli.

Finally, this legislation will take important steps toward finding a cure to the diseases caused by contaminated food. It will direct the Centers for Disease Control and the National Institutes of Health to increase the research, monitoring, and documentation of cases that occur, so we can begin to eliminate what is currently a severe lack of medical knowledge about these illnesses.

We do not have the power to right the wrong that has been done to Katie O'Connell and others who have been affected by the deficiencies in our national food inspection system. We in the Congress do have the power to change that system, and protect the health of our citizens and the lives of our children. That is what this legislation is intended to do.

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. 2350

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 "Katie O'Connell Safe Food Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—MEAT, POULTRY, AND EGGS INSPECTION AGENCY

SUBTITLE A—ESTABLISHMENT AND AUTHORITIES OF AGENCY

Sec. 101. Establishment of Meat, Poultry, and Eggs Inspection Agency.
Sec. 102. Director of Meat, Poultry, and Eggs Inspection.
Sec. 103. General authorities of the Director.
Sec. 104. Bureau for Improved Inspection Capabilities.
Sec. 105. Rules.

SUBTITLE B—TRANSITIONAL PROVISIONS

Sec. 111. Termination of Food Safety and Inspection Service and transfer of assets, appropriations, and personnel to the Agency.
Sec. 112. Clarification of authority of Director to administer the Federal Meat Inspection Act.
Sec. 113. Clarification of authority of Director to administer the Poultry Products Inspection Act.
Sec. 114. Clarification of authority of Director to administer the Egg Products Inspection Act.
Sec. 115. Office of Inspector General of the Agency.

SUBTITLE C—OTHER MATTERS

Sec. 121. Definitions.

TITLE II—EXPANSION OF FOODS COVERED BY INSPECTION LAWS

Sec. 201. Coverage of additional meats under the Federal Meat Inspection Act.
Sec. 202. Coverage of additional poultry under the Poultry Products Inspection Act.

TITLE III—ESTABLISHMENT AND ENFORCEMENT OF SAFE COOKING STANDARDS FOR MEAT AND POULTRY PRODUCTS

Sec. 301. Establishment of safe cooking standards.
Sec. 302. Enforcement of safe cooking standards.
Sec. 303. Civil penalty for violations of safe cooking standards.
Sec. 304. Effect on State and local laws.
Sec. 305. Whistleblower protections.
Sec. 306. Definitions.

TITLE IV—EPIDEMIOLOGICAL ACTIVITIES REGARDING FOODBORNE DISEASES

Sec. 401. Epidemiological activities.

TITLE V—RESEARCH ON TREATMENT OF FOODBORNE DISEASES

Sec. 501. Research on treatment; National Institute of Diabetes and Digestive and Kidney Diseases.

TITLE I—MEAT, POULTRY, AND EGGS INSPECTION AGENCY

Subtitle A—Establishment and Authorities of Agency

SEC. 101. ESTABLISHMENT OF MEAT, POULTRY, AND EGGS INSPECTION AGENCY.

(a) ESTABLISHMENT OF AGENCY.—There is established in the executive branch an agency to be known as the "Meat, Poultry, and Eggs Inspection Agency". The Agency shall be an independent establishment, as defined in section 104 of title 5, United States Code.

(b) RESPONSIBILITIES OF AGENCY.—The Agency shall be responsible for the implementation and administration of—

(1) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(2) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(3) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(4) the establishment and enforcement pursuant to title III of safe cooking standards for the preparation of meat and poultry products at restaurants and other retail food establishments; and

(5) such other inspection, research, and oversight authorities regarding meat, poultry products, and eggs inspection as may be provided to the Agency by this Act or other laws.

SEC. 102. DIRECTOR OF MEAT, POULTRY, AND EGGS INSPECTION.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director of Meat, Poultry, and Eggs Inspection who shall be appointed by the President, by and with the advice and consent of the Senate. The Agency and the inspection laws shall be administered under the supervision and direction of the Director.

(b) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Director of Meat, Poultry, and Eggs Inspection.".

SEC. 103. GENERAL AUTHORITIES OF THE DIRECTOR.

(a) ASSISTANT DIRECTORS.—

(1) APPOINTMENT.—The Director may appoint not more than 8 assistant directors of the Agency, who shall perform such supervisory and administrative duties with respect to the Agency and the inspection laws as the Director considers appropriate.

(2) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors, Meat, Poultry, and Eggs Inspection Agency.".

(b) OFFICERS AND EMPLOYEES.—The Director may appoint officers and employees for the Agency in accordance with the provisions of title 5, United States Code, relating to appointment in the competitive service, and fix the compensation of the officers and employees in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(c) DETAIL OF PERSONNEL OF OTHER AGENCIES.—The Director may enter into agreements with other Federal agencies, in particular the Department of Agriculture, under which officers or employees of the agencies may be detailed to the Agency. The detailing of an officer or employee of another agency under this subsection shall be made without prejudice to the status or advancement of the officer or employee within the other agency.

(d) ADDITIONAL AGREEMENTS WITH OTHER AGENCIES.—The Director may utilize or employ the services, personnel, equipment, or facilities of any other Federal agency, with the consent of the head of the agency concerned, to perform such functions on behalf of the Agency as the Director considers appropriate.

(e) EXPERTS AND CONSULTANTS.—The Director may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, and pay in connection with the services travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from the homes or regular places of business of the individuals, as authorized by section 5703 of such title.

(f) BUREAUS, OFFICES, AND DIVISIONS.—The Director may establish within the Agency such bureaus, offices, and divisions as the Director may determine to be necessary to discharge the responsibilities of the Agency, including an Office of the General Counsel.

(g) REGIONAL AND FIELD OFFICES.—The Director may establish, alter, discontinue, or maintain such regional or other field offices as the Director may determine to be necessary to carry out the functions vested in the Director or other officials of the Agency.

SEC. 104. BUREAU FOR IMPROVED INSPECTION CAPABILITIES.

(a) ESTABLISHMENT.—There is established within the Agency an entity to be known as the "Bureau for Improved Inspection Capabilities", which shall support efforts to develop modern scientific techniques to improve the inspection of meat, poultry, and eggs under the inspection laws and to incorporate the techniques into the inspection practices used by the Agency.

(b) BUREAU DIRECTOR.—The Director shall designate 1 of the assistant directors of the Agency appointed under section 103(a) to serve as director of the Bureau. The director of the Bureau shall report directly to the Director.

(c) ADVISORY COMMISSION ON INSPECTION.—

(1) APPOINTMENT AND DUTIES.—The Director shall appoint an advisory commission to make recommendations to the Director regarding methods to improve inspection techniques used to carry out the inspection laws, including improving the reliability of the inspections. The commission shall also perform such other advisory or investigative duties as may be assigned to the commission by this section or the Director.

(2) MEMBERS.—The members of the commission shall consist of—

(A) representatives of the meat, poultry, and egg industries;

(B) scientists who are experts in the field of food safety; and

(C) government officials who are actively involved in meat, poultry, or eggs inspection at the Federal or State level.

(3) TIME PERIOD FOR FIRST RECOMMENDATIONS.—Not later than 180 days after the date on which the commission is first appointed, the commission shall present the Director with a list of recommendations regarding methods for improving current meat, poultry, and eggs inspection techniques.

(d) GRANT AND CONTRACT AUTHORITY FOR RESEARCH.—The Director may make grants to, and enter into contracts with, State and local governments, institutions of higher education, and nonprofit research organizations for the purpose of promoting research to evaluate the feasibility of implementing recommendations submitted by the commission under subsection (c). Grants and contracts under this subsection shall be made by the Director on a competitive basis in consultation with the Bureau and the commission. The commission shall review and evaluate research conducted with assistance provided under this subsection.

(e) IMPLEMENTATION OF RESULTS.—The Director may prescribe rules to carry out any recommendations submitted by the commission under subsection (c) that the Director determines have potential for improving inspection techniques or reliability under the inspection laws.

SEC. 105. RULES.

The Director may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules as the Director determines to be necessary or appropriate to administer and manage the functions of the Agency.

Subtitle B—Transitional Provisions

SEC. 111. TERMINATION OF FOOD SAFETY AND INSPECTION SERVICE AND TRANSFER OF ASSETS, APPROPRIATIONS, AND PERSONNEL TO THE AGENCY.

(a) TERMINATION OF SERVICE.—As soon as the Secretary of Agriculture determines is

practicable, the Secretary shall terminate the activities of the Food Safety and Inspection Service of the Department of Agriculture to the extent the activities relate to the administration or operation of the inspection laws.

(b) TRANSFER OF ASSETS AND FUNDS.—Consistent with section 1531 of title 31, United States Code, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds of the Food Safety and Inspection Service used in connection with the administration or operation of the inspection laws shall be transferred to the Agency not later than the date of the termination of the Food Safety and Inspection Service under subsection (a). Unexpended funds transferred pursuant to this subsection shall be used by the Director only for the purposes for which the funds were originally authorized and appropriated.

(c) TRANSFER OF PERSONNEL.—During the period beginning on the date of enactment of this Act and ending on the termination of the Food Safety and Inspection Service under subsection (a), the Secretary of Agriculture shall transfer to the Agency the officers and employees of the Food Safety and Inspection Service who perform duties in connection with the administration or operation of the inspection laws.

(d) EFFECT OF TRANSFER ON PERSONNEL.—The transfer under subsection (c) of any full-time employee (except a special Federal employee) and part-time employee holding a permanent position shall not cause the employee to be separated or reduced in grade or compensation during the 1-year period beginning on the date of the transfer of the employee under subsection (c). Any person who, on the day preceding the date of enactment 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 the Agency to a position having duties comparable to the duties performed immediately preceding the appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of the person in the new position.

(e) REFERENCES.—After the termination of the Food Safety and Inspection Service under subsection (a), any reference in any other Federal law, Executive order, rule, regulation, document, or other material to the Food Safety and Inspection Service in connection with the administration or operation of the inspection laws shall be considered to be a reference to the Agency.

SEC. 112. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE FEDERAL MEAT INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (a) of section 1 of the Federal Meat Inspection Act (21 U.S.C. 601(a)) is amended to read as follows:

"(a) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act (21 U.S.C. 601 et seq.) is amended by striking "Secretary" each place it appears and inserting "Director".

(2) EXCEPTIONS.—Sections 1(n)(10), 7(c)(2), and 409(b) (21 U.S.C. 601(n)(10), 607(c)(2), and 679(b)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(c) REPEAL OF REFERENCES TO DEPARTMENT OF AGRICULTURE.—Such Act is amended—

(1) in section 18 (21 U.S.C. 618), by striking "Department" and inserting "Meat, Poultry, and Eggs Inspection Agency"; and

(2) in section 20(e)(4) (21 U.S.C. 620(e)(4)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency".

SEC. 113. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE POULTRY PRODUCTS INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (i) of section 4 of the Poultry Products Inspection Act (21 U.S.C. 453(i)) is amended to read as follows:

"(i) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) DEFINITION OF AGENCY.—Subsection (q) of section 4 of such Act (21 U.S.C. 453(q)) is amended to read as follows:

"(q) The term 'inspection service' means the Meat, Poultry, and Eggs Inspection Agency.".

(c) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act is amended—

(A) in the last sentence of section 2 (21 U.S.C. 451), by striking "Secretary of Agriculture" and inserting "Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency";

(B) in sections 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 25, 27, and 29 (21 U.S.C. 453 et seq.), by striking "Secretary" each place it appears and inserting "Director";

(C) in section 17 (21 U.S.C. 466)—

(i) by striking "Secretary of Agriculture" each place it appears and inserting "Director"; and

(ii) in subsection (d)(4), by striking "Secretary" both places it appears and inserting "Director"; and

(D) in section 24(b) (21 U.S.C. 467f(b)), by striking "Secretary" the second place it appears and inserting "Director".

(2) EXCEPTIONS.—Sections 4(h)(10), 8(b)(2), and 24(b) (21 U.S.C. 453(h)(10), 457(b)(2), and 467f(b)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

SEC. 114. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE EGG PRODUCTS INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (x) of section 4 of the Egg Products Inspection Act (21 U.S.C. 1033(x)) is amended to read as follows:

"(x) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act is amended—

(A) in the last sentence of section 2 (21 U.S.C. 1031), by striking "Secretary of Agriculture" and inserting "Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency";

(B) in sections 4 (other than subsection (j)), 5, 6, 7, 8 (other than subsection (e)(8)), 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 22, 24, and 26 (21 U.S.C. 1033 et seq.), by striking "Secretary" each place it appears and inserting "Director";

(C) in section 4(j) (21 U.S.C. 1033(j)), by striking "responsible Secretary" and inserting "Director or the Secretary of Health and Human Services, as the case may be,";

(D) in the last sentence of section 5(d) (21 U.S.C. 1034(d)), by striking "said Secretaries" and inserting "the Director or the Secretary of Health and Human Services";

(E) in section 8(e)(8) (21 U.S.C. 1037(e)(8)), by striking "Secretary of Agriculture" and inserting "Director";

(F) in section 11 (21 U.S.C. 1040)—

(i) by striking "Secretary of Agriculture" and inserting "Director"; and

(ii) by striking "either of said Secretaries" and inserting "either the Director or the Secretary of Health and Human Services";

(G) in section 13 (21 U.S.C. 1042), by striking "Secretary of Agriculture" both places it appears and inserting "Director"; and

(H) in subsections (c) and (d) of section 23 (21 U.S.C. 1052), by striking "Secretary of Agriculture" both places it appears and inserting "Director".

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1)(B) shall not apply to the following uses of the term "Secretary" in such Act:

(i) Section 5(d) (21 U.S.C. 1034(d)), the second place the term appears.

(ii) Section 5(e)(3) (21 U.S.C. 1034(e)(3)), both places the term appears.

(iii) Section 5(e)(5) (21 U.S.C. 1034(e)(5)), the second place the term appears.

(B) OBSOLETE REFERENCES.—Sections 13 and 23(d) (21 U.S.C. 1042 and 1052(d)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(c) REPEAL OF REFERENCES TO DEPARTMENT OF AGRICULTURE.—Such Act is amended—

(1) in section 4(q) (21 U.S.C. 1033(q)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency"; and

(2) in section 26(a)(2)(C) (21 U.S.C. 1054(a)(2)(C)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency".

SEC. 115. OFFICE OF INSPECTOR GENERAL OF THE AGENCY.

(a) TREATMENT OF AGENCY AS A DESIGNATED FEDERAL ENTITY.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Meat, Poultry, and Eggs Inspection Agency," after "the Legal Services Corporation,".

(b) TIME FOR ESTABLISHMENT.—The Office of Inspector General of the Agency required to be established by the Director as a result of the amendment made by subsection (a) shall be established not later than 180 days after the date of enactment of this Act.

Subtitle C—Other Matters

SEC. 121. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term "Agency" means the Meat, Poultry, and Eggs Inspection Agency established under section 101.

(2) DIRECTOR.—The term "Director" means the Director of Meat, Poultry, and Eggs Inspection appointed under section 102(a).

(3) INSPECTION LAWS.—The term "inspection laws" means—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

TITLE II—EXPANSION OF FOODS COVERED BY INSPECTION LAWS

SEC. 201. COVERAGE OF ADDITIONAL MEATS UNDER THE FEDERAL MEAT INSPECTION ACT.

The Federal Meat Inspection Act is amended by inserting after section 2 (21 U.S.C. 602) the following new section:

"SEC. 2A. COVERAGE OF ADDITIONAL MEATS.

"In addition to cattle, sheep, swine, goats, horses, mules, and other equines covered by this Act, the Director may extend the application of this Act to cover other animals (such as deer, bison, and rabbits) intended for human consumption.".

SEC. 202. COVERAGE OF ADDITIONAL POULTRY UNDER THE POULTRY PRODUCTS INSPECTION ACT.

The Poultry Products Inspection Act is amended by inserting after section 5 (21 U.S.C. 454) the following new section:

"SEC. 5A. COVERAGE OF ADDITIONAL POULTRY.

"In addition to chickens and turkeys covered by this Act, the Director may extend the application of this Act to cover other poultry (such as quail, pheasant, and squab) intended for human consumption.".

TITLE III—ESTABLISHMENT AND ENFORCEMENT OF SAFE COOKING STANDARDS FOR MEAT AND POULTRY PRODUCTS

SEC. 301. ESTABLISHMENT OF SAFE COOKING STANDARDS.

(a) ESTABLISHMENT.—The Director shall establish, by rule, safe cooking standards for the preparation of meat and poultry products, and foods containing meat and poultry products, at restaurants and other retail food establishments. The Director shall require that all meat and poultry products, and foods containing meat and poultry products, that require cooking or smoking shall be cooked to heat all parts of the item to a temperature established in the standards as sufficient to destroy potentially harmful foodborne microorganisms.

(b) ENTITIES SUBJECT TO SAFE COOKING STANDARDS.—Each restaurant or other retail food establishment operating in the United States shall comply with the safe cooking standards established pursuant to subsection (a), except that the Director may exempt a restaurant or other retail food establishment, or types of restaurants and other retail food establishments, from the standards.

(c) EXCEPTION TO COMPLIANCE.—A restaurant or other retail food establishment may deviate from the safe cooking standard applicable to the cooking or smoking of a particular meat or poultry product, or a food containing a meat or poultry product, if a customer orders the item in an uncooked form or to be prepared in a manner that necessitates a lower cooking temperature than the standard.

SEC. 302. ENFORCEMENT OF SAFE COOKING STANDARDS.

(a) ENFORCEMENT.—The Director shall use the officers and employees of the Meat, Poultry, and Eggs Inspection Agency to enforce the safe cooking standards established under section 301(a).

(b) INSPECTIONS.—To ensure compliance with the safe cooking standards established under section 301(a), the Director shall cause to be made, by inspectors appointed for the purpose, an examination and inspection of the preparation of meat and poultry products, and foods containing meat and poultry products, at restaurants and other retail food establishments subject to this title. The examination and inspection shall be conducted with such frequency, and in such manner, as the Director considers necessary, as provided in rules issued by the Director. The Director shall take into account such factors as the Director considers to be appropriate, including—

(1) the nature and frequency of the cooking operations at the restaurant or other retail food establishment involved;

(2) the adequacy and reliability of the cooking controls and sanitary procedures at the restaurant or establishment; and

(3) the history of compliance with inspection requirements in effect under this title by the operator of the restaurant or establishment.

(c) ACCESS.—For purposes of any examination or inspection under subsection (b), an inspector shall have access to every part of a restaurant or other retail food establishment subject to this title during operating hours of the restaurant or establishment.

SEC. 303. CIVIL PENALTY FOR VIOLATIONS OF SAFE COOKING STANDARDS.

(a) PENALTY.—A restaurant or other retail food establishment subject to this title that violates a safe cooking standard established under section 301(a) shall be liable to the United States for a civil penalty assessed under subsection (b) in an amount of not less than $100, but not to exceed $1000, for each violation.

(b) ASSESSMENT.—

(1) HEARING.—A civil penalty payable under subsection (a) may be assessed by the Director only on the record after an opportunity for a hearing.

(2) SUBPOENAS.—In connection with a hearing under paragraph (1), the Secretary shall have the power to issue subpoenas.

SEC. 304. EFFECT ON STATE AND LOCAL LAWS.

Nothing in this title precludes a State or local government from establishing or enforcing any safe cooking standards for the preparation of meat and poultry products, and foods containing meat and poultry products, that are not in conflict with the safe cooking standards established under section 301(a).

SEC. 305. WHISTLEBLOWER PROTECTION.

(a) PROTECTION.—No employee of a restaurant or other retail food establishment subject to this title, and no other person, may be harassed, prosecuted, held liable, or discriminated against in any way because that employee or other person—

(1) has notified the Meat, Poultry, and Eggs Inspection Agency of a violation or possible violation of a safe cooking standard established under section 301(a); or

(2) has testified, is about to testify, has assisted or participated, or is about to assist or participate in a proceeding or other action to enforce the standard.

(b) ENFORCEMENT OF PROTECTIONS.—The process and procedures specified in subsections (b), (c), and (d) of section 31105 of title 49, United States Code, shall apply with respect to an alleged violation of subsection (a) of this section in the same manner as such subsections apply to a violation of subsection (a) or (b) of such section 405, except that any reference to the Secretary of Labor in such subsections shall be deemed to refer to the Secretary of Agriculture for purposes of this subsection.

SEC. 306. DEFINITIONS.

As used in this title:

(1) DIRECTOR.—The term "Director" means the Director of Meat, Poultry, and Eggs Inspection appointed under section 102(a).

(2) FOOD.—The term "food" has the meaning provided in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

(3) MEAT.—The term "meat" has the meaning provided the term "meat food product" in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)).

(4) POULTRY PRODUCT.—The term "poultry product" has the meaning provided in section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f)).

(5) RESTAURANT; OTHER RETAIL FOOD ESTABLISHMENT.—The terms "restaurant" and "other retail food establishment" mean any place at which meat or poultry products, or foods containing meat or poultry products, are cooked or smoked for retail sale to and consumption by a customer without additional cooking by the customer, whether or not the consumption occurs on the premises or elsewhere. The terms include any central kitchen facility that cooks or smokes meat or poultry products, or foods containing meat or poultry products, that are ready to eat when the products or foods leave the facility and are served in meals or as entrees sold to customers at a restaurant owned or operated by the same person, firm, or corporation owning or operating the facility.

TITLE IV—EPIDEMIOLOGICAL ACTIVITIES REGARDING FOODBORNE DISEASES

SEC. 401. EPIDEMIOLOGICAL ACTIVITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317F the following new section:

"SEC. 317G. PREVENTION AND CONTROL OF FOODBORNE DISEASES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out activities for the prevention and control of foodborne diseases. The Secretary may carry out the activities directly, and through grants to, and cooperative agreements and contracts with, public and nonprofit private entities.

"(b) POPULATION-BASED SURVEILLANCE REGARDING SELECTED DISEASES.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary, in collaboration with public and nonprofit private entities, shall select specific populations and, with respect to the selected populations, carry out the following activities regarding foodborne diseases:

"(A) Monitor the incidence and prevalence of the diseases.

"(B) Carry out activities to identify the pathogenic agents for the diseases.

"(C) Determine the extent to which various treatments are effective responses to the agents so identified.

"(D) Carry out activities to determine the circumstances under which individuals are at risk of the diseases.

"(E) Evaluate efforts to control the diseases.

"(F) Such other activities as the Secretary determines to be appropriate.

"(2) SELECTION OF DISEASES FOR STUDY.—The Secretary shall select the foodborne diseases with respect to which paragraph (1) is to be carried out. For purposes of the preceding sentence, the Secretary may select conditions that have, or have not, been scientifically named, and may select pathogenic agents.

"(c) ACTIVITIES REGARDING NEW AND EMERGING FOODBORNE PATHOGENS.—In carrying out subsection (a), the Secretary, in collaboration with States, shall carry out the following activities regarding new and emerging foodborne pathogens:

"(1) Collect data on the incidence and prevalence of the pathogens throughout the States.

"(2) Conduct epidemiological research on the pathogens, including research to identify significant strains and research to determine whether different strains can cause the same foodborne disease.

"(3) Assist the States in developing the capability to identify the pathogens.

"(4) Carry out demonstration projects for the control of foodborne diseases caused by the pathogens, including projects for disseminating information on the treatment of the diseases.

"(5) Such other activities as the Secretary determines to be appropriate.

"(d) SUPPLIES AND SERVICES IN LIEU OF FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—On the request of a recipient of an award of a grant, or a party that enters into a cooperative agreement or contract, under this section, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the recipient or party to carry out the program involved. For the purpose, the Secretary may detail to the recipient or party any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing officers and employees and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with the request, expend the amounts withheld.

"(e) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to public and nonprofit private entities with respect to the planning, development, and operation of any program or service carried out pursuant to this section. The Secretary may provide the technical assistance directly or through grants, cooperative agreements, or contracts.

"(f) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section other than activities under subsections (b) and (c), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1995 through 1999.

"(2) POPULATION-BASED SURVEILLANCE REGARDING SELECTED DISEASES.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $7,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999.

"(3) ACTIVITIES REGARDING NEW AND EMERGING FOODBORNE PATHOGENS.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999.

"(4) AVAILABILITY OF FUNDS FOR STAFFING.—The purposes for which amounts appropriated under paragraph (1), (2), or (3) may be expended shall include defraying costs incurred in employing officers and employees of the Centers for Disease Control and Prevention. Amounts available for a fiscal year pursuant to the preceding sentence shall be in addition to any other amounts that are available for the year for program management regarding the Centers.".

TITLE V—RESEARCH ON TREATMENT OF FOODBORNE DISEASES

SEC. 501. RESEARCH ON TREATMENT; NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"SEC. 434A. FOODBORNE DISEASES.

"(a) IN GENERAL.—In carrying activities under section 426, the Director of the Institute shall conduct or support activities regarding foodborne diseases, including research on the treatment of the diseases.

"(b) CLINICAL GUIDELINES.—In carrying out subsection (a), the Director of the Institute shall develop clinical guidelines on the treatment of foodborne diseases.

"(c) DATA SYSTEM; CLEARINGHOUSE.—The activities of the National Digestive Diseases Data System under section 427(b) shall include activities regarding foodborne diseases. The activities of the National Digestive Diseases Information Clearinghouse under such section shall include activities regarding foodborne diseases, including activities regarding clinical guidelines developed under subsection (b).".●

By Mr. KENNEDY:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Labor and Human Resources.

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to introduce the Mental Health and Substance Abuse Programs Reauthorization Act of 1994. This bill would reauthorize a series of important Federal programs that constitute the Federal effort against mental illness and substance abuse, disorders that affect the lives and health of millions of Americans.

An estimated 20 percent of American adults suffer from depression or other forms of mental illness each year, and at least 12 percent of children and adolescents have some degree of emotional disturbance. Substance abuse is a problem for an estimated 11 million Americans, many of whom are also at great risk of contracting AIDS, tuberculosis and other infectious diseases.

The programs we are considering today support treatment for Americans with mental illness and substance abuse disorders. They also fund prevention programs, especially for children so they do not start using alcohol, tobacco or illegal drugs. And they support research, which informs us about the causes of these illnesses and what works in preventing and treating them.

As my colleagues will remember, this bill is a followup to the 1992 ADAMHA Reorganization Act, Public Law 102-321, a law that changed the way the Federal Government conducts and manages these activities. This important initiative transferred the three substance abuse and mental illness research institutes, the National Institute on Mental Health, the National Institute on Drug Abuse, and the National Institute on Alcoholism and Alcohol Abuse, to the National Institutes of Health. It then created a new agency—the Substance Abuse and Mental Health Services Administration—as a home for treatment and prevention activities, including the mental health and substance abuse block grants.

In the near future, I believe we must comprehensively reexamine the new structure that we created to make sure that the research and service agencies are collaborating appropriately, and to determine how well the three transferred research institutes have been integrated into the NIH. We also made a series of decisions about the block grants in 1992, including a new formula, that may deserve further scrutiny in the future.

But for two reasons, I do not believe that this is the right time to conduct a comprehensive, long-term review of these programs. First, the mission of these agencies and these programs may be altered significantly by the passage of health care reform. Many of us have worked hard to ensure that the health bill contains a generous benefit for mental health and substance abuse, and if that becomes a reality, the focus of the Federal public health programs will shift to ensuring integration of the public and private treatment delivery systems.

It is difficult to ascertain the proper role of these Federal programs until we know how strong a mental health and substance abuse benefit is ultimately included in health care reform and how long it takes to achieve total parity between mental disorders and other medical disorders.

Second, during the 2 years since we transferred the research institutes and created the services agency, there has been a change of administrations. The new leadership at HHS has not had an adequate opportunity to assess the current structure, and in fact the first permanent Administrator of the Substance Abuse and Mental Health Services Administration, Dr. Nelba Chavez, was only confirmed by the Senate last month. So we have not had an opportunity to see the agency operating at full strength, and it would be premature to evaluate its performance.

As a result of these two considerations, Senator KASSEBAUM and I have decided to propose this simple 1 year reauthorization of the programs and to defer a more comprehensive reauthorization debate until next year. The 1 year reauthorization is necessary to assure that the programs are not disadvantaged in the ongoing appropriations process.

I want to emphasize that this reauthorization does not signal my disapproval or the Labor Committee's disapproval of the hard-core substance

abuse initiative proposed by the Clinton administration. I commend the President, Secretary Shalala and Drug Czar Lee Brown for focusing attention on the most severe cases of substance abuse. Hard-core substance abuse affects society most directly in terms of crime, medical costs, lost productivity and infectious diseases. I hope and expect that States are currently focusing Federal resources on this target population, and I think we should codify that priority. But in the interest of moving forward with a simple 1 year reauthorization for the reasons described above, I have refrained from including this substantive proposal in the bill at this time.

Indeed, there are only two substantive proposals in the bill. First, at the request of Senator JEFFORDS we are extending existing flexibility for States to allocate money between mental health and substance abuse. Second, we are repealing the obsolete Capacity Expansion Program.

I know that some Members would like to raise other issues about these programs, including the formula allocations, and I assure my colleagues that they will have an opportunity to do so when we review these programs more comprehensively. In the meantime, I urge passage of this reauthorization proposal.

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. 2352

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 "Mental Health and Substance Abuse Programs Reauthorization Act of 1994".

SEC. 2. PROJECTS TO IMPROVE MATERNAL, INFANT, AND CHILD HEALTH.

Section 399(r) of the Public Health Service Act (42 U.S.C. 280c-6(r)) is amended by inserting before the period the following: ", and such sums as may be necessary for fiscal year 1995".

SEC. 3. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

Section 399D(p)(1) of the Public Health Service Act (42 U.S.C. 280d(p)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 4. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 464H(d)(1) of the Public Health Service Act (42 U.S.C. 285n(d)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 5. NATIONAL INSTITUTE ON DRUG ABUSE.

Section 464L(d)(1) of the Public Health Service Act (42 U.S.C. 285o(d)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 6. NIDA MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o-4(e)) is amended—

(1) by striking "and $95,000,000" and inserting "$95,000,000"; and

(2) by inserting before the period the following: ", and such sums as may be necessary for fiscal year 1995".

SEC. 7. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 464R(f)(1) of the Public Health Service Act (42 U.S.C. 285p(f)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 8. GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.

Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 9. GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.

Section 506(e) of the Public Health Service Act (42 U.S.C. 290aa-5(e)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 10. RESIDENTIAL AND OUTPATIENT TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN.

Section 508(r)(1) of the Public Health Service Act (42 U.S.C. 290bb-1(r)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 11. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

Section 510(e)(1) of the Public Health Service Act (42 U.S.C. 290bb-3(e)(1)) is amended in the first sentence by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 12. GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS.

Section 511(d) of the Public Health Service Act (42 U.S.C. 290bb-4(d)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 13. TRAINING IN PROVISION OF TREATMENT SERVICES.

Section 512(d) of the Public Health Service Act (42 U.S.C. 290bb-5(d)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 14. COMMUNITY PREVENTION PROGRAMS.

Section 516(c) of the Public Health Service Act (42 U.S.C. 290bb-22(c)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 15. PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH.

Section 517(h) of the Public Health Service Act (42 U.S.C. 290bb-23(h)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 16. EMPLOYEE ASSISTANCE PROGRAMS.

Section 518(e) of the Public Health Service Act (42 U.S.C. 290bb-24(e)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 17. MENTAL HEALTH DEMONSTRATION PROJECTS.

Section 520A(e)(1) of the Public Health Service Act (42 U.S.C. 290bb-32(e)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 18. DEMONSTRATION PROJECTS FOR INDIVIDUALS WITH POSITIVE TEST RESULTS.

Section 520B(j) of the Public Health Service Act (42 U.S.C. 290bb-33(j)) is amended by striking "1994" and inserting "1995".

SEC. 19. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc-35(a)) is amended by striking "1994" and inserting "1995".

SEC. 20. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

Section 565(f)(1) of the Public Health Service Act (42 U.S.C. 290ff-4(f)(1)) is amended by striking "fiscal year 1994" and inserting "fiscal year 1995".

SEC. 21. TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE.

Section 1245 of the Public Health Service Act (42 U.S.C. 300d-45) is amended in the first sentence by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 22. BLOCK GRANTS FOR COMMUNITY MENTAL HEALTH SERVICES.

Section 1920(a) of the Public Health Service Act (42 U.S.C. 300x-9(a)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 23. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE.

Section 1935(a) of the Public Health Service Act (42 U.S.C. 300x-35(a)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 24. CAPACITY EXPANSION.

(a) REPEAL.—Section 1971 of the Public Health Service Act (42 U.S.C. 300y) is repealed.

(b) USE OF APPROPRIATED AMOUNTS.—Amounts appropriated for capacity building activities under section 1971(j) of the Public Health Service Act (42 U.S.C. 300y(j)), which remain unexpended after the date of enactment of this Act, shall be utilized as if appropriated under section 1935(a) of such Act.

SEC. 25. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reauthorization Act (42 U.S.C. 300x(b) note) is amended—

(1) in paragraph (1), by striking "fiscal year 1993 or 1994" and inserting "any of the fiscal years 1993 through 1996"; and

(2) in paragraph (2), by striking "fiscal year 1993 or 1994" and inserting "any of the fiscal years 1993 through 1996".

ADDITIONAL COSPONSORS

S. 1148

At the request of Mr. BROWN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1148, a bill to allow for moderate growth of mandatory spending.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1408

At the request of Mr. LOTT, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1651

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1651, a bill to authorize the minting

of coins to commemorate the 200th anniversary of the founding of the United States Military Academy at West Point, New York.

S. 2031

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2031, a bill to amend the Merchant Marine Act, 1936, to prohibit the imposition of additional charges or fees for attendance at the United States Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and for other purposes.

S. 2258

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2258, a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2332

At the request of Mr. HATFIELD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2332, a bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

SENATE CONCURRENT RESOLUTION 64

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of Senate Concurrent Resolution 64, a concurrent resolution expressing the sense of the Congress regarding the Gautemalan peace process and the need for greater protection of human rights in Guatemala.

AMENDMENTS SUBMITTED

THE IMPROVING AMERICA'S SCHOOLS ACT OF 1993

CRAIG (AND OTHERS) AMENDMENT NO. 2437

Mr. CRAIG (for himself, Mr. SIMPSON, Mr. NICKLES, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, Mrs. KEMPTHORNE, and Mr. BROWN) proposed an amendment to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

On page 1244, line 10, before the period, insert the following: "if the Federal share of the financing of such a repair, renovations, alteration, or construction project is greater than 25 percent of the total cost of the project."

KASSEBAUM AMENDMENT NO. 2438

Mrs. KASSEBAUM proposed an amendment to the bill S. 1513, supra; as follows:

At the end of title IV of the bill, insert the following new section:

SEC. . CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Notwithstanding any other provision of law, beginning on June 1, 1994, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the Secretary shall not issue any new final regulations to implement such Act.

PRESSLER AMENDMENT NO. 2439

Mr. PRESSLER proposed an amendment to the bill S. 1513, supra; as follows:

On page 913, line 13, strike "and".

On page 913, line 18, strike the period and insert "; and".

On page 913, between lines 18 and 19, insert the following:

"(C) provide an assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.".

GENERAL AVIATION REVITALIZATION ACT OF 1994

KASSEBAUM AMENDMENT NO. 2440

Mr. FORD (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, as follows:

On page 4, strike out line 15 and all that follows through page 5, line 3, and insert in lieu thereof the following:

"(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and"

OLD U.S. MINT IN SAN FRANCISCO ACT OF 1994

McCAIN (AND BOXER) AMENDMENT NO. 2441

Mr. COHEN (for Mr. McCAIN for himself and Mrs. BOXER) proposed an amendment to the bill (S. 2185) to require the Secretary of the Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes; as follows;

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(A) IN GENERAL. Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

THE IMPROVING AMERICA'S SCHOOLS ACT OF 1993

GRAMM (AND DOLE) AMENDMENT NO. 2442

Mr. GRAMM (for himself and Mr. DOLE) proposed an amendment to the bill S. 1513, supra; as follows:

At the appropriate place insert the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

"Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. . FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in

accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

(c) SUPERSEDURE OF OTHER LAW.—The amendment made by subsection (a) supersedes any other law authorizing a downward adjustment of a mandatory minimum term of imprisonment for an offense as described in subsection (a).

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be no less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SUBTITLE E—RULES OF EVIDENCE, PRACTICE AND PROCEDURE

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

KENNEDY AMENDMENT NO. 2443

Mr. KENNEDY proposed an amendment to the bill S. 1513, supra; as follows:

On page 2, strike lines 17–27, and on page 5, strike lines 1 through 7. Insert in lieu thereof the following:

"(3) the term 'eligible local education agency' means a local educational agency in which—

(A) at least 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under section 1123(c)(1) of this Act; *or*

(B) the United States owns Federal property described in paragraph (5) of section 9014 that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

(C) demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities used for academic or vocational instruction.

On page 1235, beginning with line 10, strike all through page 1244, line 19, and insert the following:

"SEC. 15003. PURPOSE.

"It is the purpose of this title to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities, used for academic or vocational instruction.

"SEC. 15004. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'alteration' means any change to an existing property for use for a different purpose or function;

"(2) the term 'construction' means the erection of a building, structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking, and utilities, which provides area or cubage not previously available, including—

"(A) freestanding structures, additional wings, or floors, enclosed courtyards or entryways, and any other means to provide usable program space that did not previously exist; and

"(B) the complete replacement of an existing facility, but only if such replacement is less expensive than alteration, renovation, or repair of the facility;

"(3) the term 'eligible local educational agency' means a local educational agency—

"(A) in which at least 15 percent of the children who reside in the geographic area served by such agency are eligible to be counted under section 1123(c)(1); and

"(B) demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration or construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction;

"(4) the term 'renovation' means any change to an existing property to allow its more efficient use within such property's designated purpose; and

"(5) the term 'repair' means the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage to such facility, component, or system, such deterioration or damage cannot be corrected through normal maintenance.

"SEC. 15005. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—From amounts appropriated under subsection (b) for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 15006 to carry out the authorized activities described in section 15008.

"(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under subsection (b) to provide assistance to Indian schools in accordance with this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title.

"SEC. 15006. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

"(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

"(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

"(4) a description of the corrective action to be supported with funds provided under this title;

"(5) a cost estimate of the proposed corrective action;

"(6) an identification of other resources, including unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

"(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

"(8) such other information and assurances as the Secretary may reasonably require.

"SEC. 15007. AWARD OF GRANTS.

"(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

"(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under section 1123(c)(1);

"(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance; and

"(3) such other criteria as the Secretary may prescribe by regulation.

"(b) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, including the issuance of bonds, to carry out the activities for which assistance is sought.

"(c) AWARD CATEGORIES.—

"(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

"(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

"(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

"(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

"(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

"(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

"(F) Such agencies in which such number is 50,000 or greater.

"(2) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, after considering such factors as—

"(A) the relative numbers or percentages of students counted under section 1123(c)(1); and

"(B) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

"(d) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (c)(1).

"(e) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

"SEC. 15008. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to—

"(1) ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction; or

"(2) upgrade or alter such library, center, or facility in order to accommodate new instructional technology.

"(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds for activities such as—

"(1) meeting the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990;

"(2) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost-effective method;

"(3) meeting Federal, State, or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such library, center, or facility; and

"(4) replacing an old such library, center, or facility that is more cost-effective to tear down than to renovate.

"SEC. 15009. REQUIREMENTS.

"(a) SPECIAL RULES.—

"(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

"(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

"(b) GENERAL LIMITATIONS.—

"(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

"(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

"(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"SEC. 15010. FAIR WAGES.

"All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

"SEC. 15011. FEDERAL ASSESSMENT.

"The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15005(b)—

On page 1035, between lines 11 and 12, insert the following:

"PART P—PROMOTING SCHOLAR-ATHLETE COMPETITIONS

"SEC. 8901. FINDINGS.

"The Congress finds that—

"(1) athletic and intellectual competition can be a force for understanding and friendship among an economically and culturally diverse population;

"(2) the World Scholar-Athlete Games in 1993 brought together 2,000 young scholars ranging in age from 16 to 19 who are talented in art, creative writing, poetry, singing or athletics, from 125 countries and all 50 States; and

"(3) through experiences on the playing field, in group discussions and informal gatherings, scholar-athlete competitions can foster understanding, acceptance and friendship among students who might otherwise never interact.

"SEC. 8902. PURPOSE.

"It is the purpose of this part to provide authorization for the establishment of a model educational, athletic, and cultural event that—

"(1) is intended to bring together academically qualified youth of diverse cultural, economic, and social backgrounds;

"(2) is replicated by each State; and

"(3) invites adult and student leaders in education, business and government representing all 50 States to attend and observe the model event, including such event's educational and cultural programs, so that such leaders are qualified to administer similar events in their home States.

"SEC. 8903. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—(A) If funds are appropriated pursuant to the authority of subsection (c) for fiscal year 1995, the Secretary is authorized to award a grant to a nonprofit organization to enable such organization to carry out model scholar-athlete games in accordance with the purpose of this part.

"(B) If funds are appropriated pursuant to the authority of subsection (c) for fiscal year 1996, the Secretary is authorized to award a grant to a nonprofit organization to reimburse such organization for the costs of conducting scholar-athlete games in 1995.

"(2) SPECIAL RULE.—Scholar-athlete games assisted under this part shall be held in 1995.

"(3) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to a nonprofit organization that—

"(A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

"(B) has capability to administer federally funded scholar-athlete programs;

"(C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

"(D) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

"(E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

"(F) the Secretary determines has plans for conducting scholar-athlete games after 1995 without Federal assistance.

"(b) PAYMENTS.—From the amount authorized to be appropriated pursuant to the authority of subsection (c) for fiscal year 1995, the Secretary is authorized to make grant payments of 50 percent of such amount at the beginning of such year and the remaining 50 percent of such amount incrementally according to procedures established by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1995 and 1996 to carry out this part.

On page 1368, after line 24, insert the following:

TITLE ___—ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

SEC. ___02. FINDINGS.

The Congress finds that—

(1) the Department of Energy has unique and extensive mathematics and science capabilities that contribute to mathematics and science education programs throughout the Nation;

(2) a need exists to increase understanding, communication, and cooperation between the Congress, the Department of Energy, other Federal agencies, and the mathematics and science education community;

(3) elementary and secondary school mathematics and science teachers can provide practical insight to the Legislative and Executive branches in establishing and operating education programs; and

(4) a pilot program that placed elementary and secondary school mathematics and science teachers in professional staff positions in the Senate and the House of Representatives has proven successful and demonstrated the value of expanding the program.

SEC. ___03. PURPOSE; DESIGNATION.

(a) PURPOSE.—The purpose of this title is to establish within the Department of Energy a national fellowship program for elementary and secondary school mathematics and science teachers.

(b) DESIGNATION.—A recipient of a fellowship under this title shall be known as an "Albert Einstein Fellow".

SEC. ___04. DEFINITIONS.

As used in this title—

(1) the term "elementary school" has the meaning provided by section 10101(11) of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act;

(2) the term "local educational agency" has the meaning provided by section 10101(15) of the Elementary and Secondary Education Act of 1965, as so amended;

(3) the term "secondary school" has the meaning provided by section 10101(21) of the Elementary and Secondary Education Act of 1965, as so amended; and

(4) the term "Secretary" means the Secretary of Energy.

SEC. ___05. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish the Albert Einstein Distinguished Educator Fellowship Program (referred to in this title as the "Program") to provide 12 elementary or secondary school mathematics or science teachers with fellowships in each fiscal year in accordance with this title.

(2) ORDER OF PRIORITY.—The Secretary may reduce the number of fellowships awarded under this title for any fiscal year in which the amount appropriated for the Program is insufficient to support 12 fellowships. If the number of fellowships awarded under this title is reduced for any fiscal

year, then the Secretary shall award fellowships based on the following order of priority:

(A) Three fellowships in the Department of Energy.

(B) Two fellowships in the Senate.

(C) Two fellowships in the House of Representatives.

(D) One fellowship in each of the following entities:

(i) The Department of Education.

(ii) The National Institutes of Health.

(iii) The National Science Foundation.

(iv) The National Aeronautics and Space Administration.

(v) The Office of Science and Technology Policy.

(3) TERMS OF FELLOWSHIPS.—Each fellowship awarded under this title shall be awarded for a period of ten months that, to the extent practicable, coincides with the academic year.

(4) ELIGIBILITY.—To be eligible for a fellowship under this title, an elementary or secondary school mathematics or science teacher must demonstrate—

(A) that such teacher would bring unique and valuable contributions to the Program;

(B) that such teacher is recognized for excellence in mathematics or science education; and

(C)(i) a sabbatical leave from teaching will be granted in order to participate in the Program; or

(ii) the teacher will return to a teaching position comparable to the position held prior to participating in the Program.

(b) ADMINISTRATION.—The Secretary shall—

(1) provide for the development and administration of an application and selection process for fellowships under the Program, including a process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(2) provide for the publication of information on the Program in appropriate professional publications, including an invitation for applications from teachers listed in the directories of national and State recognition programs;

(3) select from the pool of applicants 12 elementary and secondary school mathematics teachers and 12 elementary and secondary school science teachers;

(4) develop a program of orientation for fellowship recipients under this title; and

(5) not later than August 31 of each year in which fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall arrange for the 24 semifinalists to travel to Washington, D.C., to participate in interviews in accordance with the selection process described in paragraph (2).

(2) FINAL SELECTION.—(A) Not later than May 1 of each year preceding each year in which fellowships are to be awarded, the Secretary shall select and announce the names of the fellowship recipients.

(B) The Secretary shall provide for the development and administration of a process to select fellowship recipients from the pool of semifinalists as follows:

(i) The Secretary shall select three fellowship recipients who shall be assigned to the Department of Energy.

(ii) The Majority Leader of the Senate and the Minority Leader of the Senate, or their designees, shall each select a fellowship recipient who shall be assigned to the Senate.

(iii) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees, shall each select a fellowship recipient who shall be assigned to the House of Representatives.

(iv) Each of the following individuals, or their designees, shall select one fellowship recipient who shall be assigned within the department, office, agency, or institute such individual administers:

(I) The Secretary of Education.

(II) The Director of the National Institutes of Health.

(III) The Director of the National Science Foundation.

(IV) The Administrator of the National Aeronautics and Space Administration.

(V) The Director of the Office of Science and Technology Policy.

SEC. ___06. FELLOWSHIP AWARDS.

(a) FELLOWSHIP RECIPIENT COMPENSATION.—Each recipient of a fellowship under this title shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS-13 of the General Schedule.

(b) LOCAL EDUCATIONAL AGENCY.—The Secretary shall seek to ensure that no local educational agency penalizes a teacher who elects to participate in the Program.

SEC. ___07. WASTE MANAGEMENT EDUCATION RESEARCH CONSORTIUM (WERC).

The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

SEC. ___08. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Program $700,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2001.

(b) WERC PROGRAM.— There are authorized to be appropriated for the WERC program under section ___07 such sums as may be necessary for each of the fiscal years 1996 through 2001.

On page 1137, beginning with line 9, strike all through page 1138, line 2, and insert the following:

"SEC. 10204. ADMINISTRATIVE FUNDS STUDY.

"(a) STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

"(2) RESULTS.—Based on the results of the study described in paragraph (1), the Secretary shall, within one year of the completion of such study, promulgate final regulations regarding the use of funds for administration under all covered programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration.

"(b) REPORT.—The Secretary shall complete the study conducted under this section not later than 1 year after the date of enactment of the Improving America's Schools Act of 1994 and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

On page ___, between lines ___ and ___, insert the following:

"SEC. 9302. FINDINGS.

"The Congress finds and declares as follows:

"(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France and Japan, as evidence by treaties governing friends, commerce, and navigation.

"(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(4) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103-150 (107 Stat. 1510).

"(5) In 1898, the joint resolution entitled 'A Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

"(6) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(7) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(8) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration

of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

"(9) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

"(10) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

"(11) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

"(12) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

"(13) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and has educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

"(14) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

"(15) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

"(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

"(i) late or no prenatal care;

"(ii) half of Native Hawaiian women who give birth are unmarried; and

"(iii) high rates of births to teenage parents;

"(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

"(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

"(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

"(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

"(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

"(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

"(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

"(ii) Native Hawaiian students are the highest users of drugs and alcohol; and

"(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

"(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

"(16) The findings described in paragraphs (1) through (15) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

"(17) After the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo no ke ola; I ka 'ōlelo no ka make. In the language rests life; In the language rests death.'.

"(18) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(19) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

"(A) acknowledges the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust;

"(B) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

"(C) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

"(20) It continues to be the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

Page 608 between line 16 and 17 insert:

(3) the term "stop-over center" means a migrant project site which provides educational services approved by the State educational agency, advance notification to States where migrant children are traveling, and coordination with providers of other services to migrant children, to eligible migrant children who intend to stay 5 days or less while they or others in their family are moving from one location to another seeking migratory agricultural work, including migratory dairy work, or migratory fishing work.

Page 612, line 7 after "periods" insert: "or special programs that operate at or through stop-over centers"

At the end of part D of title III, insert the following:

SEC. ___. RURAL COMMUNITY SERVICE.

Title XI of the Higher Education Act of 1965 (20 U.S.C. 1136 et seq.) is amended by adding at the end the following new part:

"PART C—RURAL COMMUNITY SERVICE

"SEC. 1171. FINDINGS; PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the Nation's rural centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's rural institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge, and experience in these rural institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge, and experience is hindered by the limited funds available to redirect attention to solutions to such rural problems.

"(b) PURPOSE.—It is the purpose of this part to provide incentives to rural academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1172. PROGRAM.

"The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the authorized activities described in section 1174 in accordance with the provisions of this part.

"SEC. 1173. APPLICATIONS FOR RURAL COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution desiring a grant under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances, as the Secretary may require by regulation.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the eligible institution will enter into a consortium to carry out the provisions of this part that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) A rural local educational agency.

"(iii) A local government.

"(iv) A business or other employer.

"(v) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(c) SELECTION PROCEDURES.—The Secretary, by regulation, shall develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1174. AUTHORIZED ACTIVITIES.

"Grant funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist rural communities to meet and address their pressing and severe problems, such as any of the following:

"(1) Work force preparation.

"(2) Rural poverty and the alleviation of such poverty.

"(3) Health care, including health care delivery and access as well as health education, prevention and wellness.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in rural settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Rural housing.

"(9) Rural infrastructure.

"(10) Economic development.

"(11) Rural farming and environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1173(a)(2)(B) concur are of high priority in rural areas.

"(13)(A) Problems faced by individuals with disabilities and economically disadvantaged individuals regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion of individuals with disabilities in their community.

"SEC. 1175. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level Federal officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in rural community service or in education.

"SEC. 1176. DISBURSEMENT OF FUNDS.

"(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under this part may be awarded on a multiyear basis, except that no institution, individually or as a participant in a consortium, may receive a grant under this part for more than 5 years.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

"(c) MATCHING REQUIREMENT.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount grant, which contribution may be in cash or in kind, fairly evaluated.

(d) The Secretary shall, to the maximum extent possible, coordinate this program with the Corporation for National and Community Service.

"SEC. 1177. DESIGNATION OF RURAL GRANT INSTITUTIONS.

"The Secretary shall publish a list of eligible institutions and shall designate such institutions of higher education as 'Rural Grant Institutions'. The Secretary shall establish a national network of Rural Grant Institutions so that the results of individual projects achieved in 1 rural area can be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1178. DEFINITIONS.

"As used in this part:

"(1) RURAL AREA.—The term 'rural area' means any area that—

"(A) is outside an urban area, as such term is defined by the Bureau of the Census; and

"(B) contains a population of 75,000 or less.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education, or a consortium of such institutions any one of which meets all the requirements of this paragraph, which—

"(A) draws a substantial portion of its undergraduate students from the rural area served by such institution or consortium, or from contiguous areas;

"(B) carries out programs to make postsecondary educational opportunities more accessible to residents of such rural areas, or contiguous areas;

"(C) has the present capacity to provide resources responsive to the needs and priorities of such rural areas and contiguous areas;

"(D) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(E) has demonstrated and sustained a sense of responsibility to such rural area and contiguous areas and the people of such areas.

"SEC. 1179. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary in each of the 4 succeeding fiscal years to carry out the provisions of this part.".

On p. 1202 strike "and" on line 2.

On p. 1202 at the end of line 4 strike the "." and insert "and"

On p. 1202 add the following sentence between lines 4 and 5

"(8) effects to implement school uniform policies to ensure the health and safety of students and the school environment."

"PART —ALASKA NATIVE EDUCATION

"SEC. . SHORT TITLE.

"This part may be cited as the 'Alaska Native Educational Equity, Support and Assistance Act'.

"SEC. . FINDINGS.

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long term well being and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs;

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student drop out rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. . PURPOSE.

"It is the purpose of this part to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

"SEC. . ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

"(1) EDUCATIONAL PLANNING.—The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

"(2) IMPLEMENTATION OF EDUCATIONAL PLANS.—The adoption and implementation of

specific educational plans developed under subsection (1) above.

"(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

"(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

"(B) curricula and teaching materials for instructions in Native languages.

"(4) PRETEACHER TRAINING.—The development and implementation of preteacher training program in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

"(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) increasing the numbers of teachers who are Alaska Natives;

"(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

"(C) improving the teacher selection process in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

"(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. . ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

"(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include

"(1) parent-infant programs for prenatal through three-year olds;

"(2) preschool programs for four- and five-year olds;

"(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

"(4) continued research and development; and

"(5) a long term followup and assessment program.

"(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. . ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

"(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the students eligible to participate in the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

"(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

"(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. . ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) APPLICATIONS BY LOCAL SCHOOL DISTRICTS OR STATE EDUCATIONAL ENTITIES.—Local school districts or state educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

"(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, Provided, that approval by or concurrence from such local educational agency shall not be required.

"(e) IMPLEMENTATION OF AUTHORITIES.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

"SEC. . DEFINITIONS.

"For purposes of this part—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act.

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that:

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization."

On page 608, line 17 insert a new (3):

"(3) The term 'fishing activity' means any activity directly related to the catching or processing of fish or shellfish—

"(a) for initial commercial sale, whether a fisher is self-employed or employed by others, or

"(b) as a principal means of personal subsistence."

At the appropriate place, insert the following new section:

SEC. ___. THERAPEUTIC MODEL DEMONSTRATION SCHOOLS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

(2) PURPOSE.—The purpose of the therapeutic model demonstration schools shall be—

(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

(b) LOCATION.—The Secretary shall initiate the therapeutic model at two schools in school years 1994 through 1996, and shall give priority to—

(1) one school that is the recipient of a grant under section 5204 of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 during the 1994–1995 school year; and

(2) one school operated by the Bureau of Indian Affairs during the 1995–1996 school year.

(c) SERVICES.—The demonstration schools shall provide an integrated residential environment that may include—

(1) mental health services;

(2) education;

(3) recreation therapy;

(4) social service programs;

(5) substance abuse education and prevention; and

(6) other support services for aftercare.

(d) STAFFING.—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include, but not be limited to—

(1) clinical psychologists;

(2) child psychologists;

(3) substance abuse counselors;

(4) social workers; and

(5) health educators.

(e) ENROLLMENT.—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

(f) ASSISTANCE.—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

(g) REPORT.—Not later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.

On page 521, after line 13, insert the following after "centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child";

On page 521, line 1, strike "(3)" and insert "(4)".

On page 521, line 8, strike "(4)" and insert "(5)".

On page 521, line 10, insert Home Instruction Programs for Preschool, Kindergarten "and Parents as Teachers," after "Start,".

On page 521, line 12, strike "(5)" and insert "(6)".

On page 521, line 16, strike "(6)" and insert "(7)".

On page 1333 between lines 8 and 9, insert the following new section:

SEC. 314. FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

(a) SHORT TITLE.—This section may be cited as the "Support for Families of Children With Disabilities Act of 1994".

(b) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

"PART I—FAMILY SUPPORT

"SEC. 701. SHORT TITLE.

"This part may be cited as the 'Families of Children With Disabilities Support Act of 1994'.

"SEC. 702. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

"(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

"(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

"(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

"(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

"(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

"(7) There are financial disincentives for families to care for their children with disabilities at home.

"(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

"(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

"(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

"(A) To support the family.

"(B) To enable families of children with disabilities to nurture and enjoy their children at home.

"(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

"(b) PURPOSES.—The purposes of this part are as follows:

"(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

"(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

"(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

"(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

"(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

"(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 708; and

"(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

"(2) To enhance the ability of the Federal Government to—

"(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c);

"(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

"(C) conduct an evaluation of the program of grants to States; and

"(D) provide funding for model demonstration and innovation projects.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this part shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

"(1) Family support for families of children with disabilities must focus on the needs of the entire family.

"(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

"(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

"(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

"(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

"(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

"(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

"(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

"(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

"(d) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

"SEC. 703. DEFINITIONS.

"For the purposes of this part, only the following definitions shall apply:

"(1) CHILD WITH A DISABILITY.—The term 'child with a disability' means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

"(2) COUNCIL.—The term 'Council' means a State Policy Council for Families of Children with Disabilities established by a State under section 707.

"(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports, or other assistance that is conducted or provided in a manner that—

"(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

"(B) has the greatest likelihood of ensuring maximum participation of such individuals.

"(4) DISABILITY.—The term 'disability' means—

"(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

"(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

"(5) EXISTING COUNCIL.—The term 'existing Council' means an entity or a committee of an entity that—

"(A) is established by a State prior to the date on which the State submits an application for funding under this part;

"(B) has authority to advise the State with respect to family support for families of children with disabilities; and

"(C) may have the authority to carry out other responsibilities and duties.

"(6) FAMILY.—The term 'family' means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

"(A) A mother, father, brother, sister or any combination.

"(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

"(C) An adoptive parent.

"(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

"(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

"(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

"(7) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term 'family-centered and family-directed' means, with respect to a service or program, that the service or program—

"(A) facilitates the full participation, choice, and control by families of children with disabilities in—

"(i) decisions relating to the supports that will meet the priorities of the family; and

"(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

"(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

"(C) is easily accessible to and usable by families of children with disabilities.

"(8) FAMILY SATISFACTION.—The term 'family satisfaction' means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

"(9) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term 'family support for families of children with disabilities'—

"(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

"(i) support families in the efforts of such families to raise their children with disabilities in the family home;

"(ii) strengthen the role of the family as primary caregiver;

"(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

"(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

"(B) includes—

"(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

"(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

"(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

"(10) INTEGRATION AND INCLUSION.—The term 'integration and inclusion' with respect to children with disabilities and their families means—

"(A) the use of the same community resources that are used by and available to other individuals and families;

"(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

"(C) having friendships and relationships with individuals and families of their own choosing.

"(11) LEAD ENTITY.—The term 'lead entity' means an office or entity described in section 706.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(13) SERVICE COORDINATION.—The term 'service coordination'—

"(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

"(B) includes—

"(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

"(ii) the coordination and monitoring of services provided to children with disabilities and their families;

"(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

"(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

"(14) STATEWIDE SYSTEM OF FAMILY SUPPORT.—The term 'statewide system of family support for families of children with disabilities' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this part that—

"(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

"(15) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means efforts that result in laws, regulations, policies, practices, or organizational structures—

"(A) that are family-centered and family-directed;

"(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

"(C) that otherwise accomplish the purposes of this part.

"(16) UNSERVED AND UNDERSERVED POPULATIONS.—The term 'unserved and underserved populations' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"SEC. 704. GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this part, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 702.

"(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

"(c) AMOUNT OF GRANTS.—

"(1) GRANTS TO STATES.—From amounts appropriated under section 716(a), the Secretary shall pay to each State that has an application approved under section 705, for each year of the grant period, an amount that is not less than $200,000 and not more than $500,000.

"(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 716(a) for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 705 not more than $100,000.

"(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

"(A) The amounts available for making grants under this section.

"(B) The child population of the State or territory concerned.

"(4) DEFINITIONS.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(B) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

"(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

"(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

"(2) is making significant progress in accordance with section 710.

"(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

"(1) is geographically equitable; and

"(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

"SEC. 705. APPLICATION.

"A State that desires to receive a grant under this part shall submit an application to the Secretary that contains the following information and assurances:

"(1) FAMILY-CENTERED AND FAMILY-DIRECTED APPROACH.—An assurance that the State will use funds made available under this part to accomplish the purposes described in section 702 and the goals, objectives, and family-centered outcomes described in section 709(b) by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

"(2) DESIGNATION OF THE LEAD ENTITY.—Information identifying the lead entity, and evidence documenting the abilities of such entity.

"(3) STATE POLICY COUNCIL FOR FAMILIES OF CHILDREN WITH DISABILITIES.—An assurance of the following:

"(A) The State has established a Council that meets the criteria set forth in section 707.

"(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 709, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

"(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

"(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this part.

"(4) FAMILY INVOLVEMENT.—A description of the following:

"(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

"(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

"(C) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

"(5) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

"(6) STATE RESOURCES.—A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

"(7) UNMET NEEDS.—A description of unmet needs for family support for families of children with disabilities within the State.

"(8) PRELIMINARY PLAN.—A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this part.

"(9) ACTIVITIES.—An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this part for grants and contracts to conduct the activities described in section 708.

"(10) LIMIT ON ADMINISTRATIVE COSTS.—An assurance that the lead entity that receives funding under this part in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

"(11) STRATEGIC PLAN.—A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 709.

"(12) EVALUATION.—An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 710.

"(13) COORDINATION WITH STATE AND LOCAL COUNCILS.—An assurance that the lead entity will coordinate the activities funded through a grant made under this part with the activities carried out by other relevant councils within the State.

"(14) SUPPLEMENT OTHER FUNDS.—An assurance, with respect to amounts received under a grant, of the following:

"(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

"(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

"(15) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

"SEC. 706. DESIGNATION OF THE LEAD ENTITY.

"(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 704, shall designate the office or entity (referred to in this part as the "lead entity ") responsible for—

"(1) submitting the application under section 705 on behalf of the State;

"(2) administering and supervising the use of the amounts made available under the grant;

"(3) coordinating efforts related to and supervising the preparation of the application;

"(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this part.

"(b) QUALIFICATIONS.—In designating the lead entity, the Chief Executive Officer may designate—

"(1) an office of the Chief Executive Officer;

"(2) a commission appointed by the Chief Executive Officer;

"(3) a public agency;

"(4) a council established under Federal or State law; or

"(5) another appropriate office, agency, or entity.

"(c) CAPABILITIES OF THE LEAD ENTITY.—The State shall provide, in accordance with the requirements of section 705, evidence that the lead entity has the capacity—

"(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

"(2) to promote and implement systems change activities;

"(3) to maximize access to public and private funds for family support services for families of children with disabilities;

"(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

"(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

"(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

"(7) to promote and develop interagency coordination and collaboration.

"SEC. 707. STATE POLICY COUNCIL FOR FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

"(a) ESTABLISHMENT.—A State that desires to receive financial assistance under this

part shall, prior to the receipt of funds under this part, establish a State Policy Council for Families of Children with Disabilities.

"(b) APPOINTMENTS.—

"(1) MEMBERS.—Members of the Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (c). The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this part. The appointing authority shall ensure that the membership of the Council reasonably represents the population of the State and shall establish guidelines for terms of Council members.

"(2) CHAIRPERSON.—The Council shall elect a member of the Council to serve as the Chairperson of the Council. The Chairperson shall be a family member, as described in subsection (c)(1).

"(c) COMPOSITION.—The Council shall be composed of—

"(1) a majority of members who are—

"(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State; and

"(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

"(2) members—

"(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

"(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

"(3) such additional members as the appointing authority considers appropriate.

"(d) FUNCTIONS.—The Council shall—

"(1) establish formal policies regarding the operation of the Council;

"(2) advise and assist the lead entity in the performance of responsibilities described in section 706(a), particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

"(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

"(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 709, including—

"(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

"(B) the statement of family-centered outcomes;

"(C) the goals, objectives, and activities;

"(D) the quality improvement or quality enhancement system;

"(E) the appeals process;

"(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this part;

"(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

"(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

"(5) advise and assist the lead entity in the implementation of systems change activities;

"(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

"(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

"(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

"(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

"(e) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

"(g) COMPENSATION AND EXPENSES.—The Council may, consistent with State law, use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(h) USE OF EXISTING COUNCIL.—

"(1) IN GENERAL.—To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

"(2) REQUIREMENTS.—An existing Council shall—

"(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

"(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (c)(1), adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

"(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (d) through (g).

"(3) DOCUMENTATION OF COMPLIANCE.—Any State that has an existing Council shall include in a grant application submitted under section 705 and in subsequent annual progress reports submitted to the Secretary under section 710, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

"SEC. 708. AUTHORIZED ACTIVITIES.

"A State that receives a grant under section 704 may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 702, such as the following activities:

"(1) TRAINING AND TECHNICAL ASSISTANCE.—The State may support training and technical assistance activities for family members, service providers, community members, professionals, members of the Council, students and others that will do the following:

"(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

"(B) Promote partnerships with families of children with disabilities at all levels of the service system.

"(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

"(D) Assist families of children with disabilities in accessing natural and community supports and in obtaining benefits and services.

"(2) INTERAGENCY COORDINATION.—The State may support activities that conduct the following:

"(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

"(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

"(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

"(3) LOCAL OR REGIONAL COUNCILS.—The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

"(4) OUTREACH.—The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

"(5) POLICY STUDIES.—The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

"(6) HEARINGS AND FORUMS.—The State may conduct hearings and forums to solicit

input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

"(7) PUBLIC AWARENESS AND EDUCATION.—The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

"(8) NEEDS ASSESSMENT.—The State may conduct a needs assessment, which may, in part, be based on existing State data.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

"(10) PILOT DEMONSTRATION PROJECTS.—The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

"(11) OTHER ACTIVITIES.—The State may support other systems change activities that accomplish the purposes described in section 702.

"SEC. 709. STRATEGIC PLAN.

"(a) IN GENERAL.—Not later than 6 months after the date on which assistance is received by a State under this part, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this part.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

"(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

"(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

"(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

"(5) a description of the specific programs, projects, and activities funded under this part and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

"(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

"(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

"(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this part that includes all eligible families;

"(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

"(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 710.

"(c) PERIOD AND UPDATES.—The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

"(d) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

"(e) COMMENT.—The State shall develop a procedure for ensuring ongoing comment from the Council.

"(f) DISSEMINATION.—The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

"SEC. 710. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 704 is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this part.

"(b) PROGRESS REPORTS.—A State that receives a grant under section 704 shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this part. Such report shall include—

"(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

"(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

"(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

"(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

"SEC. 711. ADMINISTRATIVE PROVISIONS.

"(a) EVALUATION OF GRANT APPLICATIONS.—

"(1) PANELS.—The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this part.

"(2) COMPOSITION OF PANELS.—Panels shall be composed of a majority of family members of children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

"(3) EXPENSES AND FEES OF THE PANEL.—A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 716 to pay expenses and fees of a member of a Panel who is not a Federal employee.

"(b) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

"(c) APPEALS.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this part as the result of failure to supply information required under section 705 or 710. The Secretary shall take into consideration the comments of the Council.

"(d) EFFECT ON OTHER ASSISTANCE.—This part may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

"(e) UNOBLIGATED FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

"SEC. 712. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

"(b) PURPOSE.—With respect to States receiving assistance under this part, the technical assistance and information described under subsection (a) shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance

under this part. Such technical assistance and information shall—

"(1) facilitate effective systems change activities;

"(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

"(3) promote partnerships with families at all levels of the service system;

"(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

"(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

"(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

"(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 709(b)(2), and the assessment of family satisfaction; and

"(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

"(c) REQUEST FOR TECHNICAL ASSISTANCE.—A request for technical assistance by a lead entity in a State receiving assistance under this part shall be made in conjunction with the Council.

"(d) REPORTS TO THE SECRETARY.—An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 702 in other Federal legislation.

"SEC. 713. EVALUATION.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this part.

"(b) PURPOSE.—The purpose of an evaluation under subsection (a) shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this part, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this part that are necessary to assist States to fully accomplish the purposes of this part. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this part on—

"(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

"(2) access to and funding for family support for families of children with disabilities; and

"(3) the involvement of families at all levels of the service system.

"(c) REPORT TO CONGRESS.—Not later than 2½ years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

"(d) CONFLICT OF INTEREST.—The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 712.

"SEC. 714. PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) STUDY BY THE SECRETARY.—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 702.

"(b) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

"SEC. 715. CONSTRUCTION.

"Notwithstanding any other provision of this title, nothing in parts A through H of this title shall be construed to apply to this part.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(b) RESERVATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or $600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) to carry out—

"(A) section 712, with respect to the provision of technical assistance and information to States;

"(B) section 713, with respect to the conduct of the evaluations;

"(C) section 711(a), with respect to the evaluation of grant applications; and

"(D) section 714, with respect to the conduct of projects of national significance.

"(2) SPECIAL RULE.—The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry out section 714 for such year if the amount of funds reserved under such paragraph for such fiscal year is $700,000 or greater.".

On page 496, after line 15, insert a new subparagraph as follows:

"(e) OPTIONAL ASSIGNMENT.—A local educational agency with a total enrollment of greater than 90C,000 children may, to the extent feasible, use funds received under this part to serve children from low-income families who reside in school attendance areas having high concentrations of children from low-income families, who otherwise meet the eligibility requirements of this part, and who attend schools in noneligible attendance areas."

On page 853, beginning on line 1, strike all through line 4, and insert the following:

"(4) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) the term 'local educational agency' includes intermediate school districts and consortia.

On page 869, line 23, insert "comprehensive health" after "and".

At the appropriate place, insert the following new title:

TITLE ___—MULTIETHNIC PLACEMENT

SEC. ___01. SHORT TITLE.

This Act may be cited as the "Multiethnic Placement Act of 1994".

SEC. ___02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) nearly 500,000 children are in foster care in the United States;

(2) tens of thousands of children in foster care are waiting for adoption;

(3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit parents, from every race and culture, for children needing foster care or adoptive parents.

(b) PURPOSE.—It is the purpose of this Act to decrease the length of time that children wait to be adopted and to prevent discrimination in the placement of children on the basis of race, color, or national origin.

SEC. ___03. MULTIETHNIC PLACEMENTS.

(a) ACTIVITIES.—

(1) PROHIBITION.—An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) PERMISSIBLE CONSIDERATION.—An agency or entity to which paragraph (1) applies may consider the race, color, or national origin of a child as a factor in making a placement decision if such factor is relevant to the best interests of the child involved and is considered in conjunction with other factors.

(3) DEFINITION.—As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) LIMITATION.—The Secretary of Health and Human Services shall not provide placement and administrative funds under section 474(a)(3) of the Social Security Act (42 U.S.C.

674(a)(3)) to an agency or entity described in subsection (a) that is not in compliance with subsection (a).

(c) EQUITABLE RELIEF.—Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

On page 1092, line 13, insert "**FINDINGS;**" before "**purpose**".

On page 1092, between lines 13 and 14, insert the following:

"(a) FINDINGS.—The Congress finds that—

"(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

"(2) local educational agencies have struggled to fund adequately education services;

"(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status;

"(5) immigration policy is solely a responsibility of the Federal Government; and

On page 1092, line 14, strike "(a)" and insert "(b)".

On page 1093, line 1, strike "(b)" and insert "(c)".

On page 1093, line 7, strike "two" and insert "three".

On page 1094, line 11, strike "(a)" and insert "(b)".

On page 1097, strike lines 1 through 14, and insert the following:

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

On page 1105, line 24, strike "$75,000,000" and insert "$150,000,000".

On page 1106, line 3, insert:

SEC. 9210. COMMUNICATIONS BETWEEN FEDERALLY FUNDED GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of law, no Federal, State, or local government entity receiving Federal funds shall be prohibited or in any way restricted from communicating with the Immigration and Naturalization Service regarding the immigration status, legal or illegal, of an alien in the United States.

On page 1357, after line 25, insert the following:

SEC. ___. REHABILITATION ACT.

(a) Notwithstanding any other provision of the Rehabilitation Act of 1973, the amount otherwise payable to a State under section 111 of such Act shall be reduced—

(1) for fiscal years 1987 and 1988, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for such year are less than the total of such expenditures for fiscal year 1972; and

(2) for fiscal year 1989, the lesser of—

(A) the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for fiscal year 1989 are less than average of the total of such expenditures for fiscal years 1986, 1987, and 1988; or

(B) the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for fiscal year 1988 are less than the average of the total of such expenditures for fiscal years 1985, 1986, and 1987.

On page 1357, line 13, insert the following:

(c) LOCAL AGENCY PLAN APPROVAL.—Paragraph 4 of section 309 (a) of the Goals 2000: Educate America Act is amended by inserting the words "made by the local educational agency" after the word "modifications".

On page 1079, between lines 21 and 22, insert the following:

"(c) SPECIAL RULES.—

"(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81–874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

"(2) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 9004(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section 9004(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

"(B) The Secretary shall treat as eligible under subparagraph (G) of section 9004(a)(1) any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—A child meets the requirements of this paragraph if on the day preceding the date of enactment—

"(A) such child resides—

"(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

"(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

"(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

"(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child; and

"(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) or section 9010(b) of this part.".

On page 563, line 12, strike "For" and insert "Notwithstanding subsections (a)(2)(A)(iv) and (e), for".

On page 563, line 17, strike "A State" and insert "Notwithstanding subsections (a)(2)(A)(iv) and (e), a State".

On page 563, line 18, strike "more than" and insert "less than".

Subsection (e) of section 1123 of the Elementary and Secondary Education Act of 1965 (as amended by section 101) is amended by striking "Notwithstanding subsection (d)(1), no State" and inserting "No State".

On page 646, line 9, strike "or (C);" and insert "; or".

On page 646, strike lines 10 through 22, and insert the following:

"(B) not more than 1.5 percent and not less than 1 percent of the funds appropriated to carry out such subsections for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation;

On page 647, line 1, strike "$375,000" and insert "$425,000".

On page 647, line 3, strike "or (C);" and insert "; or".

On page 647, strike lines 4 through 14, and insert the following:

"(B) not more than $565,000 and not less than $425,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

On page 647, line 18, strike "or (C);" and insert "; or".

On page 647, beginning with line 19, strike all through page 648, line 5, and insert the following:

"(B) not more than $80,000 and not less than $50,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation.

On page 648, strike lines 10 through 14 and insert the following:

"(1)(A) .65 percent of the funds appropriated to carry out subsections (a), (c), (d), and (e) of section 1002 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than .75 percent and not less than .65 percent of the funds appropriated to carry out such subsections for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

"(2) except as provided in paragraph (3)—

"(A) $210,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than $245,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

"(3) in the case of an outlying area—

"(A) $35,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than $40,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation.

"(d) REPORT.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under this title shall submit to the Secretary a report on the use of funds for the State administration of activities assisted under this title. Such report shall include the proportion of State administrative funds provided under this section that are expended for—

"(1) basic program operation and compliance monitoring;

"(2) statewide program services, such as development of standards and assessments, curriculum development, and program evaluation; and

"(3) technical assistance and other direct support to local educational agencies and schools.

On page 648, line 15, strike "(d)" and insert "(e)"

On page 1221, line 18, strike "and" and insert a comma.

On page 1221, line 19, strike "levels" and insert the following: ", and State educational agency levels, which system shall be completed by January 1, 1997".

On page 1221, line 26, strike "and" and insert a comma.

On page 1222, line 1, insert ", and State educational agency" after "agency".

On page 1222, line 2, strike "six months after such date" and insert "July 1, 1997,".

On page 1222, line 5, strike "and" and insert a comma.

On page 1222, line 6, insert ", and State educational agency" after "agency".

On page 1035, between lines 11 and 12, insert the following:

"PART P—COMMUNITY SCHOOL PARTNERSHIPS

"SEC. 8901. SHORT TITLE.

"This part may be cited as the 'Community School Partnership Act'.

"SEC. 8902. FINDINGS.

"The Congress finds that—

"(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

"(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

"(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

"(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

"SEC. 8903. DEFINITIONS.

"As used in this part:

"(1) AREA PROGRAM CENTER.—The term 'area program center' means an organization that—

"(A) is part of, responsible to, and overseen by, the national organization; and

"(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

"(2) LOCAL AFFILIATED CHAPTER.—The term 'local affiliated chapter' means an organization that—

"(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

"(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

"(C) solicits broad-based community support in its academic support and fund-raising activities;

"(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

"(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or the presence of any mental, sensory, or physical disability; and

"(F) gives priority in awarding scholarships to students from low-income families in the local community.

"(3) NATIONAL ORGANIZATION.—The term 'national organization' means an organization that—

"(A) has the capacity to create, develop and sustain local affiliated chapters;

"(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

"(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

"(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code;

"(F) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D);

"(G) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

"(4) HIGH-POVERTY AREA.—The term 'high-poverty area' means a community with a higher percentage of children in poverty than the national average of such percentage.

"(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term 'students from low-income families' means students determined, pursuant to part F of title IV of the Higher Education Act of 1965, to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act.

"SEC. 8904. PURPOSE; ENDOWMENT GRANT AUTHORITY.

"(a) PURPOSE.—It is the purpose of this title to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

"(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

"(2) providing scholarship assistance for the pursuit of postsecondary education.

"(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 8907, the Secretary competitively awards an endowment grant to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

"SEC. 8905. GRANT AGREEMENT AND REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall award the endowment grant described in section 8904(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

"(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

"(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

"(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

"(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

"(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

"(A) a description of the programs and activities supported by the interest on the endowment fund;

"(B) the audited financial statement of the national organization for the preceding fiscal year;

"(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the 5 succeeding fiscal years;

"(D) or is accompanied by such evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

"(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

"(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

"(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 8906; and

"(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this title, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

"(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965.

"SEC. 8906. CONTINUING ELIGIBILITY.

"The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this title—

"(1) in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year;

"SEC. 8907. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1995 to carry out this title.

On page 1357, immediately after section 343, insert the following:

SEC. ___. HIGHER EDUCATION AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in paragraph (2) of section 232(d)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the semicolon; and

(2) in subparagraph (B) of section 404(a)(4)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the period.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on the date of enactment of this Act, except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965, may continue to distribute such funds to such institutions until July 1, 1995.

SEC. ___. TECHNICAL AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 101A—

(A) in paragraph (2) of subsection (a), by striking "and Palau" and all that follows through the end of the subsection, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau."; and

(B) in the matter preceding paragraph (1) of subsection (b), by inserting "the Republic of" immediately before "Palau";

(2) in clause (ii) of section 112(f)(1)(B), by striking "Palau" and all that follows through "99-658)", and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau"; and

(3) in paragraph (33) of section 521, by striking "and Palau" and all that follows through the end of the paragraph, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

SEC. ___. TECHNICAL AMENDMENT TO THE SECOND MORRILL ACT.

Section 5 the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) (commonly known as the "Second Morrill Act") is amended by striking "and the Trust Territory of the Pacific Islands or its successor governments" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau".

SEC. ___. DEFINITIONS FOR PART A OF TITLE III.

Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended—

(1) in paragraph (1) of subsection (b)—

(A) in subparagraph (D), by striking "and" after the semicolon; and

(B) by adding after subparagraph (E) the following new subparagraph:

"(F) located in a State; and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) STATE.—For the purpose of this part the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.".

SEC. ___. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G of the Higher Education Act of 1965 (20 U.S.C. 1070a-27) is amended by striking the second sentence thereof.

SEC. ___. LENDER-OF-LAST-RESORT PROGRAMS.

(a) AMENDMENT.—Paragraph (1) of subsection (c) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on August 10, 1993.

SEC. ___. FEDERAL CONSOLIDATION LOANS.

Paragraph (4) of section 428C(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-3(a)(4)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) made under subpart II of part B of title VIII of the Public Health Service Act.".

SEC. ___. FACILITIES AUTHORITY OF THE STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended—

(1) in subparagraph (C) of subsection (d)(1)—

(A) in the matter preceding clause (i), by inserting "(including related equipment, instrumentation, and furnishings)" after "materials";

(B) in clause (ii), by striking the semicolon and inserting ", athletic facilities, dining halls, and student unions; and";

(C) in clause (iii), by striking "and" after the semicolon;

(D) in the matter following clause (iv)—

(i) by striking "15 percent" and inserting "30 percent"; and

(ii) by striking "type" and inserting "types"; and

(E) by striking clause (iv); and

(2) in subsection (n), by striking "a report of its operations and activities during each year" and inserting "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year".

SEC. ___. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 481 the following new section:

"SEC. 481A. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

"Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on July 1, 1994.

SEC. ___. ELIGIBILITY FOR STUDENTS FROM PALAU.

Subsection (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(j)) is amended to read as follows:

"(j) ASSISTANCE UNDER SUBPARTS 1, 2, 3, 4, AND 6 OF PART A AND PART C.—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 2, 3, 4, and 6 of part A, and part C, of this title, if the student—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.".

SEC. ___. FEDERAL INSURANCE FOR BONDS.

Subsection (b) of section 723 of the Higher Education Act of 1965 (20 U.S.C. 1132-c(b)) is amended—

(1) in paragraph (8)—

(A) in clause (i), by striking "and" after the semicolon;

(B) by amending clause (ii) to read as follows:

"(ii) shall be maintained in an amount not less than 10 percent of the outstanding principal of all loans under this part, with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part; and"; and

(C) by adding at the end the following new clause:

"(iii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;"; and

(2) in paragraph (11), by striking "regulations" and inserting "conditions".

SEC. ___. DEFINITION OF ECONOMIC HARDSHIP.

Paragraph (1) of section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "or" after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) such borrower does not have disposable income that is more than four times the amount specified in subparagraph (A) for a borrower who is working full-time and such borrower's Federal educational debt burden equals or exceeds 20 percent of such borrower's disposable income; or"; and

(4) in paragraph (2), by striking "(1)(B)" and inserting "(1)(C)".

SEC. ___. AUTHORITY TO AWARD NEED-BASED AID.

Section 1544 of the Higher Education Amendments of 1992 (20 U.S.C. 1088, note) is amended to read as follows:

"SEC. 1544. AUTHORITY TO AWARD NEED-BASED AID.

"(a) EFFECT ON PENDING CASES PROHIBITED.—Nothing in this section shall in any way be construed to affect any antitrust litigation pending on the date of enactment of this Act.

"(b) IN GENERAL.—Except as provided in subsection (c), an institution of higher education that practice need-blind admissions may—

"(1) voluntarily agree with any other institution or institutions of higher education to award financial aid not awarded under the Higher Education Act of 1965 to students attending those institutions only on the basis of demonstrated financial need for such aid;

"(2) jointly discuss and voluntarily agree upon principles of need analysis for determining student financial need for aid not awarded under the Higher Education Act of 1965, provided that individual financial aid officers may exercise professional judgment with regard to individual applicants for financial aid;

"(3) use common aid application forms for aid not awarded under the Higher Education Act of 1965, provided that each such institution of higher education shall be free to request and use additional or different data from such institution's applicants; and

"(4) exchange through an independent third-party data on commonly admitted applicants regarding family and student assets, income, allowances against assets and income, number of family members, and the number of siblings in college, provided that each participating institution may retrieve such data only once for each commonly admitted applicant.

"(c) EXCEPTION.—Institutions of higher education shall not discuss or agree with each other on the prospective financial aid award to a specific applicant for financial aid.

"(d) RELATIONSHIP TO HIGHER EDUCATION ACT.—Nothing in this section shall be construed to affect the rights or obligations of an institution of higher education under sections 479A and 483.

"(e) RELATED MATTER.—No inference of unlawful conduct, combination or conspiracy shall be drawn from the fact that an institution of higher education engages in conduct authorized by this section.

"(f) DEFINITION.—For the purpose of this section the term 'institution of higher education that practices need-blind admissions' means an institution of higher education that admits as full-time students all United States citizens or aliens lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act) to the undergraduate programs of such institution without regard to family financial circumstances, other than such citizens or aliens admitted from a waiting list.

"(g) SUNSET PROVISION.—This section shall expire on September 30, 1999.

SEC. ___. DEFERMENT ELIGIBILITY.

Subsection (f) of section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended by adding at the end the following new paragraphs:

"(2) DEFINITION OF BORROWER.—For the purpose of this paragraph, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

"(3) DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of Title IV of the Act prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992.".

At the end of the bill, insert the following new title:

TITLE ___—1994 INSTITUTIONS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Equity in Educational Land-Grant Status Act of 1994".

SEC. ___02. DEFINITION.

As used in this title, the term "1994 Institutions" means any one of the following colleges:

(1) Bay Mills Community College.
(2) Blackfeet Community College.
(3) Cheyenne River Community College.
(4) D-Q University.
(5) Dullknife Memorial College.
(6) Fond Du Lac Community College.
(7) Fort Belknap Community College.
(8) Fort Berthold Community College.
(9) Fort Peck Community College.
(10) LacCourte Orielles Ojibwa Community College.
(11) Little Big Horn Community College.
(12) Little Hoop Community College.
(13) Nebraska Indian Community College.
(14) Northwest Indian College.
(15) Oglala Lakota College.
(16) Salish Kootenai College.
(17) Sinte Gleska University.
(18) Sisseton Wahpeton Community College.
(19) Standing Rock College.
(20) Stonechild Community College.
(21) Turtle Mountain Community College.
(22) Navajo Community College.
(23) United Tribes Technical College.
(24) Southwest Indian Polytechnic Institute.
(25) Institute of American Indian and Alaska Native Culture and Arts Development.
(26) Crownpoint Institute of Technology.
(27) Haskell Indian Junior College.
(28) Leech Lake Tribal College.
(29) College of the Menominee Nation.

SEC. ___03. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

(a) IN GENERAL.—

(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.).

(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act (as added by section ___04(b)(1) of this title); or

(iii) the Act of August 3, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322 et seq.).

(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862, relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 1996 through 2000, there are authorized to be appropriated $4,600,000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

(c) ENDOWMENT.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (referred to in this subsection as the "endowment fund"). The Secretary may enter into such agreements as are necessary to carry out this subsection.

(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

(A) amounts made available by appropriations pursuant to subsection (b) (referred to in this subsection as the "endowment fund corpus"); and

(B) interest earned on the endowment fund corpus.

(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2397h(3)) for each Institution for the fiscal year.

(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

SEC. ___04. APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

(A) $50,000; multiplied by

(B) the number of 1994 Institutions.

(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

(B) the number of 1994 Institutions.

(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322 et seq.), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

(b) FUNDING.—Section 3 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section ___02 of the Equity in Educational Land-Grant Status Act of 1994), $5,000,000 for the purposes set forth in section 2. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3).".

SEC. ___05. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) DEFINITIONS.—As used in this section:

(1) FEDERAL SHARE.—The term "Federal share" means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

(2) NON-FEDERAL SHARE.—The term "non-Federal share" means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) IN GENERAL.—

(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct research more effectively in agriculture and sciences.

(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made on the condition that the recipient of the grant pay a non-Federal share in an amount specified by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, $1,700,000 for each of fiscal years 1996 through 2000.

At the end of Title IV, insert the following:

"RATE OF PAY FOR THE DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH"

"SEC. . Notwithstanding section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)), the Secretary of Education is authorized to compensate anyone appointed during calendar year 1994 to be the Deputy Director of the National Institute on Disability and Rehabilitation Research at the rate of pay for level 5 of the Senior Executive Service Schedule."

Amendment No. 2421 is modified as follows:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students could have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

At the appropriate place, insert the following new section:

SEC. ___. FAMILY SUPPORT CENTER PROGRAM.

(a) ADMINISTRATIVE PROVISIONS.—Section 772(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11482(f)) is amended—

(1) in paragraph (1), to read as follows:

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such program and to provide technical assistance to entities for the development and submission of applications for grants under this section.";

(2) in paragraph (3), by striking "2 years" and inserting "3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(4) MINIMUM AMOUNT.—No grant made under subsection (a) may be less than $200,000 per year.".

(b) REPORT.—Section 777 of such Act (42 U.S.C. 11487) is amended by striking "1992" and inserting "1995".

(c) AUTHORIZATION FOR APPROPRIATIONS.—Section 779 of such Act (42 U.S.C. 11489) is amended by striking "for fiscal year 1993" and inserting "for each of the fiscal years 1993 through 1998".

(d) TECHNICAL AMENDMENT.—Section 774(a) of such Act (42 U.S.C. 11484(a)) is amended by striking "subsection (e)" and inserting "subsection (d)".

At the end of part D of title III, insert the following:

SEC. ___. THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.

Subsection (c) of section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000"; and

(2) in the second sentence of paragraph (2)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000".

On page 1358, between lines 9 and 10, insert the following:

SEC. 402. CRIMINAL HISTORY INVESTIGATIONS OF SCHOOL BUS DRIVERS.

(a) REQUIREMENT FOR INVESTIGATIONS.—(1) Notwithstanding any other provision of law, a local educational agency may not employ a person as a driver of a school bus of or on behalf of the agency until the agency conducts a background check under procedures that meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (Public Law 103-209; 107 Stat. 2491; 42 U.S.C. 5119a(b)).

(2) Subject to paragraph (3), the prohibition set forth in paragraph (1) shall take effect on the date of the enactment of this Act.

(b) INTERIM REQUIREMENT.—Prior to the establishment of the procedures referred to in subsection (a)(1), or a State's participation in the procedures referred to in subsection (a)(1), local educational agencies shall conduct a fingerprint based check through the criminal history files maintained by the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

(c) DEFINITION.—In this section, the term "local educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act.

"S. 1513 as reported is amended as follows—

Section 1602(a)(1) is amended by striking "and" at the end of line 19, by adding "and" to the end of line 23, and by adding the following new paragraph (G)—

"(G) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in core academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other competencies in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities."

Page 1038, line 18, strike "(A) The amount" and insert "(A)(i) The amount".

Page 1038, after line 25, insert the following new clause:

"(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

"(I) the operation of a domestic dependent elementary or secondary school; or

"(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

On page 650, between lines 3 and 4, insert the following:

"PART H—EDUCATIONAL OPPORTUNITY DEMONSTRATION PROGRAM

"SEC. 1801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) while low-income students have made significant gains with respect to educational achievement and attainment, considerable gaps still persist for these students in comparison to those from more affluent socioeconomic backgrounds;

"(2) our Nation has a compelling interest in assuring that all children receive a high quality education;

"(3) new methods and experiments to revitalize educational achievement and opportunities of low-income individuals must be a part of any comprehensive solution to the problems in our Nation's educational system;

"(4) preliminary research shows that same gender classes and schools may produce promising academic and behavioral improvements in both sexes for low-income, educationally disadvantaged students;

"(5) extensive data on same gender classes and schools are needed to determine whether same gender classes and schools are closely tailored to achieving the compelling government interest in assuring that all children are educated to the best of their ability;

"(6) in recent years efforts to experiment with same gender classes and schools have been inhibited by lawsuits and threats of lawsuits by private groups as well as governmental entities; and

"(7) there is a compelling government interest in granting the Secretary authority to insulate a limited number of local educational agencies and schools which are experimenting with same gender classes for a limited period of time from certain law suits under title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), or any other law prohibiting discrimination on the basis of sex, in order to collect data on the effectiveness of such classes in educating children from low-income, educationally disadvantaged backgrounds.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to give the Secretary discretion to allow experimentation with same gender classes for low-income, educationally disadvantaged students;

"(2) to determine whether same gender classes make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; and

"(3) to involve parents in the educational options and choices of their children.

"SEC. 1802. DEFINITIONS.

"As used in this part—

"(1) the term 'educational opportunity school' means a public elementary, middle, or secondary school, or a consortium of such schools all of which receive funds under this title, that—

"(A) establishes a plan for voluntary, same gender classes at one or more than one school in the community;

"(B) provides same gender classes for both boys and girls, as well as a co-educational option for any parent that chooses that option;

"(C) gives parents the option of choosing to send their child to a same gender class or to a co-educational class;

"(D) admits students on the basis of a lottery, if more students apply for admission to the same gender classes than can be accommodated;

"(E) has a program in which a member of the community is asked to volunteer such member's time in classes of children of the same gender as the member; and

"(F) operates in pursuit of improving achievement among all children based on a specific set of educational objectives determined by the local educational agency applying for a grant under this part, in conjunction with the educational opportunity advisory board established under section 1803(e) and agreed to by the Secretary; and

"(2) the term 'educational opportunity advisory board' means an advisory board established in accordance with section 1803(e).

"SEC. 1803. PROGRAM AUTHORIZED.

The Secretary may grant waivers to ten local education agencies for the design and operation of one or more educational opportunity schools.

"(a) INAPPLICABILITY.—Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school for a five year period following the Secretary's grant of the waiver only to the extent the Secretary determines necessary to ensure the development and operation of same gender classes in accordance with this part.

"(b) EDUCATIONAL OPPORTUNITY ADVISORY BOARD.—Each local educational agency receiving a waiver under this part shall establish an educational opportunity advisory board. Such advisory board shall be composed of school administrators, parents, teachers, local government officials and volunteers involved with an educational opportunity school. Such advisory board shall assist the local educational agency in developing the application for assistance under section 1804 and serve as an advisory board in the functioning of the educational opportunity school.

"SEC. 1804. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each local educational agency desiring a waiver under this part shall submit, within 180 days of the date of enactment of the Improving America's Schools Act of 1994, an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) SCOPE OF APPLICATION.—Each application described in subsection (a) may request a waiver for a single educational opportunity school or for a consortium of such schools.

"(c) APPLICATION CONTENTS.—Each application described in subsection (a) shall include—

"(1) a description of the educational program to be implemented by the proposed educational opportunity school, including—

"(A) the grade levels or ages of children to be served; and

"(B) the curriculum and instructional practices to be used;

"(2) a description of the objectives of the local educational agency and a description of how such agency intends to monitor and study the progress of children participating in the educational opportunity school;

"(3) a description of how the local educational agency intends to include in the educational opportunity school administrators, teaching personnel, and role models from the private sector;

"(4) a description of how school administrators, parents, teachers, local government and volunteers will be involved in the design and implementation of the educational opportunity school;

"(5) a description of how the local educational agency or the State, as appropriate, will provide for continued operation of the educational opportunity school once the Federal waiver has expired, if such agency determines that such school is successful;

"(6) a justification for the waiver or inapplicability of any Federal statutory or regulatory requirements that the local educational agency believes are necessary for the successful operation of the educational opportunity school and a description of any State or local statutory or regulatory requirements, that will be waived for, or will not apply to, the educational opportunity school, if necessary;

"(7) a description of how students in attendance at the educational opportunity school, or in the community, will be—

"(A) informed about such school; and

"(B) informed about the fact that admission to same gender classes is completely voluntary;

"(8) an assurance that the local educational agency will annually provide the Secretary such information as the Secretary may require to determine if the educational opportunity school is making satisfactory progress toward achieving the objectives described in paragraph (2);

"(9) an assurance that the local educational agency will cooperate with the Secretary in evaluating the program authorized by this part;

"(10) assurances that resources shall be used equally for same gender classes for boys and for girls;

"(11) assurances that the activities assisted under this part will not have an adverse affect, on either sex, that is caused by—

"(A) the distribution of teachers between same gender classes for boys and for girls;

"(B) the quality of facilities for boys and for girls;

"(C) the nature of the curriculum for boys and for girls;

"(D) program activities for boys and for girls; and

"(E) instruction for boys and for girls; and

Page 605, lines 3-4, strike "a second subgrant period" and insert "for additional subgrants, a subgrantee may receive funds under this part for a period not to exceed eight years."

Title X:

Page 1128, line 13, strike "and 2115".

On page 1133, line 13, insert ", including interactive forms of such products and services," after "tapes,".

On page 8, line 16, of the committee modification, strike "640" and insert "650".

On page 1042, line 11 insert:

(f) Special rule.

Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994

funds may be obligated, the Secretary of Education shall treat the local educational agency serving the Wheatland R-II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (20 U.S.C. 237(a)(1)(C)) or section 9003(a)(1)(C) of the Elementary and Secondary Education Act of 1965.

On page 1073, line 8 insert:

(d) Special rule.

In carrying out section 14(c) of the Act of September 23, 1950 (Public Law 815, 81st Congress) (20 U.S.C. 644(c)) or any successor authority, the Secretary of Education shall waive any amount of local effort in excess of $200,000 that would otherwise be required under paragraphs (3) and (4) of such section, or any successor authority, respectively, and any regulations issued thereunder, in awarding funds to the Winona R-III School District, Missouri, with respect to its application #MO-86-C-3601A36.

VETERANS AFFAIRS-HUD APPROPRIATIONS ACT FOR FISCAL YEAR 1995

BUMPERS (AND OTHERS) AMENDMENT NO. 2444

Mr. BUMPERS (for himself, Mr. WARNER, Mr. COHEN, Mr. BAUCUS, Mr. KERRY, Mr. SIMON, Mr. BRYAN, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CHAFEE, and Mr. WOFFORD) proposed an amendment to the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes; as follows:

Strike the figure on line 6 on page 70 and insert in lieu thereof the following: "$3,634,200,000, to remain available until September 30, 1996. Provided, that of the funds provided under this heading, no funds shall be expended on the space station program, except for termination costs."

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Jose Amador of Texas to be Assistant Secretary of Agriculture for Science and Education and Roger Viadero of Virginia to be the Inspector General for the Department of Agriculture. The hearing will be held on Friday, August 5, 1994 at 8:30 a.m. in SR-332. Senator TOM DASCHLE will preside.

For further information contact Christine Sarcone at 42035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 2, 1994, at 11:45 a.m. in executive session, to discuss matters related to the conference with the House on the Fiscal Year 1995 National Defense Authorization Act.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. 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 on Tuesday, August 2, beginning at 9:30 a.m. to conduct a hearing pursuant to Senate Resolution 229.

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

COMMITTEE ON FINANCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, August 2, 1994 at 10:00 a.m., to continue considering its recommendations for legislation to implement the Uruguay round of Multilateral Trade Negotiations.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, August 2, 1994, at 10 a.m. for a markup.

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

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Tuesday, August 2, 1994.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 2, 1994, at 4 p.m. to hold a closed briefing on intelligence matters.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., August 2, 1994.

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

ADDITIONAL STATEMENTS

THE NATIONAL ASSOCIATION OF TOWN WATCH'S 11TH ANNUAL NATIONAL NIGHT OUT

• Mr. WOFFORD. Mr. President, today, I want to call attention to a citizen effort to fight crime.

This evening the National Association of Town Watch will sponsor the 11th Annual National Night Out. This is a night for communities to take up the mantle of active duty citizenship, a night in which thousands of Americans will come together to say that they have had enough of crime and they want to work in cooperation with local law enforcement to restore civility to their communities.

It is significant that this day arises in the week in which we in the Senate move an important step closer to final passage of the largest anticrime legislation ever. By placing more police on the streets, building more prisons, investing in crime prevention programs, and requiring stiffer sentences for violent, repeat offenders, our crime bill represents a smart and tough attack on crime.

The theme of the National Night Out—mobilizing neighbors in the fight against crime—is more important than ever before. As I have traveled throughout Pennsylvania, I have heard from many people whose lives have been indelibly marked by crime. We have lost too many lives and too many communities to crime. And we—citizens, law enforcement, and other public officials—must work together to restore a sense of safety to our streets and neighborhoods.

My legislation, the citizens police academy bill, will encourage communities to work more cooperatively with local law enforcement in fighting crime. This bill, which has been incorporated into the crime bill, will provide important funding and institutional framework for community watch groups to access the training, information and know-how of law enforcement through citizens police academy programs. My legislation represents an important opportunity to expand efforts like those of the National Association of Town Watch and crime watch groups across the Nation.

I salute the National Association of Town Watch and its 11th Annual National Night Out and I am proud to join my distinguished colleague from Michigan, Senator RIEGLE, as a cosponsor of Senate Joint Resolution 212, which designates today, August 2, 1994, as "National Neighborhood Crime Watch Day."•

THE F-22 TEST PLAN

• Mr. D'AMATO. Mr. President, Senators DECONCINI, MACK, and I recently wrote Air Force Secretary Widnall

raising serious questions over the fact that the F-22 test and evaluation master plan [TEMP] by-passes the real-time electromagnetic digitally controlled analyzer and processor [REDCAP] and Air Force electronic warfare evaluation simulator [AFEWES] facilities. As a result, no electronic combat [EC] effectiveness testing confirming whether the F-22's combination of stealth, speed, and integrated avionics actually exploit and degrade air defenses, improve mission effectiveness, and increase survivability will be conducted prior to production. And, as recent events have shown, it is extremely difficult to kill a system, no matter how deeply flawed, once it is in production.

The response by the Air Force, while swift, was very disappointing.

AFEWES, according to the Air Force, will be included in the F-22 test plan "contingent on completion and validation of planned upgrades to existing capabilities." In fact, the Air Force has taken steps to cripple modernization at AFEWES. It has not escaped our notice that fiscal year 1994 AFEWES funds are being reprogrammed, that the facility was nickel and dimed in the fiscal year 1995 request, and that no provision has been made to budget for a real-time data link or a phase control for the RF environment generator, upgrades that are vital if proper testing of the F-22 is contemplated.

As for REDCAP, it will be used in "validating [radar cross section] RCS modeling and simulation of the F-22 enemy integrated Air Defense System [IADS] penetration capabilities." There is no doubt that this test should be done, and that it can be done at REDCAP. But RCS work is a sop. Our concern focused on the lack of appropriate testing to confirm that the F-22's combination of stealth, speed, and sophisticated electronics will allow it to maintain the superior situational awareness against enemy IADS necessary to achieve the first-look, first-shot, first-kill capability for which we are paying such an enormous cost. The RCS testing proposed by the Air Force will only address a single aspect of F-22 effectiveness.

The bottom line is that the Air Force has no intention of seriously testing prior to production a pioneering fourth generation stealth aircraft with supercruise capability and an integrated avionics package driven by 1.4 million lines of software code. We have been down this road before with the Air Force, and we will not be fooled again.

I ask that the letter from Robert Stuart, Air Force Deputy for Budget, be printed in the RECORD.

The letter follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, July 27, 1994.

Hon. AL D'AMATO,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: In response to your July 13, 1994 letter, the Air Force has reviewed the electronic warfare test concepts planned for the F-22 program. We have taken this action to eliminate any perception the Air Force is intentionally bypassing test facilities with the ability to accurately assess the F-22's inherent capabilities to exploit or degrade enemy air defenses. We are committed to full testing of F-22 electronic warfare effectiveness.

The Air Force has planned an extensive, robust F-22 test program and continuously reviews test facility capabilities. In fact, one of the greatest F-22 test planning challenges is identifying facilities capable of fully testing the aircraft. We recognize the importance of Hardware-in-the-Loop (HITL) facilities for electronic warfare testing. In fact, the current test program includes HITL testing at four DoD facilities that meet particular F-22 test requirements. Additionally, the Air Force is planning to use the Air Force Electronic Warfare Evaluation Simulator (AFEWES) facility contingent on completion and validation of planned upgrades to existing capabilities. Development testing of F-22 integrated avionics is not limited to ground testing. A Boeing 757 Flying Test Bed will conduct development flight testing on the integrated avionics.

While the Real-time Electromagnetic Digitally Controlled Analyzer & Processor (REDCAP) is not presently capable of fully testing the F-22's systems, the Air Force has determined that it will provide an early, incremental benefit by validating RCS modeling and simulation of the F-22 enemy Integrated Air Defense Systems penetration capabilities. This test will be incorporated in the F-22 program.

The F-22 test program, as documented in the Test Evaluation Master Plan (TEMP), continues to evolve as test requirements and facility changes occur over the course of the program. The next revision of the TEMP is scheduled for the Spring of 1995.

I trust this letter has resolved your concerns regarding the F-22 test program. We will continue to review DoD test facility capabilities and adjust the F-22 test effort to ensure cost effective, robust RCS and system effectiveness testing.

Sincerely,
ROBERT D. STUART,
Deputy for Budget.•

THE WASHINGTON POST'S EXAMINATION OF SUB-SAHARAN AFRICA

• Mr. SIMON. Mr. President, for several years, I have publicly lamented about the lack of a strong constituency for Africa in the United States.

Just 10 days ago in an interview with National Public Radio, I suggested that if every Member of the House and Senate had received 100 letters from people back home saying we had to do something about Rwanda, when the crisis was first developing then the response would have been different.

Whether you ask me about what it was like to rally support for United States aid to Somalia before the pictures of the hundreds of thousands of starving men, women, and children reached the front pages of our newspapers and our living rooms through television, or getting involved in the conflicts in Liberia or Angola or the Sudan or many other African states, it has nearly always been a struggle to captivate the eye of America. The news media has not reported as much about the tribulations that face African peoples as much as the conflict in Bosnia or the Middle East.

I am pleased to rise today and commend the Washington Post for their efforts to change this course. Their continuing series "Continental Drift," has been exceptional. The editors of the Washington Post have noted that with the end of the cold war, sub-Saharan Africa ceased to be the prize for which the East and West had vied over decades. In the 1990's, sub-Saharan Africa's 45 governments have been trying to make their way in a changing world, grappling with new political and economic systems that are often at odds with centuries-old traditions and decades-old practices. This series, which has run occasionally over the last few months, focuses on the continent of Africa, with its successes and failures and their causes.

I understand that future stories will examine environmental degradation, economics, health, religion, population growth, and Africa's role in the world.

Mr. President, in case my colleagues have missed this substantial effort, I ask unanimous consent that the series published to date be printed in its entirety in the CONGRESSIONAL RECORD.

If all news organizations would make as strong a commitment we could alleviate many future crises before they start.

The articles follow:

[From the Washington Post]

MOZAMBIQUE AT PEACE AS ANGOLA FIGHTS ON; EX-PORTUGUESE COLONIES TAKE DIFFERENT ROADS

(By Paul Taylor)

MAPUTO, MOZAMBIQUE.—For centuries, former Portuguese colonies Mozambique and Angola have stood like bookends along the southern base of Africa, sharing a hauntingly similar history, especially over the course of the past generation. But today, one is at war and the other is at peace.

The most compelling explanation is also the most ironic: Mozambique is too poor to keep fighting.

"We don't have Angola's oil and diamonds, so there's no way we can sustain a civil war here without outside help," said Carlos Cardoso, an independent publisher in the capital of what is generally regarded as the world's poorest country.

There's another "advantage" that Mozambique enjoys: the cautionary tale of Angola. Both countries won their independence from Portugal in 1975, both immediately became Marxist states, and both were plunged into civil wars financed by outsiders. But Mozambicans did not sign a peace accord until October 1992, nearly two years after Angolans did—and just as Angola's fragile peace was falling apart. It has left a deep impression.

"Angola is everyone's negative point of reference here," said Aldo Ajello, head of the U.N. Operation in Mozambique.

To avoid another peacekeeping fiasco, the United Nations sent some 7,000 troops here,

compared with the 400 it had assigned to oversee military demobilization in Angola.

Everyone now agrees the 400 figure was a bad misjudgment—one that made it too easy for Jonas Savimbi, leader of Angola's UNITA rebels, to flout the demobilization deadlines and keep his best men and materiel hidden away in the bush, so they were ready to return to war when Angola's first democratic election did not go his way.

Not everyone is convinced, however, that a larger peacekeeping force in Angola could have changed the dynamics that much. "If you need 7,000 troops in Mozambique, you probably needed 50,000 in Angola, and you still might not have been able to control the situation," said Philip Clarke, director of the U.N. World Food Program in Mozambique, who held the same job in Angola. "There's not the same hatreds here as in Angola. There, you have a few big tribes with a history of animosity. Here there are 19 different tribes, and they tend to blend into one another."

Even with the larger peacekeeping force here, many of the demobilization deadlines have been missed, just as in Angola, and the new joint army is likely to be just a skeleton force, as it was in Angola.

But Ajello, while frustrated by the delays, doubts that Mozambique's election, set for Oct. 27–28, will lead to a resumption in hostilities, as it did in Angola. Even though the formal demobilization process has gone slowly, the war-weary soldiers of both sides have made it clear—with riots and mutinies at their assembly areas—that they are fed up with their generals and want to grab their demobilization pay and go back to their villages.

"Whoever says, 'We'll go back to war if we don't like the result,' will get laughed at," said Cardoso, "because everyone knows nobody has an army."

Then there's the personality factor, which also seems to be running in Mozambique's favor. Savimbi's opposite number here, rebel leader Afonso Dhlakama of the Mozambique National Resistance, is 42—18 years younger than Savimbi—and seems to understand that even if he loses the coming election, he has a bright future as an opposition political leader.

In the 1980s, when Savimbi and Dhlakama were the two highest-profile anti-communist guerrilla leaders in Africa, Savimbi won the hearts of conservative groups in Europe and the United States, who hailed him as a true democrat. But Dhlakama was rebuffed because his faction was so closely identified with the apartheid regime in South Africa and with brutality against civilians.

Now Savimbi has lost his old friends in the West, while Dhlakama is making new ones among diplomats who have taken not of his generally good record so far in adhering to the peace process.

Dhlakama's commitment to democracy will not really be tested until the returns come in from the October election. But if, like Savimbi, he loses and wants to fight back, it is unlikely he will have any troops to go along with him.

WITH MISCHIEVOUS OUTSIDERS GONE, ANGOLA CREATES ITS OWN SUFFERING; DEVASTATING CIVIL WAR FOLLOWS YEARS AS COLONY AND COLD WAR PAWN

(By Paul Taylor)

DONDO, ANGOLA.—Antonio dos Anjos, a 15-month-old war victim, has sunken eyes, twig-like limbs and a case of cholera that will not kill me, thanks to the kindness of strangers.

His doctor is a Nigerian, his nurse a Minnesotan. An Australian is the supply officer at the therapeutic feeding center at Antonio's displaced persons camp; a Norwegian is the water engineer.

They are part of an international relief effort that has kept Angola from becoming another of this decade's humanitarian catastrophes, on the order of Somalia, Rwanda or Bosnia.

Unfortunately, the kindness of strangers has not rescued Angola from itself. A mineral-rich southwest African nation of 11.2 million, Angola is home to one of Africa's most intractable post-colonial civil wars, now approaching its 20th year and well past the half-million mark in deaths.

Nor have strangers always come in kindness. Over the span of just two decades, this country has been a Portuguese colony, a Soviet client state, a superpower battleground, a failed object of New World Order democracy initiatives and a starving recipient of First World food aid.

It hardly seems to matter anymore if the outsiders come for mischievous purposes or noble ones. Either way, Angolans keep suffering and dying. "If you want to make a case that the industrialized world still doesn't understand how to deal with Africa, Angola is a pretty good example," a Western diplomat said.

In a sense, Angola is the whole post-colonial African tragedy writ small. While most of the rest of the planet moves toward democracy and free markets, this nation is stuck in its own hellish orbit, with a dysfunctional command economy and a civil war fueled by the momentum of greed and power.

It seems beside the point to argue who is most to blame. There is more than enough to spread around—from the Portuguese colonizers who never prepared Angola for independence, to the superpowers who treated it like a plaything, to the Angolan combatants themselves, who have never found the courage or will to make peace.

The war could well get deadlier. Last month, just as U.N.-sponsored peace talks showed glimmers of progress, fighting intensified throughout the country. The formerly Marxist government of President Jose Eduardo dos Santos has launched a major offensive, bombing rebel-controlled areas in the central highlands and the north. The rebel movement, the National Union for the Total Independence of Angola, known as UNITA and led by Jonas Savimbi, is using artillery to pound government-held cities, including one, Cuito, heavily populated by its own supporters.

The flare-up forced curtailment of what for the previous six months had been the U.N. World Food Program's largest airlift. If the relief flights cannot resume soon, up to 2 million Angolans dependent on food aid face the prospect of a war-induced famine. The state-run Angolan News Agency reported last weekend that people in Cuito are eating mice and plant roots to stay alive.

Because Angola's calamity has been spread over two decades, it has rarely found its way onto the world's front pages or television screens. But the cumulative death toll of more than 500,000 here rivals that of any of today's higher-profile tragedies.

It is a disaster for which the United States, Russia and other outsiders clearly bear responsibility. While they come now as relief workers and would-be peacemakers, in the 1970s and 1980s they came with arms, armies and ambitions, making Angola a pawn in the Cold War. The United States armed and supported UNITA, which was also helped by an invasion force from white-ruled South Africa. Moscow backed the Marxist government and enlisted Cuban troops to prop it up.

Since the start of the post-Cold War 1990s, the United States, Russia, Portugal and the United Nations have all tried to coax the combatants here toward a political power-sharing arrangement similar to the one that brought South Africa through its transition from white-minority rule to democracy. Yet they have discovered that formulas imposed by outsiders are ineffective if the parties themselves do not trust one another.

At various stages since 1975, the war here has been waged under the banner of ideology, ethnicity or class animosity. Nowadays, stripped of outside patrons, it seems mainly about power, money and ego.

Since fighting resumed in late 1992, the war has taken an estimated 200,000 lives, on top of 350,000 from 1975 to 1990. Most of the casualties have been civilians. Angola has some 100,000 amputees, possibly the highest number per capita in the world, and an estimated 10 million unexploded land mines.

Despite a nine-month round of U.N.-supervised peace talks in neighboring Zambia that, on paper, has brought the parties close to an agreement on a cease-fire, demobilization and political power-sharing, diplomats here say the conflict's dynamics still tilt toward war, not peace.

For one thing, the dos Santos government appears to have the advantage militarily, and its generals seem determined to cripple UNITA before agreeing to any cease-fire.

Also, the combatants already made peace once, under the prodding of the United States, Portugal and the Soviet Union, only to have the war resume when Savimbi claimed that the U.N.-certified 1992 election he lost had been stolen. Peace will likely prove more elusive the second time around.

But perhaps the most intractable problem is that while most Angolans are impoverished, Angola holds enough mineral wealth to fuel both parties' war machines indefinitely, and there is a deadly equilibrium in the way the spoils are divided.

The government draws revenue from offshore oil wells that produce 550,000 barrels a day, according to official Angolan estimates. UNITA draws at least $100 million a year—perhaps much more—from diamonds it extracts from mines in northeastern Angola, according to a calculation by trade specialists in South Africa. UNITA representatives smuggle the diamonds to Zaire and sell them through middlemen to De Beers, the South African diamond giant.

"This war is between Angola's two main tribes: oil and diamonds," said one disillusioned relief worker.

This all raises a knotty question about humanitarian assistance. By feeding Angola's poor victims, is the world also indirectly fueling its wealthy warriors? According to the United Nations, the government spends 2 percent of its budget on education and 2 percent on health. Nearly all the rest goes for bombs and land mines that create more business for relief workers.

"In a sense, we are blackmailed," said Mike McDonagh, head of Concern, an Ireland-based relief agency. "If we weren't here, there would be a massive famine. But by coming, we may be making it easier for the war to go on."

Manuela Aranda da Silva, the U.N. coordinator for humanitarian aid in Angola, said, "We have prevented a catastrophe here." He noted that about a thousand Angolans a day were dying of starvation and war-related diseases before the U.N. relief effort geared up

late last year, aided by about 50 nongovernmental organizations.

In theory, by providing more than $150 million in food aid this year, the United Nations has acquired a lever to nudge the combatants toward peace. In practice, however, the combatants more often use the aid as a club, refusing military clearance for relief flights whenever they want to punish or pressure the other side. "Neither side seems to give a damn about Angolans," said one relief worker. "You can get pretty cynical here pretty fast."

This week, 11 of the humanitarian organizations working in Angola appealed to dos Santos and Savimbi to stop the killing, respect the neutrality of the relief effort and "reflect on the appalling moral consequences of the current course of events."

But critics say U.N. hands are not entirely clean either. In 1991–92, the United Nations tried to supervise the peace process with 400 unarmed military advisers—"an inadequate force," officials now acknowledge. Both sides failed to demobilize their forces fully, and the United Nations lacked the clout to respond. When Savimbi took issue with the election results, the core of his army was ready to fight again.

If there is a new peace agreement, the United Nations says, it will take at least 5,000 troops to supervise it. But few countries are likely to send troops until the two sides show a commitment to demobilization. And neither side is prepared to disarm until U.N. troops arrive to protect them against an enemy they will never trust.

To break the logjam in peace talks, Alioune Blondin Beye, the U.N. special representative to Angola, has recruited South African President Nelson Mandela as a mediator. Mandela held regional peace talks this month in Pretoria with the presidents of Angola, Zaire and Mozambique and hopes to meet soon with Savimbi, an old foe of Mandela's African National Congress.

Savimbi, 60, a popular figure and gifted general, began in the 1960s as an anti-colonial guerrilla leader influenced by the teachings of Mao Zedong. When a larger rival anti-colonial movement, the Popular Liberation Movement of Angola, known as the MPLA, received support from the Soviet Union, Savimbi cast himself as an anti-communist and sought funding from the CIA, which considered Angola the front line of Soviet expansionism in sub-Saharan Africa.

The MPLA became the government when Portugal pulled out in 1975. American aid to Savimbi stopped soon after but resumed in the Reagan era, during which the United States channeled an estimated $250 million in military aid to UNITA. Military experts estimate the Soviets may have lavished 10 times as much on their clients. The Soviet Union also encouraged Cuba to dispatch troops to Angola to defend the MPLA, while South Africa mounted an invasion to help UNITA uproot the communist government.

Savimbi lost some of his democratic credentials when he was accused by his own supporters of killing high-level dissidents within UNITA. He lost even more when he refused to accept the 1992 election results. His UNITA force is subject to a U.N.-backed embargo that is to be tightened after Sunday if he does not accept the peace proposal worked out in Zambia. UNITA has refused to embrace the peace plan unless it gives the rebels control of the provincial capital of Huambo, a UNITA stronghold.

Savimbi now casts the conflict in ethnic and populist terms. He says it pits his large but poor Ovimbundu tribe of the central highlands against the Mbundu and other relative economic elites who live along the coast. But it is unclear how much ethnicity really matters in this fight. "I talked to the headmistress of a school in Cuito. She lost her husband and six of her seven children when UNITA shelled the city last year, and she lost her seventh child this year," McDonagh said. "And the thing is, she is Ovimbundu and a Savimbi supporter, as are most of the people in Cuito."

The MPLA has killed its own too. Last month a government MiG accidentally bombed a school in the government-controlled town of Waku Kungo, killing 89 children. The aging MiGs fly high to avoid UNITA antiaircraft fire, and their bombs are notoriously scattered. Still, the government's air superiority is one reason it has retaken two of five provincial capitals that UNITA grabbed after the election.

In its current offensive, the government is pushing northward to try to cut off UNITA's access to diamonds and to resupply routes in Zaire.

Meanwhile, displaced persons' camps fill the countryside. In Dondo, 150 miles southeast of Luanda, the World Food Program feeds 83,000 people cut off from their villages and crops by land mines and fighting.

Even with the aid, the camp's therapeutic feeding center loses 15 children a month to malnutrition. A recent cholera outbreak claimed 43 lives in Dondo.

"The thing that gets me is that when the children die, I have yet to see a mother cry," said Karen Easterday, a nurse with World Vision, a relief organization.

"They seem to have lost all hope, and I guess they are afraid to get emotionally involved. I cry, and they wonder why I am crying."

MILITARY RULERS DRAINED NIGERIA, ENRICHED SELVES

(By Steve Coll and Cindy Shiner)

LAGOS, NIGERIA.—During the Cold War, East and West met furtively in the hangars of Makurdi Air Base in central Nigeria, the most populous country in sub-Saharan Africa and a substantial prize in superpower competition for global influence.

Soviet military advisers hovered around two dozen MiG–21 fighter jets supplied by Moscow to Nigeria's long-serving military government.

British advisers watched over 15 Jaguar fighter-bombers sold to balance the Soviet supplies.

Americans ferried supplies for nine C–130 transport planes.

Czechs tended approximately two dozen L–39 jet trainers they had sold.

Italians carried spare parts for eight G–222 aircraft.

"The view as far as the British government and the Americans were concerned was, 'Here we have a large population which has got tremendous potential as a force for stability in West Africa, which could act as a role model for democracy and act as a leader with its oil, minerals and agricultural potential,'" recalled retired British air force wing commander Ken Petrie, who was stationed in Nigeria from 1987 to 1990.

But today Makurdi is a Cold War ghost town and a military shambles, a symbol not only of how Nigeria has lost its strategic interest for the outside world, but of how its military government has failed to take care of the country and even of its own rank and file.

Riddled with corruption, pinched for funds and absorbed by domestic turmoil, the Nigerian military regime now led by Gen. Sani Abacha has largely stopped paying for maintenance of its Cold War-era equipment. The neglect is lethal: In 1992, almost an entire generation of senior Nigerian commanders from the country's military academy—163 people, most of them high-ranking officers—died when their overloaded, poorly maintained C–130 crashed after taking off from Lagos's Murtala Mohammed Airport.

During 24 years of on-again, off-again military rule in Nigeria, "ruling cliques have not seized power on behalf of the military as an institution, but from their own selfish point of view, from greed," said a retired, wealthy Nigerian general, David M. Jemibewon. "If anything, they in fact set out to destroy the institution, because if the military is well equipped, there might be a challenge" to their power.

At a time when militaries are in retreat from politics in many areas of the Third World—from South and Central America to Southeast Asia and the Indian subcontinent—armies in large swaths of sub-Saharan Africa continue to pose a danger not just to democracy and civilian populations, but to themselves.

Overall military spending in sub-Saharan Africa is declining in the aftermath of the Cold War. Some armies loaded up with weapons by outside powers during the Cold War are gradually demobilizing [see accompanying story]. But African armies' crippling impact on politics and development shows little sign of easing, despite a surge of democratic movements in the region.

If military control of government is defined as the absence of credible civilian authority over the army, then about two dozen of sub-Saharan Africa's 45 countries are in such a state today. Some, such as Angola and Sudan, are wracked by devastating wars that claim tens of thousands of lives annually. Others, such as Nigeria and Zaire, are large regional leaders retarded by political repression and economic decline.

The reasons why sub-Saharan African militaries hold such sway when armies elsewhere are moving back to the barracks are many and complex, according to African generals, government officials, defense specialists and democracy activists.

Shrinking economies in the region intensify competition among all interest groups, including militaries, for limited national wealth. State-dominated economic policies encourage African elites, including generals, to believe that the only way to get rich quickly is to get into government. A broad erosion in public institutions enables those with weapons to seize power and enrich themselves.

In oil-endowed Nigeria, the generals have done this in style. Both active and retired, they live in sprawling villas, work in $500-a-night hotel suites, travel frequently to Europe and talk openly with colleagues and diplomats about the homes, apartments, estates and even golf courses they own in Europe and the United States.

"As long as they are in government you have a brand new set of officers coming up who want to taste the spoils of office," said Eluem Emeka Izeze, editor of the African Guardian newspaper. "Their mission is self-preservation."

INSTRUMENT OF ETHNIC STRUGGLE

Equipment rusts and strategic air bases like Makurdi fall into disuse because after the Cold War, and in the absence of credible regional threats, "the military elite recognize quite honestly that the military is irrelevant in any security sense," said Olufemi

Otubanjo, a political scientist at Nigeria's University of Ibadan. "It's only relevant as an instrument of domestic pacification."

But to pacify a typical sub-Saharan African country, an army almost inevitably becomes entangled in the ethnic and tribal conflicts bequeathed by colonial borders.

Thus, Otubanjo added, besides a vehicle for economic and social mobility, "the military in most of Africa tends to be an instrument of ethnic struggle."

In giant Nigeria, in tiny Togo, in Zaire, in Congo, in Liberia, in Sierra Leone and most bloodily of late in Rwanda, fractured armies and militias provide the knife's edge of wider struggles to allocate ethnic and tribal power, as well as material resources, in fragile nation-states.

Liberian rebel Charles Taylor's National Patriotic Front set up its own government in its own capital, ruling over a territory with its own currency. At least six factions vie for control of the country's gold, diamonds, rubber and valuable hardwoods.

This thirst for money, power and ethnic advantage has reached such an exaggerated point in some countries, such as Nigeria, that the military is divided internally among competing, sometimes ethnically based cliques of officers desperate for a piece of the action before they retire.

"In West Africa, it's not so much the military taking over as an institution, but a group of individuals," said L.S. Aminu, a defense specialist at the government-funded Nigerian Institute of International Affairs. "Yes, they come out of the military, but they do not follow military doctrine."

Repetition of this process has produced, among other things, a breakdown in military discipline and a politically volatile schism between greedy senior officers and ambitious lower ranks suffering from neglect. Economic and political strife has prompted three massive looting sprees by Zaire's army in as many years, resulting in hundreds of deaths and the evacuation of at least 15,000 foreigners. Soldiers have now begun demanding their often-delayed monthly salaries in dollars.

As a result of such breakdowns, military intervention in sub-Saharan African politics has become not just horizontal—with a unified army stepping sideways to seize power from civilian politicians—but also vertical, with junior ranks mutinying against senior commanders.

Sierra Leone's head of state, army Capt. Valentine Strasser, who is only 28, seized power in 1992 with a group of junior officers because, while fighting a guerrilla war, the young officers became angered by the lack of medical treatment, food and ammunition available at the front.

The broad complaint many Africans have about this generation of military leaders, young and old, is that they have lost touch with reality.

Nigeria is arguably the most important case in point. With a quarter of Africa's population, a preponderance of the continent's surplus oil and about 100,000 men under arms, the country is both a bellwether of sub-Saharan Africa and a weighty force in regional affairs.

"Having a military regime in Nigeria constitutes a lot of danger for Africa itself," said human rights activist Femi Falana, president of the country's National Association of Democratic Lawyers.

A Nigerian general commands Gambia's small army. About 10,000 Nigerian peacekeepers are stationed in Liberia. Others have served in Somalia and Lebanon. And Nigeria's military has just announced a new program to train Sierra Leone's young army.

A year ago, Nigeria appeared ready to provide a different example. After a decade of stagnant and sometimes repressive military rule, peaceful democratic elections seemed to have brought a civilian businessman, Moshood Abiola, to power.

But the country's ruling military council, led then by Gen. Ibrahim Babangida, annulled the results, charging vote fraud, and reasserted military authority. The military has ruled Nigeria for 24 of its 34 years of independence, assisted by the repeated failures of civilian administrations and civilian politicians.

One year after that aborted election, Nigeria seems possessed by an almost surreal mood of self-disgusted inertia.

It's not just opposition politicians who declare that the military has lost touch with reality; retired generals, senior government officials, even cabinet ministers say the same.

One well-placed government official, after offering a laundry list of corruption allegations and malfeasance by the generals to whom he reports, said in a tone that blended wonderment and disgust, "If you are going to steal money, you have to do it with a view that your children will be able to steal money too."

Foreign Minister Baba Gana Kingibe, speaking of the generals, said: "Their credibility has progressively eroded . . . such that right now people are not exactly enamored of the military and people are anxious to see the back of the military. That is really the position we have reached."

Since Abiola was arrested last month and charged with treason, strikes and protests have spread from Lagos to several other cities. On Monday, 20 people were killed in Lagos during demonstrations demanding Abiola's release and Abacha's resignation.

Yet few of these officials and few outside analysts believe the Nigerian military is in any immediate danger of being pushed from power.

One reason is its elite presidential guard. The guard is a typical feature of undemocratic sub-Saharan African regimes—a coup-deterring force recruited for its personal loyalty to the commander in chief. A 1,500-man brigade of guards in Nigeria's inland capital, Abuja, and a similar-sized elite force in Lagos, the country's commercial capital, are described by military sources as the linchpin of Abacha's internal security apparatus.

As in other undemocratic African countries, Abacha's presidential guard unit is drawn from his own ethnic group in his home town.

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DOWNSIZING ARMIES IS DIFFICULT, COSTLY; WORLD POWERS THAT AIDED COLD WAR BUILDUP OFFER LITTLE FOR DEMOBILIZATION

(By Jennifer Parmelee)

MAKALLE, ETHIOPIA.—By age 26, Khadija Noor Hussein had spent half a lifetime in the trenches of Ethiopia's long civil war. Now she is making up for the youth she lost to the gun.

In a crowded classroom of third-graders learning basic English at the Emperor Johannes School in this northern regional capital, Khadija listened attentively, quietly nursing her 18-month-old baby—named Light of Peace in the Tigrinya language—from a back-row bench. Beside her sat other members of the Tigray People's Liberation Front, the linchpin of a rebel movement that toppled the dictatorial Marxist regime of Mengistu Haile Mariam in May 1991.

They too have traded AK-47s and rocket launchers for schoolbooks in the first stage of a long process to demobilize the rebel force that now doubles as Ethiopia's national army.

"This is the best opportunity of my life," Khadija said with an infectious smile. "I want to continue all the way to university."

On a continent tormented by civil war, Khadija is one of the luckier survivors. Millions of former soldiers and guerrillas throughout Africa face cloudy futures as their countries struggle to switch from decades of high military spending and big armies—largely the fruit of Cold War battles across the continent—to the new tests of peace and reconstruction.

With no battles to fight, the mostly young ex-combatants often find themselves idle, with limited employment prospects in nations that rank among the world's poorest.

"All these young people who know how to use weapons and little else. . . . They are like a time bomb," said Yusuf Abdi Gabobe, formerly a unit commander in a rebel group that defeated Somali dictator Mohammed Siad Barre. "They are the biggest obstacle to successful reconstruction we have today."

In Ethiopia, Khadija, who was on the winning side of the 30-year civil war, has better chances to adapt to peace than the estimated 500,000 men and boys who made up Mengistu's fallen fighting force, once black Africa's largest and best equipped.

While more than 200,000 ex-soldiers are being reintegrated into their home communities, largely with a $5 million U.S. aid grant, thousands more are shiftless, angry, without hope in a country with a devastated economy. Many have turned to banditry or begging at city street corners.

Ethiopia is only one of many African nations confronting the bitter inheritance of war.

While 16 countries still face some form of civil conflict, according to a recent U.N. tally, another nine now at peace are trying to dismantle their war machines and reintegrate the combatants—either into civil society or into slimmer national armies. The nine are Mozambique, Ethiopia, Eritrea, Chad, Uganda, Zimbabwe, Liberia, Namibia and the self-declared but unrecognized Republic of Somaliland in northwestern Somalia.

Yet while Africa's wars have been generously funded in the past, mostly by Cold War sponsors, efforts to defuse the dangerous legacies of these wars have attracted far less international support, aid experts say.

At the fortress-like U.N. headquarters in the Somali capital, Mogadishu, Abdelgedir Sheikh, an economist who has run the U.N. demobilization and disarmament office since it opened last October, said he has no money to spend. Sheikh had to beg and borrow to start up his first humble project for demobilized militia gunmen—a poultry farm in Baidoa. He secured a loan from the U.N. Department of Humanitarian Affairs and rations from the U.N. World Food Program. "I'm just like a looter," he said with a short laugh.

In Angola, the process of demobilization never really got going, with disastrous results.

From 1987 to 1991, as the U.S.-Soviet rivalry in Africa flamed out, Angola was the leading importer of conventional arms in sub-Saharan Africa, spending more than $3.6 billion on weaponry, according to the Stockholm International Peace Research Institute. In 1991, the country ranked 14th in the

world in arms imports, even as the two rival superpowers—Angola's top arms suppliers—were trying to coax the government and rebels into a lasting peace.

Reversing the military buildup was not easy. Demobilization and disarmament attracted few international funds—less than $1,100 a soldier, according to a 1993 World Bank report. The United Nations, without a legal mandate to do more than verify, had only one observer in Angola per 333 soldiers.

Progress was slow and erratic. By the September 1992 election, 40,000 troops had yet to be demobilized, the opposing forces were nearly intact, and the new, integrated national army was still in skeletal form. When hostilities broke out again after the rebels challenged their election defeat, few were surprised.

In a similar case, Rwanda paid a high price for failing to implement terms of peace accords negotiated last fall between its government and the rebel Rwandan Patriotic Front. One of the key provisions of that agreement was to integrate rebels, largely from the Tutsi ethnic minority, into the Hutu-dominated army.

But by the time President Juvenal Habyarimana was killed in a plane crash April 6, igniting the cataclysm of violence, little progress had been made: 600 Tutsi rebels were still camped in the capital's parliament building. Soon, they were on the streets, battling the soldiers with whom they had been intended to integrate—a convenient excuse for the mostly Hutu-inspired butchery.

The tragic lessons of Angola and Rwanda, however, appear not to have been lost on the international community operating in Mozambique since the October 1992 peace accords.

Demobilization has been assigned high priority—and money.

The head of U.N. peacekeeping, Aldo Ajello, vows that the rebel and government armies will be merged in advance of any elections, now scheduled for October. In addition, noting the scarcity of job opportunities for the mostly unskilled combatants—a third of them 18 or younger—the United Nations will pay demobilized soldiers from both sides a monthly salary for two years.

SURGING RWANDAN REBELS VOW TO SHARE POWER; PLEDGE DESIGNED TO FORESTALL FURTHER TRIBAL BLOODSHED, TUTSI-LED INSURGENTS DECLARE

(By Jonathan C. Randal)

KIGALI, RWANDA.—Rwanda's Tutsi-led rebel forces, now in control of this battle-scarred capital and poised for total victory after three months of civil war, have vowed to share power with the Hutu tribal majority to spare this Central African nation further carnage.

Rebel leaders who outlined the pledge say it is intended to halt the cycle of Hutu-Tutsi violence that has convulsed the country periodically in recent decades—culminating this spring and summer in the slaughter of perhaps as many as a half-million Tutsis and sympathetic Hutus at the hands of Hutu government troops and government-backed Hutu gangs.

The tribal rampage—modern Africa's most horrific atrocity and an act characterized by U.N. officials as genocide—was touched off by the death of Rwanda's Hutu president in an unexplained plane crash April 6 and reignited a dormant civil war that negotiations between the Hutu regime and the rebel Rwandan Patriotic Front had failed to resolve.

Rebel spokesmen have pointed out that they proposed Hutu-Tutsi power sharing in a national unity government even before the April massacres began but were rebuffed by a government that claimed to speak for the 85 percent Hutu majority in this country of 7.7 million. Indeed, throughout weeks and months during which their families and neighbors were being butchered by Hutus, rebel leaders seemed determined to portray their movement as a responsible alternative to a savage regime.

Nevertheless, with the rebels just beginning to solidify their hold on the three-quarters of the country they now occupy, it is difficult to assess how their vows of evenhandedness will play out in dozens of towns and villages where wholesale killing took place. Their promises of conciliation have so far failed to sway the mass of Hutu refugees who fled before the rebel assault, leaving the countryside largely empty, crops withering in the fields and an uncanny silence shrouding what once was one of Africa's most densely populated nations.

Kigali's pre-war population of nearly 400,000 fell to about 35,000 as government troops retreated under rebel attack, leaving a shall-pocked ruin of a city reeking of rotting flesh. Many residents are now returning, but most seem to be heeding government radio broadcasts warning that Hutus who come back to the city will be killed by vengeful rebels.

Western sources said they are convinced that any rebel atrocities have been relatively few compared to those of the Hutu gangs, but they added that rebel leader Paul Kagame has expressed fear that his men could be driven to excesses by battle fatigue and the shock of learning that some relative or friend had been killed by Hutus. The rebel leadership is said to have meted out summary punishment among its forces in several instances, including several rapes of Hutu women and the assassination of Rwanda's archbishop.

In detailing their power-sharing proposal, rebel spokesmen here noted that with perhaps as much as half the country's Tutsi minority slain since April they now have little choice but to seek Hutu cooperation in a new government if their movement is to succeed where so many other successful African guerrilla groups have failed. With all but a relative handful of its moderate Hutu allies also slain by the old regime, the rebels believe they must now deal with Hutu leaders who may themselves have been involved in the killing.

Rebels say a national unity government would exclude only two Hutu-led parties—the National Republican Movement of Development and Democracy and the Coalition for the Defense of the Republic—because they apparently were chiefly responsible for organizing and inciting the anti-Tutsi bloodbath. Rebel spokesman Wilson Rutayisure said he believes that no more than "300 to 400" Hutu extremists should be brought to trail for their roles in the slaughter. That number, he said, includes "some politicians, some members of the middle class, some journalists, some army officers, some members of the civil service—those who planned the genocide."

"If this small group can be punished," he said, "it would be a good example that you can no longer wipe out a whole ethnic group and get away with it."

The rebel pledges of forbearance seemed all the more exceptional in light of the unquestioned military triumph of Kagame, 38, who has led the rebel forces to the brink of victory against seemingly insurmountable odds. With about 20,000 men, he has consistently outfought and outmaneuvered a government force twice that size with tactics that have been described as "absolutely brilliant" by a senior Western military analyst here.

Perhaps as compensation for this, rebel leaders acknowledged they want to amend some of their early power-sharing proposals to guarantee them control of more that 40 percent of the amry—the figure set forth in negotiations last August aimed at regulating relations between the Hutu government and the Tutsi minority.

Almost to a man, rank-and-file guerrillas use the same arguments as their leaders in favor of sharing power with the defeated Hutus, yet close observers of the rebel movement are convinced that alongside its purported vision of tribal peace and multi-party democracy thrives a yearning for ethnic hegemony.

Tutsis had ruled Rwanda as a tribal oligarchy for centuries before being driven from power in 1960, and the two peoples have battled sporadically since. Now the rebels make no secret of their demands that 2 million Tutsis they say were driven into exile during tribal turmoil over the last three decades must be allowed to return.

AFRICA: BLOODIED, TORN AT ITS ETHNIC SEAMS

(By Jennifer Parmelee)

ADDIS ABABA, ETHIOPIA.—Africa is living in a season of extremes. Two temblors have shaken the continent: one, South Africa, a triumph of the politics of reconciliation; the other Rwanda, a war of the tribal passions that are Africa's worst political enemy.

In South Africa, the government led by Nelson Mandela of the African National Congress is for the most part cooperating smoothly both with the white-led, formerly ruling National Party and the Inkatha Freedom Party, dominated by the Zulu tribe, nearly three months after the country's historic multiracial elections. Before the elections, more than 13,000 South Africans died in four years of political violence, mostly between supporters of the ANC and Inkatha in feuds motivated in part by ethnic rivalry.

But when Inkatha leader and Zulu chief Mangosuthu Buthelezi bowed to the democratic process on the eve of the polling, nudging along the country's biggest tribe and most formidable political ethnic force, the incidence of violence plummeted. Since April, the spirit of inter-tribal reconciliation kindled by Mandela and former white president Frederik W. de Klerk has guided the new government: de Klerk is a deputy president, and Inkatha's stronghold in KwaZulu/Natal Province has seen a continuing reduction of strife.

Rwanda, a tiny and densely populated central African republic wounded by recurrent tribal pogroms, is still wracked by violence three months after the alleged assassination of its president triggered ethnic carnage on a scale hitherto virtually unknown in Africa. An estimated half-million Rwandans, mostly members of the minority Tutsi tribe, have been slaughtered by militias of the majority and ruling Hutus.

Between the polar extremes of South Africa and Rwanda lie a multitude of African countries wrestling with multiethnic and multi-religious heritages—perhaps the greatest threat to their stability today. Sub-Sahara Africa is divided into 45 states—it is the most Balkanized land mass anywhere. Yet those divisions pale next to the hundreds of unofficial boundaries among tribes and

clans, religions and languages. There are about 50 major languages spoken in Africa, and as many as 2,000 languages less widely spoken.

Clan politics is hardly unique to Africa in today's fractious world. In some ways, according to Ali Mazrui, professor of African studies at Cornell University, African tribes have provided a strong and valuable network of extended family, a system of collective welfare and a refuge from states that often have been rapacious.

However, colonial borders that ignored African realities—haphazardly slicing through tribal territories—combined with the upheavals of post-independence politics, have made Africa uniquely susceptible to tribalism's centrifugal pulls, observers say. Most of the continent's civil wars—at least 20 in three decades—have had a significant ethnic component.

Such forces appeal even more in an era of tremendous anxiety within Africa, already the world's poorest continent and growing poorer. Most countries are faced with huge and mounting debts, their economies and agricultures stagnant—or shrinking. Meanwhile, their populations are skyrocketing, foreign aid is declining and their governments are overwhelmingly incompetent and corrupt. The absence of a significant middle class, the ballast of civil society, also contributes to instability.

Today more than ever, Africa is prey to what historian Basil Davidson calls "the curse of the nation state." African states remain artificial entities still struggling to find legitimacy in the eyes of their citizenry.

Davidson, Mazrui and many other historians and political scientists argue that much of Africa's tribal conflict can be blamed on the inheritance of highly centralized states that, in standard colonial "divide and rule" style, delegated most power to a favored tribe or tribes. After independence, this characteristic evolved into political systems in which the winners—usually the dominant ethnic group—took all and losers got precious little. Many of the dispossessed, from Eritrea to Sierra Leone, took up arms.

This was true in Rwanda and neighboring Burundi. The minority Tutsis—a Nilotic, cattle-rearing tribe that held sway for centuries as feudal overlords of the more numerous, agrarian Hutus—were overwhelmingly favored by their German and Belgian colonizers. Long-limbed and lighter-skinned, the Tutsis won educational and economic privileges; the stockier, darker Hutus were oppressed. This potent dynamic of discrimination fueled three decades of massacres after independence.

Rwanda was bathed in blood from birth, with 100,000 to 200,000 killed in a five-year period following independence, as Hutus avenged their unhappy history. Hutus seized control of government institutions, including the army, while Tutsis fled into exile, ultimately coalescing into an armed opposition group that invaded in 1990, igniting a three-year civil war.

Hutu President Juvenal Habyarimana's April 6 death in an unexplained plane crash—militant Hutus said it was caused by rockets—provided government troops and Hutu gangs with a pretext for a systematic campaign of political killings that swiftly turned into an all-out slaughter of Tutsi civilians, and reignited the civil war after a year of truce.

In Burundi, the minority Tutsis managed to retain their grip on power until multiparty elections last year brought a Hutu to the presidency for the first time. His assassination four months later, apparently by the Tutsi-run security forces, ignited a four-week tribal bloodbath last fall that claimed at least 100,000 lives.

His successor, Cyprien Ntaryamira, also a Hutu, was killed in the plane crash with Habyarimana, but Burundi avoided Rwanda's violent reaction. Diplomats, aid workers and U.N. officials have suggested that the memory of Burundi's most recent experience in ethnic bloodletting was fresh enough to stay any impulse to commit tribal slaughter again any time soon.

Many African countries have been similarly hamstrung by their colonial legacies.

In Nigeria, home to at least 250 ethnic groups, British colonialists catered to the large Fulani and Hausa tribes in the Muslim north. Northern groups have maintained hegemony in Nigerian politics ever since, a reality that sparked the secessionist war of southern Biafra in 1967-70 and continues today with the northern-dominated military's denial of power to Moshood Abiola, a southerner who was the apparent victor of civilian presidential elections last year that the military government annulled before results were announced. The Baganda in Uganda were granted similarly preferential treatment.

In Sudan, British treated north and south as separate but unequal entities, and the two halves have been at war for 28 of the 38 years since independence.

And in Liberia, U.S. governments bolstered the rule of Americo-Liberians, descendants of freed American slaves, at the expense of indigenous tribes. Conflict between those groups persist to this day.

Unscrupulous African governments also have played one group against another for their own ends.

In South Africa, the white-minority government fanned hostilities among black opposition groups to forestall a joint frontal assault on their white rulers. Pretoria divided black South Africans into 10 tribally based homelands, a classic divide-and-rule tactic in a country where blacks outnumber white by a 5 to 1 ratio.

Over time, however, the strategy backfired. Not only did the common experience of racial oppression unite blacks from different tribes, but the fact that the engineers of the apartheid system of racial separation had tried to manipulate ethnicity so shamelessly wound up tainting the concept as a force in black liberation politics. Buthelezi tried to play the ethnic card earlier this year, but it took him only so far.

In Kenya, human rights groups have accused President Daniel arap Moi's government of inciting clashes between Moi's minority Kalenjin ethnic group and the larger Kikuyu and Luo tribes in the country's most fertile farm country. The escalating violence, which has displaced thousands of people and disrupted agriculture in a drought year, threatens to boil over into civil war, according to the human rights organization Africa Watch.

Ethnicity also has often exacerbated other divisions in Africa, between landed and landless, farmers and herders, haves and have-nots. Competition among regions or religions—Muslim, Christian, animist—is another sectarian flashpoint.

Some of the continent's tensions, if they were between blacks and whites, would be called racism. In Somalia and Ethiopia, for example, the gracile, dominant people of mixed Semitic and African heritage have often looked down on their "purely African" compatriots in southern regions, whom they have used in the past as slave labor.

In spite of the profusion of actual and potential fault lines across the continent, many states in Africa have managed to forge a national identity, expressed in symbols such as sports teams, popular music, national languages and dress.

Virtually every African state that drew up post-independence constitutions—Nigeria was an exception—avoided federalism on grounds that it would encourage groups or regions to go their own way. The Organization of African Unity, in its 1963 charter, reflected this concern when it enshrined the sanctity of colonial borders, and it regularly denounces the bogeyman of secession.

Multi-party politics also was widely regarded as a recipe for disintegration—and this view frequently became an excuse for leaders to maintain an iron, one-party grip on their people in the name of "nation building." In a host of post-independence countries—including Nigeria, Somalia, Uganda and Sudan—the introduction of a multiparty system saw dozens of small parties spring up overnight, mostly along sectarian lines; all mentioned wound up under military rule, often seen as an antidote to chaos.

The preponderance of states swung between anarchy and tyranny: authoritarian in nature, they lacked the moral authority to do anything but hold their disparate constituencies in am embrace of force; they had yet to learn the South African lesson that legitimacy—and thus stability—is created when opponents are given a stake in the system.

"Focusing on ethnic tensions misses the point," argued I. William Zartman, director of African studies at the Johns Hopkins University's School of Advanced International Studies in Washington. "It is the collapse of authority structures that opens the ways for ethnic conflict, not the reverse, because a strong state can handle ethnic strife and maintain law and order."

Such was the case in Somalia, where U.S.-supported dictator Mohamed Siad Barre diverted the spoils of power to his own small clan, thus destroying any advantage flowing from a nation blessed with a single language, religion and people. Upon his overthrow in 1991, Somalis angrily set upon any outpost of the government that had failed to serve them—schools, hospitals, even power lines.

Today, as the ethos of democracy is preached from one corner of the continent to another, many leaders are looking to new or re-tooled constitutions to unite their fractured constituencies.

African leaders must work quickly, however, especially given the economic free fall that heightens political tensions. Secession is on the lips of many groups—from the Barotse of Zambia to the Tuaregs in Mali, the southerners in Sudan and Somali-speakers in Ethiopia's Ogaden region.

In Malawi, whose first-ever multi-party elections in May dislodged Africa's longest-serving liberation leader, H. Kamuzu Banda, political parties already reflect regional antagonisms. In Zambia, democratically elected President Frederick Chiluba, who disdained the tribal balancing act of predecessor Kenneth Kaunda by installing a predominantly Bemba-speaking government, faces rising dissent in the former Kingdom of Barotseland.

In Ethiopia, which is attempting to negotiate the leap from military dictatorship to democracy, most parties mirror ethnic divisions.

South Africa, while on the multi-party trail, also favors decentralization, although the relationship between the central government and regional authorities remains to be

worked out. In what is generally perceived as an astute political compromise, the charter gives largely ceremonial powers to the Zulu King, while any party that wins at least 5 percent of the vote gets a cabinet seat.

"The South African model is one way of stabilizing ethnic tensions because everyone will get part of the cake," said Benyamin Neuberger, a political scientist at the Open University of Tel Aviv.

Today, Ethiopia is trying an experiment in ethnically based democracy that it acknowledges is a high-stakes enterprise. Most parties are tribally based, and a new draft constitution is intended to devolve power to nine regions drawn largely along tribal lines. Its most controversial clause allows for self-determination up to and including secession. Many Ethiopians say such language will erode the bonds that the country's various nationalities share and invite a Soviet-style breakup into ethnic fiefdoms.

Ethiopian President Meles Zenawi says his government has no choice but to recognize the diversity that was so long suppressed. Some of the experts, but not all, agree.

Filip Reyntjens, an African law specialist at the University of Antwerp, acknowledges "a big risk" in codifying recognition of ethnic diversity and the "right" to secession. But he added: "Africans have paid a higher price for ignoring or suppressing ethnicity, rather than accommodating it * * *. What's happening in Ethiopia constitutes a dramatic departure from what's happened in Africa over the past 30 years."

Kifle Wadajo, a foreign minister in the government of Haile Selassie who heads the constitutional commission, agrees.

"The dangers of ethnic disintegration have been used as an argument to destroy democracy in Africa, again and again * * *. It's been an uncomfortable topic, especially among the elites, "Kifle said. "The challenge we have is to promote the well-being and rights of groups, enriching all of us, while at the same time promoting our common interest."

Correspondent Paul Taylor in Johannesburg contributed to this report.

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AN AFRICAN GIANT FALLS UNDER ITS OWN WEIGHT; YEARS OF GREED MAKE ZAIRE CHAOTIC STATE

(By Keith B. Richburg)

KINSHASA, ZAIRE.—The once elegant, European-style boulevards of this capital are overrun with debris. Largely abandoned government buildings are obscured behind elephant grass and overgrown trees. In a perverse reversal of the usual development maxim, an opulent colonial capital is being overtaken by the bush. Kinshasa was carved out of the jungle. Now the jungle is coming to claim the land back.

As sub-Saharan Africa struggles to find stability in the 1990s, Zaire offers a poignant—and ominous—lesson. Unlike Somalia and Liberia, this big, rich country has not collapsed into civil war. It has not, like tiny Rwanda, imploded after a brutal campaign of tribal slaughter. But Zaire, the region's second-largest country and one of its potentially wealthiest, is equally desperate: It has crumbled from official corruption and greed, incompetence, neglect and decay.

The institutions that once defined the Zairian state have all ceased to function. Civil servants and teachers are not paid, roads and bridges are left in disrepair, public hospitals are not supplied, the public telephone system has disintegrated. Child malnutrition is on the rise, and the country is ravaged by AIDS and a rebirth of sleeping sickness that has caused entire villages simply to lie down and die.

"Precolonial" is how one Western resident described Zaire. "It's like Europe in the Dark Ages," said another Westerner, a diplomat with long experience here. "Zaire just proves that societies don't depend on the existence of a state. Societies can function on their own."

While the cause of Zaire's crisis may be distinct—and the extent of its free fall extreme—this country in many ways stands as a microcosm of what many Africans and others say is a continent-wide phenomenon.

Since the United States and the Soviet Union ended a rivalry that shaped the politics of sub-Saharan Africa through much of the last 30 years, the region has struggled to find a new basis for stability and development free of foreign tutelage. Some progress has been made. But government, economies and even whole countries artificially forged by European colonizers in the 19th century, and propped up since achieving independence a generation ago by the patronage of outside powers, are beginning to fragment.

Like most countries of the developing world, and in the former communist bloc of Eastern Europe, African states have tried to adopt the non-communist world's formula for success. Most have pledged to open their economies and adopt free-market policies, and many have begun talking about giving up autocracy or one-party rule for democracy and pluralism. A few—most famously South Africa—have succeeded.

Yet as much of the rest of the Third World appears poised to enter a new era of rapid economic growth and stability, Africa is still struggling to shake off the burdens of the past, ranging from the borders drawn by the European powers to the corruption and economic mismanagement engendered by post-colonial dictators backed by Moscow, Washington, Paris or Beijing.

In many places, the old order is crumbling but nothing is taking its place. "There's too much talk about development and not enough about decay," said Peter Lyon at London's Institute for Commonwealth Studies. Zaire, he said, "may be the classic case."

OBSTACLES OLD AND NEW

For two years, Zaire for all practical purposes has had no working government. Its longtime president, Mobutu Sese Seko, has been abandoned by the United States, his backer during the Cold War, and no longer can impose order on his sprawling country. But his political opponents have been too weak to remove him. There are two competing prime ministers, neither of whose authority is accepted by the army or the bureaucracy. Soldiers have destroyed much of the infrastructure of the capital in riots over pay, and whole regions populated by distinct ethnic groups have simply taken over their own affairs.

For some Africans, the crisis reflects fundamental problems of statehood that have lingered in African countries since they gained independence in the 1960s. "It raises profound questions about the nature of these governments and the nature of these states," said Rakiya Omaar, a Somali who is co-director of African Rights, a London-based human rights group. "The problem in Africa has been these predatory, strong central governments that never cared about their own people."

Similar political breakdowns are happening around the region. Somalia has not had a government since its U.S.-backed dictator, Mohamed Siad Barre, was chased out of power in January 1991. Liberia is still in the throes of an on-again, off-again civil war over who, and what, should replace the late

Samuel Doe's dictatorship. Angola and Sudan both seem hopelessly locked in civil wars that have effectively divided those countries along geographic lines.

And Rwanda, Zaire's neighbor, has been in a state of anarchy and civil war since April 6, with no effective government in place, since President Juvenal Habyarimana was killed in an unexplained plane crash.

Other countries, from Sierra Leone to Uganda, from Ethiopia to Mali, are waging small-scale wars against guerrillas, ethnic separatists or armed bandits that have made large chunks of territory impassable and lawless.

One key cause of this turmoil is Africa's loss of what was arguably its most important resource; its relevance. During the Cold War, the continent was a playground for the proxy conflicts. The Americans, the Soviets, the Chinese, the Israelis, the Arabs, white South Africans, white Rhodesians, even the Taiwanese searched for allies and brought in aid, arms and advice. Much of the attention lavished on Africa proved destructive—fueling civil wars, as in Angola, or backing dictators, as in Somalia, Liberia and Zaire.

But the outside attention also meant that highways were built, hospitals were kept supplied and a generation of Africa's elite were given access to education at home and abroad. African autocrats were able to play East against West, Arabs against Israelis, Chinese against Taiwanese in a bid for foreign largesse. The game was always to find who would give the most aid, and some despots played it deftly.

With the end of the East-West conflict, the dismantling of South Africa's racist policies of apartheid and the move toward peace in the Middle East, Africa has become more marginalized than at any time since Europeans first set foot here 500 years ago. Zaire tells the story: After years in which the United States, France and Belgium lavished aid on Mobutu, almost all foreign assistance has been cut since 1990, and most expatriate workers have departed. In June, Zaire was expelled from the International Monetary Fund.

The lack of foreign interest and investment, combined with the difficulty of implementing new economic and political models, means that even outside war zones, Africans are struggling to come to terms with longstanding social and economic ailments:

According to the World Bank, the four poorest countries in the world, in terms of gross national product, are in Africa; seven of the world's 10 poorest countries are in Africa. From 1980 until 1991, African economies actually shrank an average of 1.2 percent each year, meaning Africans have gotten poorer over the last decade.

African countries have the world's highest illiteracy rates, and they put the least public money per pupil into their education systems.

Agricultural production has declined in most African countries over the last two decades, leaving Africa less able to feed itself and more dependent on foreign food aid. The World Bank estimates it will take 40 years for some African countries just to climb back to their pre-independence level.

Africa is ravaged by disease. AIDS has become the most common cause of death for Africans, and in a dozen African cities, 20 to 30 percent of the adult population is infected with the virus that causes AIDS. More than 10 million of the world's 15 million people infected with the AIDS virus are in Africa.

Not all African countries are in a downward spiral. While Angola is in the grip of full-scale civil war, Malawi recently conducted a peaceful election that ousted an entrenched autocrat. The death of the president of Rwanda sparked an explosion of tribal massacres, but the death of the president of Ivory Coast caused barely a political ripple. There are many economic problem areas, but some countries, like Ghana, are on the mend.

Still, it is the absence of outright conflict in most African countries that makes their social and economic decline so remarkable. In state after state, public institutions have collapsed, health care has diminished, infrastructure has fallen into disrepair and poverty has deepened—not because of civil war, but simply because poorly supported, inefficient and sometimes corrupt governments have been unable to manage their countries' daunting problems.

In other words, the pattern in Zaire may not be the exception but the rule. "In Somalia and Liberia, it was violent," said a European diplomat in Zaire. "Here, it's a slow implosion. But the result in the same. Here, it's just crumbled."

THE ROAD TO ANARCHY

Although its descent into near-anarchy was touched off by the end of the Cold War, Zaire's deterioration as a state began shortly after the country gained independence from Belgium in June 1960. An early secessionist movement in the region of Katanga, which provoked U.N. troops to intervene, underscored the fragility—and artificiality—of the new nation of 200 separate tribes.

Still, in the late 1950s and early 1960s, Zaire—then known as the Congo—provided Western countries with 69 percent of their industrial diamonds, 49 percent of their cobalt, and other strategic minerals, making it "a very important piece of real estate," according to American University's Sanford J. Ungar in his book, "Africa." From that commanding position as a wealthy and strategically important Western supplier, the country entered a long era of Western-backed autocratic rule—and slow decline. In 1965, army strongman Joseph Desire Mobutu seized power, changing his name and that of his country in an "Africanization" campaign.

Mobutu personifies the African Big Man, the old-style and outdated autocrat who rules more like a traditional tribal chieftain. Over almost three decades with Mobutu at the helm, Zaire suffered from extraordinary mismanagement and corruption. Hundreds of millions of dollars of export earnings from state-run mining corporations literally disappeared—presumably into the overseas bank accounts of Mobutu and his family members, and also to support the lavish but unaccounted-for spending projects of the office of the presidency.

Mobutu's well-documented corruption and his heavy-handedness with opponents brought frequent rebukes from Washington and his European patrons. But from the first Congo crisis of the Kennedy administration, which saw Africa becoming a battleground between East and West, Mobutu proved a valuable Cold War ally to the United States. And Washington's financial and political support kept Mobutu in power.

With the collapse of the Soviet Union and the withdrawal of Cuban troops from neighboring Angola, however, the United States no longer had a strategic interest in propping up Zaire's dictator. And like Zambia's Kenneth Kaunda, Kenya's Daniel arap Moi and Malawi's H. Kamuzu Banda, Mobutu was forced to relent to mounting pressure for change.

Zaire for a time looked as if it might be on the path to pluralism. In 1992, a national conference stripped Mobutu of much of his power, appointed staunch Mobutu opponent Etienne Tshisekedi as prime minister and even changed the country's name back to Congo in a direct slap at Mobutu. The conference—made up of politicians, civic leaders, intellectuals and clerics—voted to make all of its decisions binding and replaced the old Mobutu-dominated parliament as the supreme lawmaking body.

What the conferees apparently never counted on was that Mobutu would simply ignore their edicts and continue to govern as he pleased, keeping personal control of the nation's money supply through the central bank and using freshly minted cash to keep his elite presidential guard paid and loyal.

What has developed over the last two years has been a kind of bizarre shadow play. Mobutu "fired" Tshisekedi as prime minister, then concocted a new convention to choose a replacement, Faustin Birindwa, a Mobutu ally. But Tshisekedi refused to relinquish his title, giving the country two claimants to the position, neither of whom has any resources or real power. Government offices shut their doors, unable to function without cash. Cabinet ministers stayed home. The country ground slowly to a halt.

With the country sinking into ruin, weary national conference delegates—their numbers now swollen with Mobutu supporters—voted in June for yet another prime minister, Kengo wa Dondo, who had more legitimate anti-Mobutu credentials but still was rejected by some elements of the opposition. Various Western embassies tried to persuade Tshisekedi and his rivals to unify, but to no avail.

The latest convention has promised presidential elections next year. Many Zairians and Western diplomats predict that, with the opposition divided and squabbling, Mobutu will likely win, whether he rigs the elections or not. And that, they say, is a likely formula for continued national stagnation and disintegration.

"Things are getting worse and worse," said Eugene Nzila, a physician whose AIDS research project has crumbled to virtually nothing because the country's continuing paralysis forced foreign donors to withdraw funding. "It's basically a political situation," he said, reflecting the frustration of many Zairians. "There's nothing we can do but wait."

SURVIVING BY SKIMMING

If Zaire can be seen as a microcosm of Africa, then Ndili International Airport might be seen as a microcosm of Zaire.

Upon arriving at the airport, a passenger is immediately greeted by a dizzying array of soldiers and police, hustlers, deal makers, facilitators, money changers, customs inspectors, health inspectors, drivers, shoeshine boys, baggage handlers and just plain hangers-on. Each claims to have some official service to perform—checking your vaccination card, searching your luggage—and each demands to be paid "service"—a price that can range anywhere from a few pennies in local currency to $20.

Official services at the airport have broken down; no one has gotten a paycheck in at least six months. But working at the airport can still prove lucrative for the amount of money that can be extorted or raked off from incoming passengers. There is much jostling, shouting and occasional shoving as everyone takes a turn to perform his task and demand his fee.

To cut more easily through the crowd, there are "facilitators." Most are uniformed

soldiers—ostensibly, assigned to airport security, in reality soldiers-for-hire. One will attach himself to a passenger, according VIP status; help push through to the front of lines; find the passenger a taxi; even accompany the passenger for the 20-mile trip into town "for security." The price: $100 all -inclusive, including cab fare.

"You can pay the colonel, you can pay the soldiers," said a European diplomat. "And it's a good thing. Those guys are being fed. They sleep well, they eat well, their families are fed."

That kind of chaotic, anything-goes corruption is more evident the farther one ventures from Kinshasa, as the "privatization" of government services and the irrelevance of the central government become even more pronounced.

The small border outpost of Uvira, on Zaire's eastern border with Burundi, is about as far from Kinshasa as possible, in every way. The border post still has immigration controls, customs controls, police controls and every other conceivable type of government authority. But the corruption—if it can still be called that in a place with no official rules—has become a means of survival for public servants with no other means of income except whatever can be extorted from travelers.

Thus, there is the $20 fee for each person crossing the border, plus an extra $20 for each car. There is a Transportation Ministry desk that charges a $10 "tax" for use of the road. The Health Ministry charges $20—or whatever can be negotiated—as its price of entrance. And there are the police manning roadblocks along the way out of town, also demanding "service" to allow passage.

By becoming more or less financially self-sufficient, such isolated east Zairian towns have maintained some semblance of public order—while at the same time becoming less tied to Kinshasa. In Goma, for example, local merchants have joined together to make sure the military is kept paid, preventing the kind of bloody soldier riots that wracked Kinshasa in 1991 and 1993.

"It's all localized," said a diplomat, using the analogy of Europe's Dark Ages. "Think of it as castles along the Rhine in the year 900, where everyone exacted a tax or toll."

This kind of de facto decentralization—growing regional autonomy and independence—is in evidence elsewhere, an outgrowth not of any planned attempts to disperse power but rather the natural evolution of weak central governments that can no longer provide needed services to their outlying areas.

In war-torn Angola, Somalia and Liberia, central governments can no longer claim to control much beyond their capitals. In large countries such as Nigeria and Ethiopia, government edicts are becoming less relevant. Even relatively stable Tanzania is now having to deal with growing calls for independence from the island of Zanzibar, which is finding union with the mainland irrelevant.

"These countries are artificial," said Michael Chege, a Kenyan scholar at Harvard University. "They have to be. What else do you do, with all these tribes and linguistic groups and so on? * * * We might have to consider adjusting boundaries—or at least put it on the agenda."

LOOKING BACK TO COLONIAL PAST FOR CLUES TO FUTURE

(By Keith B. Richburg)

KINSHASA, ZAIRE.—With Africa in crisis and facing the collapse of some of its nation-states, some Africans are tentatively raising an idea once considered so outrageous as to be unspeakable here: They are debating the merits of recolonization.

In April, renowned African scholar Ali Mazrui raised the idea in an article in the Sunday Nation, a Kenyan newspaper. "As the whole state machinery collapses in one African country after another, is Africa in need of recolonization?" Mazrui asked.

He was not talking about the European-style colonization of the last century, but rather a new kind of international trusteeship system, through which functioning African states might be granted a mandate by the international community to administer states that have fallen apart. "For example," he asked, "might Ethiopia in the 21st century be called upon to run Somalia on behalf of the U.N.?" Or, he said, a stable, black-ruled South Africa might be called upon to intervene to stop the carnage in Angola.

"We may yet learn to distinguish benevolent intervention and malignant invasion in the years ahead," Mazrui wrote. "Self-colonization is better than colonization by outsiders."

Few take the idea seriously, other than as an academic exercise. But there are examples of African countries intervening in the affairs of others: Nigeria and other West Africans provided peacekeeping troops in Liberia; Botswana, Nigeria and other African countries operated with the United Nations in Somalia; Senegal sent troops along with the French intervention force in Rwanda.

But to many Africans, raising the question of recolonization seems indicative of the continent's woes and the near-complete absence of any good solutions. "It is a poignant, eloquent statement on the extent to which Africa has self-destructed that elder statesmen [like Mazrui] are even proposing that," said Rakiya Omaar of African Rights, a human rights group.

"Colonialism killed millions of Africans and stifled development of civil society," Omaar said. Talk of recolonization, under any form, she said, "reflects a sense of frustration that you should be experiencing these same problems at the hands of your own people."•

PENSACOLA ANTIABORTION MURDER AND RELIGIOUS FANATICISM

• Mr. KERRY. Mr. President, I rise today to discuss the events of last Friday in Pensacola, FL, and their broader implications on our civilization as a whole.

At 8 a.m. Friday morning, Paul Hill, a former Presbyterian Minister, shot and killed Dr. John Britton and James Barrett. Mr. Barrett was escorting Dr. Britton to his job at an abortion clinic.

Dr. Britton was 69. He had started working at the clinic a year previously, knowing full well the dangers of the occupation. The last doctor for this clinic was Dr. Gunn, who was killed by an antiabortion activist last year in front of the city's other clinic. Dr. Britton was extremely brave, but he was also cautious; however, the bulletproof vest he wore Friday morning was ineffective in stopping the shotgun spray Paul Hill aimed at his face.

James Barrett, a retired Air Force lieutenant colonel, was 74. Mr. Barrett was shot in the head right in front of his 68-year-old wife June, who was also injured.

This was the third shooting by antiabortionists within the last year and a half, and the second—and third—fatality.

Paul Hill's reasons for murder were chillingly simple. He has stated that "the bible teaches us to do unto others as you would have them do unto you. Therefore, killing a man who is about to kill an unborn child constitutes killing in self defense." To Paul Hill, the murder was a justifiable homicide.

Mr. President, this syllogism lies at the heart of one of the most corrosive dangers the world faces today.

Many religious teachings and texts offer justifiable reasons for killing. Even so, mainstream religions systematically guide their populations away from these arguments and in the direction of tolerance. The only individuals who employ religious justifications in order to commit cold-blooded murder are religious fanatics. But we cannot dismiss these fringe elements. We cannot pretend that they do not read from the same bibles from which many of us read and say the same prayers which many of us recite. We cannot cast a blind eye to the horrible dangers they represent. And we need to be brave enough to bring the public's attention to the problem posed by religious fanaticism.

This problem grows in severity every passing year. In the dawn of human civilization, there was only so much damage a single human being could execute. However, our technology has developed, and each new weapon has increased the power every individual represents. The classic example of this truth is the gun. During the 19th century, in the western-most frontiers of this country, guns were nicknamed "equalizers" because in effect they gave every individual the same power as any other. Anyone with a gun had the power to eliminate one if not several human lives. The defensive structures of our Nation and every nation have been recreated in order to cope with this capacity.

Mr. President, from dynamite to plastic explosives to nuclear bombs, the power of individuals has increased and will continue to increase. Consequently, we cannot let people slip through the cracks and fall into the well of fanaticism. The Paul Hills of this world are willing to dedicate if not sacrifice their lives for the sole purpose of advancing their world view by hurting or destroying others. Education and leadership must come now before it is too late.

In light of the importance of responding to the threat posed by fanaticism, the most significant event that occurred in the world last week received little of the attention it deserved.

One of the most tense places in the world right now is the Middle East.

Many countries and religions in the Middle East are fighting over possession of the same pieces of land, interpretations of the same texts, versions of the same myths. However, last week we saw a moment of peace between two countries in that region that have long been adversaries. Perhaps most importantly, we saw two leaders speak to their respective people, not only as political heads of state, but as religious individuals, and preach tolerance and call for peace.

Mr. President, King Hussein's and Prime Minister Rabin's lead must be followed by every religious and political leader to every constituent and every worshipper in the world. We must take responsibility for affirmatively leading our constituents and our congregations down the path of tolerance.

It is with this goal in mind that I return to the subject of Pensacola.

One of the things that made me especially upset this weekend when I watched television news coverage of the incident was the sign that hung over the abortion clinic. The name of the clinic was "The Ladies Center," and the typeface on the sign was as blatantly euphemistic as this title. The fact that an abortion clinic needs to be disguised and to be separated from the hospitals, HMO's, and community health centers where such medical procedures should be performed is as upsetting as the fact that abortion clinics need to be under 24-hour guard.

The wrong response to the Pensacola shootings is to segregate abortions even further from those seeking the procedure. The right thing to do is to treat abortions as exactly what they are—a medical procedure that any doctor is free to provide and any pregnant woman free to obtain. Consequently, abortions should not have to be performed in tightly guarded clinics on the edge of town; they should be performed and obtained in the same locations as any other medical procedure. How can we as political leaders teach tolerance to the public when we still treat women who seek abortions as poorly as less civilized societies treated lepers?

Mr. President, if this Constitutionally protected right is to be preserved, and if women are to be treated decently and with respect, abortions need to be moved out of the fringes of medicine and into the mainstream of medical practice.

And by the same token, if our children are to be safe from the danger of fanaticism, tolerance needs to spread out of the mainstream churches, mosques, and synagogues, and into the religious fringes.

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

THE RIGHT START FOR ARIZONA'S WELFARE MOTHERS

● Mr. DECONCINI. Mr. President, I would like to recognize Arizona Women's Education and Employment [AWEE] and Time Systems for sponsoring a free "Organizing Your Job Search" seminar for women who want to get off welfare and secure employment.

The day-long seminar, held in Phoenix on July 12, sought to provide the 50 participating welfare mothers with the necessary tools and training to conduct an effective job search. These women learned how to establish goals; track achievements; and plan, schedule, and prioritize activities in order to develop a productive job search.

The seminar proved to be an overwhelming success. Not only did the women gain practical job-seeking skills, but they gained a sense of confidence in their ability to secure employment. With this newfound self-confidence, the women left the seminar highly motivated to leave welfare and ultimately support themselves and their families.

This seminar was very timely and relevant to the current concerns of the Nation. Welfare reform, together with health care reform, are two of the most important issues presently facing Congress.

More seminars like Organizing Your Job Search are needed for reform of our welfare system to truly succeed. Programs which combine self-esteem building with practical skills are invaluable in helping women leave welfare. Statistics show that around 30 percent of welfare recipients have basic skills below the minimum skill level of women in the lowest occupational levels. We cannot hope for these recipients to become self-sufficient without first teaching them some basic occupational skills. Organizing Your Job Search has given 50 women from Phoenix the tools to begin their job search, and should be a model for future welfare reform.●

FALSE CONVICTIONS AND THE DEATH PENALTY

● Mr. SIMON. The criminal justice system is only as reliable as the men and women who make up its ranks. And just as human beings are fallible, so are the courts of this Nation. The problem is that, when police officers, prosecutors, and judges make mistakes or act improperly, society commits a crime against justice: An innocent human being may be sentenced to prison or even to death.

A recent article in USA Today suggests that such miscarriages of justice are more common than we might like to believe. Take the case of John Spencer, convicted of a double murder in 1987 largely based on a fingerprint said to be found at the crime scene. Spencer's conviction was reversed when police officers conceded that the fingerprint introduced at trial was not actually found at the crime scene, but taken from a cabinet frame Spencer leaned against when he was at the police station being booked.

And then there is the case of Gary Nelson, who lived on death row for 11 years for the rape and murder of a 6-year-old girl, largely on the testimony from a crime lab director who said a hair found on the girl's body and Nelson's arm hair have the same origin. Appeals lawyers later discovered that the crime lab had never examined the hair found at the murder. The FBI lab that did had determined that "it could have come from any black person, including, but not limited to, other suspects in this case or the victim."

Admittedly, these are egregious cases of police and prosecutorial misconduct. But even without this kind of willful violation of the law, human beings will act carelessly or recklessly. And those mistakes are all the more likely because so many defendants are the neglected and alienated in our society.

Ultimately, the fallibility of the criminal justice system is one of strongest reasons I know to oppose the death penalty. People make mistakes. But when the cost of a mistake is the life of an innocent person, we must reexamine the need to impose this awful and irrevocable punishment. The point is simply this: So long as human beings are fallible, the death penalty has no place in the courts of a civilized society.

I ask that the full text of the USA Today article be published in full after my remarks.

The article follows:

[From the USA Today, July 19, 1994]

FALSE SCIENCE OFTEN SWAYS JURIES, JUDGES

(By Laura Frank and John Hanchette)

No one knows how many innocent people have been sent to prison with false evidence.

But there have been at least 85 instances in the past 20 years in which prosecutors—knowingly or unknowingly—relied on fabricated, mishandled or tampered evidence to convict the innocent or free the guilty, a Gannett News Service analysis of legal and media databases finds.

Often, the wrongful prosecutions hid behind science.

"In the U.S., we take science as gospel," says Ray Taylor, a San Antonio lawyer and forensic pathology expert. "The public perception is that (faking science) is rare. The truth is, it happens all the time."

If science is gospel, then the scientists are its preachers. And when the scientists work for the police, critics say, the gospel can take a certain slant.

"It just boggles the mind," says Glen Woodall, a Huntington, W. Va., man who spent five years behind bars for a crime he did not commit.

Woodall was convicted of two rapes in 1987, after a state police forensic expert named Fred Zain said hair and semen from the crime scene matched his.

But Zain faked the evidence—in this case and many others, West Virginia's state Supreme Court later found.

FORENSIC TESTS OFTEN CANNOT SHOW WHAT EXPERTS TESTIFIED THEY FOUND

The "science" in the wrongful convictions studied by GNS ranges from the absurd—an evidence-sniffing dog that could solve decade-old crimes—to the advanced, such as DNA tests touted as fail-safe genetic fingerprints.

Most of it involves fingerprints, blood typing, semen analysis and hair samples—the same kind of evidence that each side will try to use to its advantage in the upcoming O.J. Simpson murder trial.

And in each case in the analysis, the jury or the judge believed the science, sometimes despite reams of evidence to the contrary.

"Faking or lying about evidence is not out of the ordinary at all," says James Starrs, a George Washington University law professor who specializes in forensic science. "There are so many things of this kind, I'm horrified."

Although there are dozens of examples, probably no case study is more shocking than that of Zain.

Taylor calls it the "largest case of evidence-fixing in U.S. history."

Zain's "fraud on the judicial system may be the worst we've ever seen documented," says John Hingson, president of the National Association of Criminal Defense Lawyers.

More than 1,000 convictions now are in question because Zain who worked in both West Virginia and Texas, is accused by courts and colleagues of faking evidence for 18 years.

Yet a year after such accusations first were made, Zain has not been charged. Eight months after the West Virginia Supreme Court ordered charges be sought against Zain, none has been filed.

Zain has denied any wrongdoing; neither he nor his lawyers will comment.

Zain was hired as a chemist at the West Virginia police crime lab in 1979, though he failed chemistry in college.

While testifying as an expert in dozens of rape and murder cases, he reported results of tests that he had not performed, Zain's co-workers told the court.

They had complained to Zain's superiors as early as 1985. Nothing was done. In frustration, co-workers taped a magician's wand to one of Zain's lab machines.

"Magic was the only way he could have been coming up with the answers he got," says Gayle Midkiff, Zain's former lab assistant and a West Virginia state trooper.

In 1989, Zain took his "pro-prosecution" reputation and a letter of recommendation from the governor and headed to Texas.

There he was named head of serology at the Bexar County Medical Examiner's office in San Antonio.

Zain kept that job until last year, when allegations of wrongdoing finally reached Texas. The San Antonio medical examiner asked Dallas forensic specialist I.C. Stone to review some of Zain's cases.

Choosing randomly, Stone found something wrong in each of the 14 cases he studied.

Zain reported things the tests weren't capable of showing. He testified about blood on evidence when lab notes showed no blood had been found. He reported doing tests his lab wasn't capable of.

"I've never seen anything like it," Stone says.

But there are many other cases that hinge upon false and hidden evidence:

John Spencer was sentenced in 1987 to 50 years to life for a double murder in a rural area of New York state.

Spencer was convicted largely on a fingerprint lifted by New York State Police investigator Lt. Craig Harvey, who testified he found it on a Formica counter at the murder scene.

Harvey, one of three troopers found guilty of criminal misconduct in a burgeoning New York State Police fingerprint scandal, later conceded no fingerprints were found at the scene. He said he obtained Spencer's print from a cabinet frame Spencer leaned against when he was booked.

Spencer's conviction was vacated, with a new trial slated for September.

Ed Honaker was convicted in February 1985 of abducting and raping a woman at gunpoint in the Blue Ridge Mountains of Virginia.

She identified him from a photo lineup. A police forensic expert found sperm in the seminal fluid found at the scene. But Honaker had undergone a vasectomy years earlier and did not produce sperm.

The forensic expert, Elmer Gist of the Virginia Bureau of Forensic Science, testified a hair found at the scene was "consistent" with Honaker's. No forensic test can positively identify hair as coming from any particular individual.

Centurion Ministries, a nonprofit organization that has helped free at least six men wrongly imprisoned, arranged for a DNA test of the evidence. Honaker's genetic traits did not match those of the rapist.

Now, even the prosecutor says Honaker should be freed. So far, Virginia Governor George Allen has not acted.

Gary Nelson lived on Georgia's death row for 11 years after his 1980 conviction for raping and killing a 6-year-old girl, largely on testimony from a crime lab director who said a hair found on the girl's body and Nelson's arm hair "have the same origin."

Appeals lawyers discovered the Savannah crime lab had never examined the hair found on the body. It had been sent to the FBI crime lab in Washington, which had determined it "could have come from any black person, including, but not limited to, other suspects in this case or the victim."

Nelson was freed in 1991.

Juan Ramos was sentenced to Florida's electric chair a decade ago for stabbing to death a Cocoa housewife.

No forensic evidence tied Ramos, who said he was innocent, to the victim. Pennsylvania dog handler John Preston claimed his super-nosed German shepherd could pick up criminals' scents after any time interval and had identified Ramos' scent on both the murder weapon and the victim's blouse.

A judge made Preston submit his dog to tests on another scent five days old. The dog didn't have a clue.

The unmasking of Preston's dogs caused an uproar. Cases were overturned in Virginia, Ohio, Florida, Arizona and other states. The Florida Supreme Court threw out the dog testimony and ordered a new trial. Ramos was quickly acquitted.

These cases are nothing less than human rights violations, says William Lee Miller, constitutional author and political thought professor at the University of Virginia.

"Americans fought from the beginning for a society that respects fundamental human rights," Miller says. "What this is bringing out is the moral failure of the United States."

And most the abuses go unpunished, he says, because the victims often are minorities and the poor—people like West Virginia's Glen Woodall, a former grave digger imprisoned by false evidence.

Woodall is now free, and a lot richer because of a $1 million settlement given to him by the state. But he is angry.

"To me, lying about evidence is worst than the crime that might have been committed," says Woodall. "What kind of justice is that?"•

HOW NOT TO FIGHT CRIME IN GEORGIA

• Mr. DeCONCINI. Mr. President, people who are even a little familiar with the country of Georgia speak of its striking physical beauty, legendary hospitality, and cultural achievements. Americans may not know, however, that in the Soviet Union, Georgian films always enjoyed a special reputation for artistry, both in drama and absurdist, surrealist comedy. I would like to share with my colleagues information about a recent development in Georgia that matches anything the most "far out" Georgian cinematographer could conceive.

Georgia has, of course, fallen on hard days, living through coups and civil war since the collapse of the U.S.S.R. It has suffered virtual dismemberment at the hands of Russian forces allied with Abkhazia, its economy is shattered, some 200,000 refugees from Abkhazia are enduring very difficult conditions, and, as in other former Soviet republics, crime has ravaged the entire country.

In June, Russian President Boris Yeltsin issued a controversial decree on fighting crime, with some neighboring states, like Ukraine, has used as a model for their own edicts. Georgian leader Eduard Shevardnadze on July 14 also followed suit, developing a series of measures to address a "criminal situation in the republic [that] still remains serious. Corruption, terrorist acts, banditry, other manifestations of organized crime * * * and the drug business are creating a serious danger for the state * * *."

One of the anticrime measures in Georgia is the formation of a coordinating emergency commission under the chairmanship of Shevardnadze. A list of commission members printed in Sakartvelos Republika on July 14 revealed that one of the two deputy chairman is Jaba Ioseliani.

Americans not familiar with this name, and the man behind it, should read an informative article on Mr. Ioseliani published in the British newspaper Mail on Sunday Review [April 3, 1994]. Georgia's chief negotiator with Abkhazia, he is a member of Georgia's parliament, a warlord, and the leader of Georgia's most notorious paramilitary group, the Mkhedrioni [Knights on Horseback], which looted the country and now controls many businesses. The author, who interviewed Ioseliani, calls him "a notorious bank robber with a passion for killing. And Italian suits." Furthermore, his army "appears to be involved in

every business and racket in Georgia." In his younger days, Ioseliani was "one of the 20 most powerful men in the Soviet underworld," one of the bosses of bosses, as he himself acknowledged to the interviewer.

The author concedes Ioseliani's roguish charm, notes that he has his admirers in Georgia, and that some people consider him a brave man and a patriot. Not knowing Mr. Ioseliani, I am not in a position to confirm or deny his allure. But I do know that making Jaba Ioseliani the deputy chairman of an emergency commission to fight crime is not only putting the fox in the chicken coop, Georgian-style, it simply makes a mockery of the very concepts of government and law enforcement. And it is a slap in the face of a warweary Georgian people who live in fear of criminals.

Even more worrisome is the extent of Ioseliani's power and influence over Georgia's politics. His interviewer concluded that "It isn't hype to suggest that the destiny of this fragile, boisterous nation pretty much rests in his hands." If so, Mr. President, then we ought to be considering more carefully than we evidently have up to now our support for the regime of Eduard Shevardnadze. He may have no choice but to ally himself with Mr. Ioseliani. But should the United States support such a government?●

ORDERS FOR TOMORROW

Ms. MIKULSKI. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, August 3; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; and that immediately thereafter, the Senate resume consideration of H.R. 4624, the VA–HUD appropriations bill, with the Bumpers amendment No. 2444 as the pending question, to be considered under the conditions and limitations of a previous unanimous consent agreement.

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

RECESS UNTIL TOMORROW AT 9 A.M.

Ms. MIKULSKI. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 9:16 p.m., recessed until Wednesday, August 3, 1994, at 9 a.m.