SENATE—*Thursday, March 24, 1994*

(Legislative day of Tuesday, February 22, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable DIANNE FEINSTEIN, a Senator from the State of California.

PRAYER

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

Let us pray:

* * * *by love serve one another. For all the law is fulfilled in one word, even in this; Thou shalt love thy neighbour as thyself.*—Galatians 5:13, 14.

Eternal God, perfect in love, aware of the profound loyalty and hard work of the secretaries for the majority and the minority, we commend them to Your providential care and guidance. Thank You for the long and faithful service of Abby Saffold, secretary for the majority, and Howard Greene, secretary for the minority, their associates, and those who labor in the Cloakrooms. Help them realize they are deeply appreciated. Grant them grace for their responsibilities and help them experience Your love for them as they love their work.

Loving Lord, words are inadequate to express our appreciation for the dedicated labors of security, men and women in food service, our wonderful pages, and all of the unsung heroes and heroines in Senate service. Bless them and their loved ones, encourage them, and help all of us to show our appreciation for their tireless labors.

We pray in the name of Him who served in love and humility all the way to the cross. 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, March 24, 1994.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. FEINSTEIN thereupon assumed the chair as Acting President pro tempore.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of Senate Concurrent Resolution 63, the concurrent resolution on the budget, which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 63) setting forth the congressional budget for the U.S. Government for the fiscal years 1995, 1996, 1997, 1998, and 1999.

The Senate resumed consideration of the concurrent resolution.

The ACTING PRESIDENT pro tempore. Under the previous order, there remains a total of 8 hours and 45 minutes for debate on the resolution, divided as follows: The Senator from Tennessee [Mr. SASSER] controls 3 hours and 45 minutes, and the Senator from New Mexico [Mr. DOMENICI] controls 4 hours and 45 minutes; the Senator from Tennessee [Mr. SASSER] is to control the last 15 minutes of debate on the resolution.

Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I just want to ask for a clarification. I believe if you add up time that the two Senators have, it is not 8 hours and 45 minutes, it is 8 hours and 30 minutes. The 15 minutes that Senator SASSER has at the end is part of his time.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. Madam President, I yield myself 30 minutes and will shortly offer the Domenici-Nunn-Thurmond amendment with reference to defense and the Exon amendment which was adopted in committee.

Madam President, especially let me call attention to Republican Senators who have amendments that are pending. Senators should know that I plan to use only a half-hour on this amendment unless forced to use more, thus leaving the remainder of the time that the Senator from New Mexico has for the amendments that various Senators on our side have indicated they want to offer. I urge Senators on our side and their staffs to cooperate with the minority budget director, Bill Hoagland, in an effort to get all the amendments listed and try to allocate the remaining time among those amendments in a fair way.

We are surely not going to have an hour for each amendment, even though that is what one might be entitled to, literally, under the statute. I cannot grant everybody an hour because, if I do that, there will not be time for anyone else. We have to get a number of these amendments completed today.

Having said that, I hope everyone on our side will, first, determine whether they really need to offer the amendment. If they do not, it will allow more time for other Senators and, second, it will minimize the requirement or request for time because I am going to have to allocate it in some way that is as fair as possible, but clearly no one can get all the time they want.

AMENDMENT NO. 1567

(Purpose: To hold discretionary spending at the statutory cap levels and to reduce the Federal budget deficit through restraint in the growth of mandatory spending)

Mr. DOMENICI. Madam President, having said that, I send an amendment to the desk for myself, Senator NUNN and Senator THURMOND.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. NUNN, and Mr. THURMOND, proposes an amendment numbered 1567.

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

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

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Madam President, this Domenici-Nunn amendment strikes the Exon amendment which cuts discretionary spending by $26 billion in outlays from 1995 to 1999. It strikes that amendment, thus placing the discretionary accounts at the level that they would have been at had that amendment not been adopted, which was essentially the discretionary accounts in Chairman SASSER's mark.

Second, this amendment reduces mandatory spending by $20 billion from 1995 to 1999 by extending several Medicare fee and veterans' provisions contained in the 1993 reconciliation bill which would otherwise expire.

Third, this amendment accepts the Exon-Grassley discretionary spending cuts of $6 billion for 1999. There are no caps in 1999, so the Exon-Grassley cuts in 1999 were unenforceable as the $6 billion that we use of their total cuts for 1999.

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

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And fourth, this amendment, in a very unique way but nonetheless very enforceable, makes the mandatory spending reductions in this amendment absolutely mandatory by prohibiting a committee from moving forward with deficit-neutral legislation which they are given authority to do in this budget resolution until the mandatory savings required by this amendment are achieved.

Thus, the Senator from New Mexico, joined by Senator NUNN and Senator THURMOND, contend and lay before the Senate a proposition; namely, that the Exon amendment is destined to reduce defense substantially. I am not here on the floor claiming that all of the discretionary savings provided in the Exon amendment are going to come out of defense. But, Madam President, it is unequivocal that a substantial portion has to come out of defense, unless we are to assume that the Appropriations Committee will take all of the Exon cuts out of discretionary and none out of defense.

The truth of the matter is, we do not have a wall between those two functions any longer, and even though the walls have fallen down, literally, in Eastern Europe, but also the walls have fallen legislatively in this budget and defense is vulnerable.

I think we have to keep up our guard. So since there are no walls protecting defense and since the principal culprit of these astronomical deficits and burdens on our children's future—taxation without representation on the children of the future, this growing deficit—the principal culprit is not discretionary spending but rather entitlements and mandatory spending.

So the Senator from New Mexico has found a way and offers it to the Senate today to take the same amount of outlay reductions out of this ever-growing entitlement composite in the Federal budget and returning an equal amount of outlays to the discretionary accounts of this Government.

That clearly should put the appropriators in both Houses as they move through allocating these resources to be almost required to fund the President's level in defense, at least. And that is because the President of the United States has said eloquently in his State of the Union Address, we have cut defense enough; we should not cut it any more. In fact, he said, there are those who urge that I cut it more, and I have overridden them—all of this paraphrasing—we have cut defense enough.

What this amendment does is say to the appropriators of this U.S. Senate and House, when this is adopted in the conference and if we pass it, clearly the conference better be careful if they decide on the House side to take it out because it will be a giant mistake and perhaps the entire budget resolution will fall in the Senate, because I am asking today, the Senator from New Mexico is asking Senators to substitute these cuts in this amendment for those discretionary cuts which had reduced the caps and put defense in a vulnerable position, because even with the President's support, the appropriators would say you have cut $26 billion in outlays out of discretionary accounts, $43 billion in program authority over 5 years, and there is no alternative but to take part of that cut in defense.

I, for one, do not want to take that chance. As I said, just because the walls protecting defense legislatively have fallen—they were there for 3 years, 1990, 1991, 1992, and then in 1994 and 1995 we took the walls down—just because they have fallen does not mean we should lose our guard, let our guard down and become vulnerable. We all know what is happening in North Korea. If America has a real serious problem from the standpoint of what might happen in this world that is of extreme, extreme danger to America and the world, it is the North Korean situation. We ought not be inviting dramatic reductions to defense with that kind of crisis and the vulnerability of the Soviet Union, former Soviet Union States and other trouble spots in the world.

So the Senator from New Mexico did not want to take a chance. I compliment Senator EXON for wanting to reduce the deficit more. In committee, I voted for that. And so I will save anybody on the floor from reminding me that I did. And I will say right now that I made a mistake, not a mistake in cutting additional money from the deficit but we should not have done it from the discretionary accounts, in particular defense.

I am confident, Madam President, if the Senator from New Mexico had arrived at this amendment in committee—and I confess I did not know how to do this in committee—I believe we would have adopted this amendment rather readily over further reducing defense in the discretionary reduction that is found in the Exon amendment.

So I merely offer to the Senate a position that I believe is fair and much less dangerous for the defense of our country, that is, reduce entitlement accounts in the next 4 years and in the fifth year take the Exon cuts and you get exactly the same amount of deficit reduction that you received in the Exon amendment as adopted by the committee.

So for those who say the taxpayers want deficit reduction and for those who will come to the floor and say that Taxpayers Union likes the Exon-Grassley amendment, let me say to them this amendment does exactly the same thing. It reduces the deficit by exactly the same amount. It is probably more enforceable and it probably over time will respond with more consistent and persistent deficit cuts, but in essence let me summarize.

You get the exact same amount of deficit reduction in this amendment, and what you are cutting is essentially programs that have already been cut, but those cuts are going to expire and that money will be spent if we do not do it this way, so we are reducing the deficit by the exact same amount.

Now, there are others who will want to come and describe America's defense needs. I believe it is readily summarized. You have a President who promised when he ran to cut a given amount out of defense, and then after he was in office he decided to cut it much more. I will not repeat the numbers, but they are rather large. That President told the American people enough is enough. The Exon-Grassley amendment will cut more out of defense. Enough is not enough. There will be more cuts.

Now, I do not say that in any way, Madam President and fellow Senators, to disparage the budget cutting of those two Senators. They always want to reduce the deficit. They did that. I am only saying to the Senate I offer you another way to do it, and I will not haul out the charts, especially since the chairman has just arrived; he has seen them too many times.

Good morning, I say to the chairman.

Mr. SASSER. Good morning.

Mr. DOMENICI. But those charts I put up here show that without any question that part of this Government that is growing out of control are the mandatory and entitlement expenditures. We can afford to take this amount of money out of Medicare and entitlements and direct the committee before they start down the path of new programs; that is, the Finance Committee, they must first place in law permanently these cuts.

Now, I wish to make one last comment because I do not know that I am going to take a lot of time today because fellow Senators on this side have a lot of amendments, but there will be one additional argument made, perhaps Senator MOYNIHAN, chairman of the Finance Committee, or someone else will say that this will have a detrimental, perhaps some will say, a totally negative, impact on health care reform.

Let me just suggest that is not so. This is such a small amount of the savings that have to be obtained and taxes that have to be imposed for the President's plan to make its way through on health care reform that this has no chance of adversely affecting that.

In fact, I might say on that score, the President claimed $20 billion in deficit reduction between 1995 and 1999 as part of health care reform. So in a very real way we are just providing him with those savings here by cutting those programs and providing that amount of savings.

Now, my good friend, Senator THURMOND, is here. He is a cosponsor along with Senator NUNN.

Could I yield the Senator 5 minutes, would that be adequate?

Mr. THURMOND. I would like 10 minutes as near as I can get.

Mr. DOMENICI. Let us go with 5 and if the Senator needs more, I will give the Senator some additional time.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. I rise in support of the Domenici amendment to the Senate budget resolution. This amendment would reverse the Budget Committee decision proposed by Senators EXON and GRASSLEY to cut $26 billion from discretionary outlays over the 5-year budgeting period.

A discretionary spending cut of that magnitude means that many of the reductions, of necessity, would come from the defense budget. This cut would be in addition to the already existing $20 billion long-term shortfall in defense funding acknowledged by the executive branch and Congress. In other words, the Exon-Grassley proposal will make the severe underfunding of defense even worse.

I also intend to vote for another Domenici amendment when it comes before us later. The next Domenici amendment would establish caps or so-called firewalls to protect defense spending from further raids to fund domestic programs. However, it must be acknowledged that a vote for firewalls will simply be a vote for the President's budget request, inadequate as that request may be. Perhaps in today's political climate, this is the best we can expect. But we must not allow enactment of the President's defense number to make us complacent. The President's budget request contains at minimum the long-term funding shorfall of $20 billion just cited. Some defense budget experts claim this shortfall may be as great as $100 billion. When a realistic figure for inflation is factored in, spending on national defense will be dangerously short-changed in the future years defense plan.

While I support both Domenici amendments to reverse the draconian cuts to the discretionary accounts and to protect defense dollars from being used for nondefense purposes, I must point out that they do not solve the problem of serious underfunding of defense. I fear for the country when our only recourse to protect the Nation's security is to erect firewalls—after the building is already aflame.

Madam President, the practice of diverting defense dollars to domestic programs and entitlements must end if American is to remain free and secure. The Department of Defense has contributed far more than its share in budget reduction efforts. Force levels are coming down to the lowest levels in recent history. Procurement, research, and development funds are being slashed. Despite the administration's claims that operations and maintenance accounts are well funded, readiness is steadily declining. We are coming perilously close to war in Korea at a time when every indicator of combat readiness is lower than before Operation Desert Storm.

On the other side of the equation, Madam President, demands on the military are not declining in proportion to cuts in personnel and resources. Instead, requirements for people and equipment are increasing. The administration has said it is funding operating tempo to preserve readiness. However, most aircraft flying hours have not been for training, but to support humanitarian and peacekeeping operations. The services are being required to operate at rates as high as during the Persian Gulf war. Troops are spending record numbers of days deployed, but not in training. They are being used for almost everything but preparing for combat.

Moreover, plans are in the works to increase our role in U.N. peace operations. This could result in tens of thousands of United States personnel being scattered around the world, in addition to safeguarding our existing commitments in Europe, Central America, the Persian Gulf, South Korea, and the Pacific.

Madam President, if the world were growing safer every day; if America did not have vital interests around the world which must be defended with force of arms, perhaps we could afford to milk the defense budget to nourish already swollen domestic and entitlement spending. But I think every Senator on the floor today knows the world is not growing safer. It is an expensive delusion to think that we can continue to rob the military—crippling the capacity of our soldiers, marines, sailors, and airmen to fight and prevail—in order to pay for all kinds of nondefense programs.

If this trend continues, someday, perhaps sooner than we realize, the bill is going to come due. I fear it will be paid in the blood of our servicemen, or in significant harm to the Nation's well-being. I for one cannot stand by and watch that happen. I am strongly in favor of deficit reduction, cutting Federal spending, and economizing—but not at the expense of our security and the needless loss of American lives.

I thank the manager of the bill.

Mr. FEINGOLD addressed the Chair.

Mr. SASSER. Madam President, the distinguished Senator from Wisconsin is seeking recognition. I yield 10 minutes to the distinguished Senator off the amendment.

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

Mr. FEINGOLD. Thank you, Madam President.

I thank the chairman for yielding time.

Madam President, I rise in opposition to this amendment for the very reason that it does attempt to immunize the Defense Department from the further cuts that are represented by the Exon-Grassley amendment that was added at the committee level. I do not think any area of our Government should be immunized from the need for deficit reduction. And we cannot make any mistake about what the purpose of this is. The goal is to take a major area of public spending—an area where I think there is still too much spending—and to keep it off the table at a time when we are just beginning to make progress on deficit reduction.

We know the recent history. The President last year showed real leadership in helping us, encouraging us, to establish a level of deficit reduction in the budget of $500 billion. That figure became known not only here in Washington but throughout the country as a figure that we were going to try to achieve. It stuck in people's minds. They asked us questions such as, "How are you going to get that amount of money? How quick will the cuts come into effect?" But that figure of $500 billion was very important last year in the budget process in keeping our feet to the fire.

The committee has done a good job of adding to the good work that the President has done in his budget this year. The budget kept the commitment to deficit reduction. It did it in a variety of areas. I am extremely pleased we are able to report after just a few months, really just over a year, a significant reduction in the deficit. There was some resolve in early January, as reported in the Washington Post, that there were those in the White House saying, "We did deficit reduction last year." The President's budget as proposed here and reflected in the budget resolution shows that they did not win, that there is still some significant resolve in the White House to go further in the area of deficit reduction.

I am particularly happy that when this went to the Budget Committee they did not just accept the levels approved or proposed by the President and even approved by the House. They went further. This is the great merit of the Exon-Grassley amendment. The amendment before us today attempts to get away from that. It attempts to immunize the discretionary area, especially the Defense Department from the additional $26 billion in cuts. I think this really is an answer to the question that the junior Senator from Mississippi mentioned yesterday. He said, "Why do we have a Budget Committee? Why do we do this?"

The answer is very simple: To get that $26 billion figure out there. The public is aware that we have to cut that amount between now and the end of this year, and they can hold our feet to the fire. It is all about putting pres-

sure on us. It is all about getting away from the ability of this institution to prevent people from really knowing what is going on.

If the public knows that we have committed to an additional $26 billion in cuts they will continue to ask us, "Where are the cuts? What are they specifically?" That is why I think we have to preserve that Exon-Grassley amendment as it is.

By the way, as I think has been pointed out, that was a true bipartisan vote in committee. In fact, I believe a majority of those who voted for it were from the Republican Party and not Democrat. It was truly a bipartisan effort. Contrast that with what some of the amendments that have been offered by the Republican side. They were really completely contrary to the goal of real deficit reduction. The amendment we rejected would have added $20 billion to the defense budget. It would have provided a $500 tax credit. It would have indexed capital gains. These are all things that would be nice to have, but they move in the wrong direction. They move in the completely opposite direction of the Exon-Grassley amendment.

Madam President, I am particularly concerned that the proponents of this amendment believe that somehow the Defense Department should not be subject to any further cuts. There is at least one good example in the President's budget that has to be addressed, and that has to be accomplished this year. I regret that some of the committee language suggested that we should not accomplish this cut because I think we should.

I take exception to some language included in the committee's report that said that supporting the continued funding of the Uniformed Services University of the Health Sciences is inconsistent with the overall intent of this resolution. I have proposed in bill form that we eliminate the USUHS because it is no longer needed. It is a defense program that can and should be cut.

I am concerned that the effect of this amendment would be to protect even these kinds of items in the defense budget that are no longer needed. The Defense Department gets all of their physicians from three sources, about 70 percent from the medical scholarship programs, about 20 percent from physicians who volunteer directly, and only about 10 percent from the Defense Department medical school.

Of all these, Madam President, the USUHS school is the least cost-effective.

This is not only the conclusion of the nonpartisan Congressional Budget Office and the Office of Management and Budget, it is also the finding of the Defense Department itself, the agency that runs the school.

So my point is—and I have more extensive remarks about this particular program—that this amendment which is before us now that will hinder our ability to get at this kind of waste in our Federal Government. It will prevent us from specifically identifying the programs that can and should be eliminated, including in the defense area, as we proceed with the budget later in the year.

So I see this amendment as getting away from probably the best moment this year in deficit reduction, and that best moment is the courage of the Budget Committee to add the Exon-Grassley amendment, which I strongly support; and I think that that should be regarded as part of a pattern, a pattern of improvement that started with the Clinton proposals last year, that has been reflected in the efforts of this body on a bipartisan basis by the effort by Senator KERREY of Nebraska, and also by the effort of Senator KERRY of Massachusetts.

If we eliminate this item, we take away what may have been the finest hour in the Senate so far in the last 2 years and actually insisting we do better, that we add an additional $26 billion in cuts before we put this matter to rest later this year.

Madam President, I yield the floor.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Who yields time?

Mr. SASSER. Madam President, may I inquire of the distinguished Senator from West Virginia, is he seeking recognition?

Mr. ROCKEFELLER. Yes.

Mr. SASSER. Also, may I inquire of my friend from West Virginia how much time he might require?

Mr. ROCKEFELLER. If I might inquire of the distinguished Senator, through the Presiding Officer, how much time remains on this? I am not sure of the time situation. One hour per side?

The PRESIDING OFFICER. The Senator is correct.

Mr. SASSER. How much time is remaining to the opponents of the amendment?

The PRESIDING OFFICER. There are 52 minutes 40 seconds for the opponents of the amendment and 42 minutes for the proponents.

Mr. SASSER. I yield to my friend from West Virginia such time as he may consume, up to 20 minutes.

Mr. ROCKEFELLER. Madam President, the Senator is more than generous. I appreciate his courtesy very much.

I rise in strong opposition to Senator DOMENICI's ill-timed, ill-conceived amendment to cut Medicare by some $19 billion.

To restore a $26 billion cut in discretionary spending and replace it with a $20 billion cut purely in mandatory spending—with all but $1 billion coming from the Medicare program is not only unfair it is unwise.

I would not have voted for the initial $26 billion cut in spending that unfortunately passed the Budget Committee, but now that it's done, I reject the proposition that we sacrifice the Medicare Program once again, to protect programs that some believe to be more valuable than the one over 35 million senior citizens and disabled Americans rely on for their health care needs.

Not only have we already chopped $56 billion out of the Medicare Program for the purpose of deficit reduction less than a year ago, but Medicare savings are needed for us to finance the long awaited and desperately needed prescription drug benefit and home and community based long-term care program that are key elements of the President's health care reform bill.

I do not intend to allow my colleagues with other agendas to use the dollars that the President, and many of us here in Congress have reserved for health care reform.

This is a classic example of not seeing the forest for the trees. CBO tells us that despite our tremendous efforts to reduce the deficit by hundreds of billions of dollars, the deficit will begin to rise again in fiscal year 1999. All of that rise is due to increasing Medicare and Medicaid costs. We need to understand that the only thing that will really help us in wresting control of our Federal health care spending and reduce the deficit in the long term is comprehensive health care reform—to achieve that we will need to use health care savings.

The Domenici amendment proposes to take a significant chunk of the dollars that we need for health care reform.

In fact, most of the proposed Medicare reductions in the Domenici amendment are part of the President's health care reform proposal, many are in Senator BREAUX's health care reform bill and some are in Senator CHAFEE's legislation.

It is time to make it absolutely clear those of us in Congress who are adamant about achieving health care reform do not intend to let you cannibalize our financing mechnaisms for your own purposes.

Health care dollars should be recycled and used for extending health care security to more Americans, not available to finance other special interests, no matter how important some may believe them to be.

I stand with the majority of my colleagues on the Senate Finance Committee and my chairman and draw the line. It is wholly inappropriate for members of the Budget Committee to tell the Finance Committee when and where it will spend the savings or revenues from programs in its jurisdiction.

This may be an even more cynical amendment than it appears on its face. It may be that some of the proponents of this amendment are actually seeking to sabotage our historic chane to pass comprehensive health care reform

that will give Americans the health security they have waited for and deserve I sincerely hope that is not the case. But I am afraid it is a very legitimate conclusion to draw from such a selfish effort. This is an exercise which we went through last year, and it was an exercise we went through last year successfully. We defeated the Domenici amendment, of a slightly different nature, but of a very similar purpose.

I want my colleagues to understand that this is a very, very cynical amendment. This is also the kind of amendment which, I think, detracts from the level of our debate and does great hurt. We have 2 hours to debate it. The consequences are enormous, and I regret this approach.

The Senator from New Mexico indicated a few moments ago in his remarks that for people who are worried about health care, they should not really worry about this at all because, as he said, it is a very, very small impact on health care. He is talking, of course, about a great deal of money, almost $19 billion.

Everything in health care counts. All of a sudden, I came in here this morning, and it brings back some memories rushing to the defense of the military, and scenarios are created in Korea, North Korea, and other places, where all of a sudden it becomes a patriotic duty to put more money in the military.

The President of the United States is very effective on this subject. He has made a very good budget. It is very, very interesting to me that the Senator from New Mexico wants to take so much money out of programs that help very, very much and then give it to the military. The Senator from South Carolina obviously sounded that. It is sort of like the old times are coming back.

You do not cut $18.4 billion from Medicare without hurting people a lot. We have already done some very substantial cuts from Medicare, and I presume the Senator from New Mexico voted for these. In the budget resolution of last year, budget reconciliation, we cut $56 billion out of Medicare. That was a lot of money. But it was not nearly as much money as we cut out this year in the President's health care proposal, which is $118.5 billion out of Medicare—cut it out. That is about a $175 billion cut out of Medicare.

If anybody in this body is serious about getting control of runaway costs of entitlements, Medicare being one of those, the way to do it is through health care reform. If Senator DOMENICI wants to reduce the budget deficit more than the half trillion dollars that we have already done, then what he needs to do is to put his full passion into passing health care reform.

I have not heard speeches from the Senator from New Mexico on health care reform, and perhaps I will. But if he wants to be a responsible budget deficit hawk, that is the way to do it, to get health care reform passed. We have to do that in the Finance Committee. He is not on the Finance Committee and he does not have to worry about that kind of thing, so he can take this kind of approach.

What happens, of course, is this money comes right out of the senior citizens. It also happens to come out of veterans. In fact, it comes out of veterans benefits. I urge all those listening to consider 27 million veterans and 33 million senior citizens in this country—actually, many more than that—and what they will be doing if they come and vote for the amendment of the Senator from New Mexico is to cut veterans benefits. I do not know how to say it more clearly than that: Cutting veterans benefits, that is what they will be voting for. There will be a lot of people to make sure that is well understood, and I will be certainly amongst those. But I am really angry about this assault on health care, to say this is a minor impact.

The Senator from New Mexico knows very, very well that every dime, every dollar, much less $19 billion, is enormous in health care reform. I had a very, very warm evening with the Senator from New Mexico at the Vice President's house a number of weeks ago in which the Senator from New Mexico, in fact, did give a very impassioned and a very, very deeply moving speech—much better than the one I gave—about the need to do more in mental health, in health care.

There were a number of people who stood up that night and talked about the need for that and talked about personal experiences. It was a very, very moving affair. I was one of those who got up and gave that kind of a talk. But at the end of the night, I got up and said: This is all terrific, but unless we pass health care reform, none of this is going to take place.

The fact of the matter is, if you had to find one single piece of the health care proposal which is vulnerable, one single piece of it, it would be mental health. There are a lot of people around this country who are opposed to mental health benefits, because they think of it as stress in the workplace—and not as serious problems. We do cover some schizophrenic and some bipolar problems in the President's reform plan; not all of them, but some of them. I believe mental health benefits will be the very first thing that is jeopardized in reform. That is not made up by me today; this is common knowledge in the health care community that the first thing to go when we get down to starting to cut—and I will fight that cut—will be mental health benefits.

I am sort of standing here in wonderment at this amendment, the need suddenly to rush billions of dollars into the defense industry and then sort of cavalierly dump off a whole lot of responsibility for cutting more money on the Finance Committee, creating a vacuum. And obviously that vacuum is going to have to be filled by cuts—cuts in mental health, cuts in prescription drugs. Prescription drugs, incidentally, have a great deal to do with mental health.

So this is a very, very disturbing amendment, as far as I am concerned.

In terms of veterans affairs, I want the membership to understand that this is a very serious effect. It is a $500 million cut in veterans benefits. There are no specifics in the amendment, of course, but it would likely eliminate some very good work that I think the Veterans Committee, which I chair, did on savings.

It would eliminate savings in the fifth year, a great deal of money. And it would limit the amount of pension to $90 a month that can be paid to pensioners without dependents in Medicaid-covered nursing homes. Good grief. These are poor, old veterans who are in nursing homes. Nobody knows it, I hope, except if they are listening to what I am saying. But their benefits are going to get cut—poor, old veterans in nursing homes. I cannot say it any more clearly than that. I think that is despicable. I think that is despicable, and I want the membership to understand that.

Madam President, this is serious stuff, budget deficit reduction. I understand that. I fought hard to make sure that we got the $1/2 trillion reduction. The Senator from New Mexico voted against all that. I do not know what the Senator from Nebraska did. He might have voted for it, probably voted against it.

But some of us care very, very much about budget deficit reduction, and we understand the delicate balance in this country between trying to make ourselves more fiscally responsible, which affects the markets and which is allowing our economy to grow, but, then, on the other hand, to say there are certain areas where we have to get ahold of our country's future, and some of that is technology and some of that is National Science Foundation, some of that is something called health care reform, but it does cost money. And I do not think that we can simply just come out here and sort of cavalierly cut another $20 billion out of the budget without a very well-reasoned explanation other than just to be able to stand up and beat our chests and say I did more, to go home and say I did more.

Now, of course, those who have a lot of defense installations in their own States, which I think is true of both of the Senators who propose this amendment, that is a very good thing for them to be able to go home and say, but the idea of just saying we are going

to beef up defense and we are strong and we are tough and we are much more pro American than all these other people who are not going to vote for budget deficit changes so we can put more money in defense, let the Members as they are listening, if they are, and as they come to vote understand that this is taking away the greatest budget deficit reduction mechanism we have in the future, in the next decade, and that is called health care reform. Let us do our health care reform. We are not going to do health care reform if this amendment passes.

Now, we defeated an amendment similar to this last year. As I indicated, we only defeated it by four votes. So I put my colleagues on notice this is going to be a very close vote. So when you are considering the attitude you bring to the floor with you, think about the poor, old veterans, and, yes, that is pulling at the heartstrings, but it does pull at the heartstrings because that is what it does. It takes the poor, old Medicaid veterans who are in long-term care facilities, nursing homes, and cuts their benefits. It takes health care reform, and Senator MOYNIHAN and about 20 of us up here who are trying to do this thing in the Finance Committee, which is a very, very hard thing to do, and makes it virtually impossible.

So I am very angry at this amendment. I think it is very cynical, and I think it should be defeated. If I do not violate the rules of the Senate, I will get up and talk some more about it.

I thank the Chair and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I yield myself 2 minutes.

To my good friend from West Virginia, I am sorry that he uses the word "cynical," because let me tell you what is cynical. It is cynical for a Senator to come to the floor and say we are cutting old veterans—it is cynical to say we are cutting old veterans' benefits when the cuts he is alluding to came out of his committee, were voted on last year. The Senator voted for them.

All the Senator from New Mexico is doing is saying when those expire in 1998, continue them. Now, if that is hurting veterans—and you know what we plan to do in 1999? We plan to leave those cuts in place and spend the money some place. When the Senator speaks of Medicare and the cuts, the Senator voted for every single cut that the Senator from New Mexico is proposing, every one, because the cynicism in this place is that we pass a cut in Finance Committee for 1 year at a time. So that the next year when it expires, you can claim it again and claim savings.

I have just decided to take a number of those and say let us face it; they are all going to be extended. These atrocious cuts are all in place, and we are going to extend them so that they remain in place just like they are going to be but we decide to save the money by extending them rather than letting it flop around to be spent elsewhere.

Now, frankly, that is the case, and I really hope that my good friend, who says he is angered about the amendment, if he wants to say that $20 billion in entitlement programs, most of them in Medicare that is already cut—there is nothing new about the Domenici amendment, just extends it—if that $19 to $20 billion is going to destroy health care reform, and then by implication maybe even deny the mentally ill of this Nation coverage under that bill—I yield another minute—I truly wish he would look at it.

I am as sincere as he is about health care, but I am also sincere about the President's commitment to save money in health care. I am sincere about the budget resolution of last year that says we are going to save money in health care. I am for saving $20 billion right now, up front out of those programs that we have already reduced. I am just saying continue the reduction, continue the reform.

Let me just give you one example. Now, something has been said about cynicism. Let me ask, does everybody understand that when we write a bill on entitlement reform, we set the level of part B premiums for senior citizens at 25 percent, and we do it for 1 year at a time because the next year we extend it again and claim the same savings?

Now, what if the American people thought that was the kind of thing we are doing? So I am just saying make that permanent and take the cut, take the entitlement cut residue right now and put it on the deficit.

So, frankly, I do not think I am hurting a veteran. I am not hurting a senior citizen. I am not changing any program. It is already in existence in every respect.

Now, I yield 5 minutes to my friend, Senator COATS.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. DOMENICI. Will the Senator manage the time for me in my absence for a few minutes? Can the Senator stay for about 10 minutes?

Mr. COATS. Yes.

Mr. DOMENICI. I thank the Senator very much.

Mr. COATS. I thank the Senator for yielding. In answer to his question, I would be happy to manage the time in his absence.

Madam President, in the last couple of days we have been faced with a difficult choice. Many of us have long supported a strong national defense believing it is the best investment we can make in this country, to ensure, to the extent we can, a peaceful world and a protection of our vital strategic interests.

Expenditures made up front often save extraordinary expenditures that might otherwise have to be made should we engage in conflict, and we believe that they save the lives of American men and women who are not called to combat because an enemy has perceived, correctly, that the United States has a firm commitment to remain strong and to defend its interests and has the capability of doing so.

At the same time, we are concerned about an ever-growing budget deficit, one that seems beyond the ability of this body to control. Numerous attempts have been made over the past dozen or so years—different schemes, different budget proposals, different promises. None of those has realized its promise, and the budget deficit continues to grow.

So when we are presented, as we were yesterday, with an opportunity to make further cuts in the budget deficit under the proposals incorporated in the committee print by Senator EXON and Senator GRASSLEY, we are very tempted to support that. By the same token, we realize that we are once again operating out of an account with no protection for further cuts from defense, and I think we all realize the fact that when from a political standpoint we stand on this floor and enact those further cuts without firewalls or walls of protection to save against further defense cuts, the inevitable is going to happen. Most, if not all, of those cuts are going to come from defense.

Now, people say, well, why should we not cut defense? The world has changed. The cold war is over.

My answer to that is that we have been doing that. We have precisely been doing that for the last 10 years. What people fail to acknowledge and fail to realize is that defense is the one area of the budget that has taken real cuts. Everything else has been trimming at the margin, everything else has been reducing the rate of growth, but only in defense and only over a sustained period of time have we enacted real cuts.

By the end of the President's proposal for defense, we will have released from service and dropped the level of personnel serving in our Armed Forces from 2.1 to 1.4 million. That is 700,000 less people trained and prepared in the defense of this country. We have shut down literally hundreds of provision lines across the country; hundreds of thousands, approaching 1 million people who used to work in the defense industry are now either working somewhere else or do not have a job. It has devastated some States, California in particular.

All of this has been done in the name of reducing defense. The cuts have been substantial. We have cut active personnel 32 percent. We have cut Army divisions 45 percent, battle force ships 37 percent, fighter attack aircraft 40 percent, and on and on it goes.

So when Members stand on this floor and say defense is not doing its share, they are just flat wrong. When they say that other programs have been cut in an equal amount, they are just flat wrong. Defense has done more than its share.

So when the President of the United States, not someone with a long history of strong support for defense, comes before us in the joint session and draws the line and says,

The budget I will send to this Congress draws the line against defense cuts and fully supports the readiness and quality of our forces. I will tolerate no more cuts.

Members from both sides of the aisle stand and applaud in one of the most sustained levels of support on a bipartisan basis that this Chamber has seen. Now we are faced with proposals to add further cuts from a category that we know will direct most of those cuts to defense cuts.

Our Armed Services Committee just went through an extensive period of hearings with the Joint Chiefs, the service chiefs, the personnel chiefs and others, and to a person they said you cannot keep drawing us down at the rate we are going without seriously undermining our effectiveness, our cohesion, our morale, our ability to sustain and engage in meeting the strategic objectives that you, the Congress, and that this administration has laid out before us. You cannot continue to do that. We are on the razor's thin edge.

General Shalikashvili said,

There is little, if any, room for miscalculation. We have not provided a hedge of an extra division here or an extra fighter wing there. It is as lean as we dared make it and retain our ability to meet our strategic objectives.

One of two things has to happen. We either have to hold the line now on defense spending, or we have to go back and redefine what our strategic objectives are going to be. We cannot engage in Somalia, in Bosnia, in Korea, in meeting our obligations around the world. We cannot prepare to meet a contingency that we hope will not happen but may very well happen, and that is a Russia being different than what we think it would be or would like it to be. We cannot prepare for the future and meet unspecified, even unknown, threats to our national security, nuclear missile proliferation. We cannot ask our Armed Forces to carry on and be prepared to meet two nearly simultaneous major regional conflicts. We can barely do one. We have to make a decision.

So the amendment of the Senator from New Mexico simply says if we are going to take these cuts, they ought to come out of a different category. We should not continue to put defense at risk.

That is why I am supporting that amendment. We all know, every one of us knows, that until we deal with the mandatory spending we are not going to get control of this budget. We have been trying to squeeze the discretionary account now for nearly 15 years. While we may be able to make more cuts out of that account, that only accounts for a small percentage of the total budget. We have to face up to the reality that it is the mandatory programs that are driving the budget deficit. And until we do something about those mandatory problems, all this other is just smoke and mirrors. It is just subterfuge. It is not going to happen except the cuts will continue to come out of defense.

If defense had not been doing its part for the last 10 years, I would say sure. We need to make changes and reduce this. But it has done more than its share, and it is as General Shalikashvili and others who are directed to provide us with advice as to how fast and how far we need to go, has said, we are at a thin razor's edge. We dare not go any further. There is little, if any room, for miscalculation.

I think every one of us knows that if the extra savings are directed to come out of discretionary accounts, the majority of that is going to come out of defense. If we adopt the Domenici amendment, we know that we will have to begin to take those savings out of the account where they ought to come out of, and if we are going to deal with the deficit, that is where we have to go.

It is a modest, mild proposal that simply extends decisions already made as to how we will affect savings out of the mandatory accounts.

So for that reason and others I support the Domenici amendment.

I thank the Senator for his time. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield myself 5 minutes out of the time reserved by the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator is recognized.

Mr. EXON. Madam President, I will talk later on some of the other specifics of this proposal.

I am astonished when I listen to some of the remarks that are being made on the Senate floor today on the Domenici amendment. The Domenici amendment is a killer amendment with regard to the modest deficit reduction proposals adopted in the Budget Committee. Let there be no mistake about that. I just listened with interest to the Senator from Indiana who voted for this measure in the Budget Committee. I stand corrected. I thought that the Senator was in support of the amendment. Others closely associated with him on the Budget Committee did vote for this amendment.

Mr. COATS. Madam President, if the Senator will just yield for a matter of clarification, I am for the Domenici amendment. But I do not serve on the Budget Committee. In fact, I wish I had.

Mr. EXON. I corrected myself on that, if the Senator had been listening. I am sorry.

Mr. COATS. I misunderstood the Senator.

Mr. EXON. I would simply say, Madam President, that if the Senator from Indiana had been in the Budget Committee, had he heard the debate there, I think it would have been quite clear that there was no member of the Budget Committee on either side of the aisle that stood for defense. It was this Senator from Nebraska who took on cuts that were suggested there in the Milstar program and others that I thought were unwise.

What has happened, unfortunately, by the chief sponsor of this amendment, is that the Senator from New Mexico, and others, have fallen into the trap that this money is all going to come out of defense.

Madam President, I simply say, I take a back seat to no one in support of national defense, in the Budget Committee last week and elsewhere. I simply say that a big bugaboo has been created primarily coming out of the Appropriations Committee. We are so anxious to defeat the Exon-Grassley amendment that they have made ridiculous claims that this is going to devastate defense.

Madam President, under the processes that we work under here, the Budget Committee sets the total limits, as most of the Senate understands. It is wrong for the Senator from Indiana, it is wrong in my opinion for the Senator from New Mexico, the latter being a member of the Appropriations Committee as well as the ranking minority member on the Budget Committee, who supported this amendment, the Exon-Grassley amendment in the committee last week. Why the change of heart? The change of heart has been simply that I think the Senator from New Mexico and others have been convinced by the threats made out of the Appropriations Committee that they are going to take this out of defense.

Madam President, to try to insulate the criticism that is going to be launched at the Exon-Grassley amendment, I simply say once again that this Senator has been the leader in the protection of the defense budget. The record will clearly show that.

I simply say, Madam President, that it is a phony issue, regardless of who says it, that defense is going to be devastated by the Exon-Grassley amendment. That would be up to the Appropriations Committee.

If the Senator from New Mexico and others who are and have been great supporters of defense cannot stand up and do not have the votes and influence in the Appropriations Committee to have a disproportionate share of these

cuts coming from national security interests, do not blame JIM EXON and Senator GRASSLEY.

This is a killer amendment. This has been fostered by wild claims. The fact of the matter is if there is criticism of the Exon-Grassley amendment, the legitimate criticism would be that it is too small a cut in the deficit.

We are losing perspective completely here, Madam President, I suggest, with regard to what is fair and what is reasonable.

I hope none of these cuts come out of defense, but that, again, is up to the Appropriations Committee.

I simply say, that I hope tactics that are being used here as a killer of the Exon-Grassley amendment can be best described the way the President and Mrs. Clinton did in their humorous presentation to the Gridiron show last week. They are bringing up these scare tactics to "scare your pants off." It is not realistic.

I simply say, as I will say later in my remarks, that this is not aimed at national defense. But if you want to use national defense as an excuse not to cut the budget further, then so be it.

I reserve the remainder of our time.

Mr. COATS. I wonder if the Senator will yield to me for just 30 seconds?

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

Mr. EXON. On his time.

Mr. DOMENICI. I yield the Senator 30 seconds.

Mr. COATS. Madam President, I want to make it clear that I fully understand the Senator's intent is not aimed at defense. In fact, the Senator from Nebraska has been one of the stalwart defenders of our defense forces in our defense budget.

The point I was trying to make is that the inevitable result of this, despite the Senator's best intentions, in this Senator's opinion, is that we will end up taking from defense rather than other discretionary programs, because we will be faced with what we are always faced with: An amendment saying either support the Head Start Program or support the F-22 modernization; either support the WIC Program or support the V-22.

The inevitable result will be that since there is no firewall, the cuts will come from the defense programs in favor of other discretionary programs. I know that is not the Senator's intent. But I think that is the result.

Mr. EXON. I yield myself 30 seconds from our time. I will simply say that the Senator from Indiana is, therefore, saying that the Appropriations Committee is antidefense, the Appropriations Committee will not take a stand for what is right to properly apportion it—make appropriations in a fair manner. I hope that I have more respect for the Appropriations Committee than that, and I do not concede that this is all going to come out of defense, as is the essential claim for the supporters of the Domenici amendment.

Mr. COATS. Madam President, if the Senator from New Mexico will yield me 10 seconds to respond for the last time.

Mr. DOMENICI. I yield him 10 seconds.

Mr. COATS. As the Senator from Nebraska knows, sometimes no matter what the Appropriations Committee does—I agree with him, I do not think they will try to direct the cuts out of defense—we all know any Senator can offer amendments on the floor, and we know from past experience those amendments override what the Senator's intentions are, my intentions are or even the intentions of the Appropriations Committee. That is the reality we are dealing with with this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. SASSER. Madam President, I see the distinguished Senator from Massachusetts on his feet. May I inquire of my friend from Massachusetts how much time he might require?

Mr. KENNEDY. Seven minutes.

Mr. SASSER. I will be pleased to yield 7 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I urge the Senate to reject this amendment.

This proposal aims to reduce the deficit, but it cannot pass the truth in advertising test—because it is also a proposal to block comprehensive health care reform. Virtually every Medicare cut proposed in this amendment has already been earmarked to help pay for the cost of health care reform under President Clinton's plan. A number of these cuts are included in the Chafee and Breaux-Durenberger bills as well.

The effect of this amendment is simple: It raises the price of health reform for the American people by an additional $20 billion over the next 5 years.

Deep cuts in Medicare in addition to those already contained under the health reform plan are simply not justified.

Today, Medicare already pays hospitals 10 percent less than their actual cost of caring for elderly patients. Hospitals offset these gaps by charging other patients more.

Further cuts in Medicare, as proposed by this amendment, will only make this problem worse.

By contrast, comprehensive health reform restrains Medicare spending in the right way, holding the growth in Medicare payments to levels that are consistent with the private sector, taking into account the growing health needs of senior citizens and the disparity that already exists.

That is what the President's plan does. But this amendment would say that parity is not important—the gap between Medicare payments and private sector payments must grow ever wider.

Without health reform, every dollar cut from Medicare means a dollar in additional costs for average citizens and for business. Health care providers will seek to recover Medicare underpayments by shifting costs to others.

Cuts in Medicare are a false economy. They are also hazardous to the health of senior citizens. As the gap widens between what private patients pay and what the Government pays, hospitals, and doctors increasingly view the elderly as second-class citizens.

It is shameful that the poor and uninsured are so often denied the services they need because they cannot pay. The shame will be compounded if the same fate befalls senior citizens because the Government has failed to keep the promise of Medicare.

There is a realistic solution to the increasing cost of Medicare. It is also a solution that is long overdue. We need comprehensive health reform that meets two fundamental tests. It must guarantee every American basic health insurance coverage. And it must control costs in the health care system as a whole.

A vote for this amendment is not a vote for spending restraint. It is not a vote for deficit reduction. It is a vote against health care reform. It is a vote against Medicare. It is a vote against senior citizens, and I urge the Senate to reject it.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, we are trying to keep our total arguments to ½ hour. Can the Senator from Georgia get by with 7 minutes?

Mr. NUNN. I will try.

Mr. DOMENICI. I yield 7 minutes to Senator NUNN.

Mr. NUNN. If I can get the Chair to notify me after 6 minutes.

Madam President, I thank my friend from New Mexico and I thank my friend from New Mexico for offering this amendment. These are the tough choices that we have to make in this body.

Frankly, as painful as it is to make these kind of choices, I think the choices are long overdue in terms of our fiscal picture.

I am pleased that the Senator from New Mexico has offered this amendment for really two principal reasons:

First, under the budget resolution, President Clinton's fiscal year 1995 to 1999 defense budget would almost certainly face very significant and, in my view, very harmful reductions if we leave this budget resolution as it is.

Second, this budget resolution does not seriously address the real culprit in our deficit picture, which is the run-

away growth on mandatory or entitlement programs. The budget resolution before the Senate today reduces the cap on total discretionary spending by $43 billion in budget authority and $26 billion in outlays over the next 5 years.

This includes a reduction of $5.3 billion in budget authorities and $1.8 billion in outlays this year. Defense spending is about 5 percent of discretionary spending, and if past history is any guide, a very substantial portion of this overall cut would come out of the Defense budget.

But no one is saying, in answer to my friend from Nebraska, that all of it is going to come out of defense. I do not say that. I do not know that, and I could not contend that. I do not think the Senator from New Mexico is saying that. What we are saying is it stands to reason a majority is going to come out of defense. Fifty-five percent of the discretionary account is defense, so my guess is it will be somewhere between 50 and 60 percent.

I agree with the intent of what the Senator from Nebraska and the Budget Committee tried to do, which is to enact additional deficit reduction. I happen to believe they went about it in the wrong way. By trying to make modest cuts in discretionary spending and leaving the door wide open for entitlement growth, this reduction leaves the back door wide open for continued mandatory uncontrolled spending, which is where our problem is.

If I can get my capable staff to find the chart I want to refer to, I will do that in just a moment. But I am going to make the point verbally, even if I do not have the chart. I want to show people exactly what is happening to our overall budget. In accordance with the new caps on discretionary spending, the discretionary spending requested in the President's 1995 budget over the next 5 years represents an increase of just 2 percent over the amount we spent in this area compared to the previous 5 years.

Madam President, we spend all of our time looking at a baseline. The thing that is hard about a baseline is, if the baseline is heading up, that is, if expenditures are heading up, and you tilt it down just slightly, you basically say you cut spending. What you did was you reduced the increase in spending. That is what we do in entitlement programs. People talk about cuts. The Domenici amendment is not a cut in entitlement programs. They are still going to grow like mad. They are just going to grow a little bit slower than would otherwise occur.

I want Senators to focus on the difference. Getting away from the baseline, this is not a baseline comparison. This is the comparison of the 5 years we have just gone through, 1990 to 1994, compared to the next 5 years, 1995 to 1999.

Some people may say, why compare it this way? Because this is the way people in this country think. How much did you spend in the past? How much are you going to spend in the future? They do not go buy groceries or anything else on a baseline, like we do. They do not say we are going to go out and we planned to spend $700 this month on groceries; now we are going to spend $650, so we have cut our spending on groceries, even though it might have been $500 the month before.

Madam President, looking at it this way, the Defense and foreign policy budget is going down. This is the number going down. All the other parts are going up.

I think people should focus on the difference between what is happening in the various categories. If you look at the last 5 years, and if you look at what we call the discretionary accounts —and that is what we are dealing with on this amendment; we are dealing with discretionary accounts, including but not limited to defense, versus the entitlement programs—we are going to spend, in defense that is part of the discretionary account, $190 billion less over the next 5 years than we did the previous 5 years. The other parts of the discretionary, that is the domestic discretionary, are going to go up $250 billion over the next 5 years compared to the last 5 years.

If you net that out, defense and nondefense discretionary, you have a net increase for the next 5 years compared to the previous 5 years in the discretionary account that is a $60 billion increase, about a 2 percent increase. It is a lot of money, but in overall budget terms, not as much as meets the eye here.

What happens on the other side of it? What happens on the entitlements side? On the entitlements side, we are going to spend, over the next 5 years—and this is assuming the President's health care plan passes, and it assumes all the savings are going to be realized over the next 5 years—we are going to spend $1.3 trillion more on entitlements than we did the previous 5 years. That is not the total. That is the delta; that is the increase. That is the additional—$1.3 trillion increase in entitlements compared to a $60 billion increase in discretionary.

So what does the Budget Committee do? They cut the discretionary. And included in that is defense, which is going down already $190 billion. No matter who voted for it, I think it was a mistake, I say to my friend from Tennessee.

I am not going to take much more time. I think this chart shows it all. It shows, over the next 5 years in health care alone, the budget is going to increase about $800 billion; about $800 billion. Defense is going down.

So, Madam President, I urge my colleagues to vote for the Domenici amendment which will keep the deficit the same as the Budget Committee, but it will shift—I think appropriately—the burden of the increased deficit reduction the Budget Committee called for to the area of our budget that is indeed growing very, very rapidly.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from North Dakota.

Mr. SASSER. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Tennessee controls 22 minutes 28 seconds; the Senator from New Mexico controls 21 minutes 51 seconds.

Mr. SASSER. May I inquire of my friend from North Dakota, what is the minimum time he could consume and still adequately express himself this morning?

Mr. CONRAD. I would like 10 minutes, Mr. Chairman, but whatever the chairman's decision is I would be happy to abide by it.

Mr. SASSER. The Senator from Iowa wishes to speak. May I inquire of the distinguished Senator?

Mr. GRASSLEY. Five or six minutes.

Mr. SASSER. Five or six minutes.

Mr. EXON. Madam President, the Senator from Nebraska would like at least 3 or 4 minutes. There are some points I have to cover.

Mr. SASSER. I yield 8 minutes to the distinguished Senator from North Dakota.

Mr. CONRAD. I thank the chairman.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, we have made dramatic progress in the last year with respect to the deficit. I think it is terribly important the people of our country recognize what a substantial improvement has been made.

The Chair will recall that a year ago, we anticipated a budget deficit of $300 billion for this year. Instead, we are now looking at a budget deficit of less than $180 billion. That is a substantial improvement. Yet some of us believe more must be done. That is why the Budget Committee took steps to further reduce spending over the next 5 years.

Now we have the question of a substitution by the Senator from New Mexico that would say do not cut on the domestic discretionary side; put it over onto the Finance Committee. Pass the hot potato; let them handle it; let them figure it out. And let us do it in a way that threatens medical care reform.

Madam President, that makes no sense. That is not what we should do here. We should stick with what the Senate Budget Committee did and reject the Domenici substitute.

I brought some charts to help explain how significant the improvement has been on the deficit front. This chart shows, from 1980 through the year 2004, the deficit as a percentage of our gross

domestic product. I direct my colleagues' attention to the most recent period, 1991–92, when we saw the deficit as a percentage of the gross domestic product up over 5 percent. Mostly as a result of the action we took last year, the deficit measured against the size of our economy took a very steep reduction, a dramatic reduction, to just over 2 percent.

What we did last year worked. We had heard from the other side repeatedly that if we passed that budget deal, it would crater the economy. My friends on the other side of the aisle were wrong. The evidence has proved them wrong. They said if we passed the budget deal, we would devastate the economy, we would crater the economy. Now the evidence is in. They said it would increase the deficit. The deficit is down, and down dramatically.

This chart looks at it another way. It shows the Congressional Budget Office 10-year budget outlook, what we looked at a year ago, before the budget deal, in terms of what the deficit was going to do, again measured against the gross domestic product. You can see it was going to be taking off. It was at a much higher level than where we are today, which is represented by the blue line, January 1994, Congressional Budget Office. This is where we were, the level of deficits we could expect before we took action. And because of the courageous action we took last year, we reduced that deficit line substantially and dramatically.

Madam President, partly as a result of that deficit reduction action, long-term interest rates have been going down and going down dramatically. You can see since we took the action in 1992 long-term interest rates went into a very steep reduction from just under 8 percent, and at one point they were down to 6. Now they have ticked back up.

Madam President, this tells us that the action to reduce the deficit we took last year was the right action. It was important action. It was effective action. But it also tells us we ought to do more because now we see those interest rates starting to rise again. As a matter of fact, they have gone up nearly 100 basis points. That tells this Senator that the Senate Budget Committee action to make further cuts was the right action.

Madam President, as a result of those lower interest rates, we saw a strong revival in the economy—in the fourth quarter, 7.5 percent growth, the best record of economic expansion that we have seen in 9 years.

Madam President, this shows the index of leading economic indicators, and you can see since 1992, when we were at 97, the index of leading economic indicators has taken off like a scalded cat, and again that is a result of the courageous action taken by our colleagues last year to pass a budget deal that effectively lowered the deficit, helped contribute to lower interest rates and got this economy moving again.

Madam President, this chart shows what has happened to real business investment, from 1984 to 1993. Again, if we look at 1992, it is right here. We were at about $500 billion in real business investment. And look what happened since we passed that budget deal. Real business investment again has increased dramatically, to over $620 billion a year.

Madam President, what we did last year worked. We ought to stay the course of deficit reduction. We ought to do more to keep interest rates down and to keep this economy moving forward. That makes sense.

Now, let us deal with the specific proposal of the Senator from New Mexico. He is exactly right. The area that is out of control with respect to our Federal spending is in entitlements, specifically Medicare and Medicaid. This chart again shows as a percentage of our gross domestic product what has happened to Medicare spending from 1980 and the year 2004, and you can see it is just in a skyrocketing situation. Medicare spending has absolutely taken off. It has to be addressed.

Medicaid spending, exactly the same pattern. By far the fastest growing part of Federal spending is Medicare and Medicaid. In fact, they are growing twice as fast as any other part of the Federal budget. So why not then adopt the Domenici amendment?

Madam President, it is very simple. A health care explosion in costs has to be addressed in health care reform. That is the appropriate place. That is where it should be done. We should not be out here, while considering a budget resolution, trying to deal with health care reform when that is the major focus of the legislative action of this body for the rest of the year. That is the appropriate place to deal with this part of the budget problem.

Very frankly, Madam President, we need to do it all. We need to make the cuts the Senate Budget Committee made in domestic discretionary spending and we need to address the entitlements, specifically health care entitlements, but that ought to be done in health care reform.

Madam President, one other point needs to be made. The Budget Committee made cuts that are evenly spread during the 5 years. The proposal of Senator DOMENICI is back loaded. He has virtually all of the cuts in the last year. In fact, if you look at his cuts for this year, do you know what you find? A big zero. There are no cuts for this year in Senator DOMENICI's proposal. And what about next year? There are virtually no cuts in his proposal for next year. Madam President, it is back loaded. It threatens health care reform. It ought to be defeated.

Mr. DOMENICI. Will the Senator yield? Is he out of time?

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

Mr. DOMENICI. I just yield myself 10 seconds. Speaking of back loaded, the Exon-Grassley amendment has $20 billion of the $43 billion in budget authority in the last year, 1999.

Mr. CONRAD. Will the Senator yield? Madam President, might I just make an observation with respect to back loading, a comparison between the two? Might I have 20 seconds?

Mr. SASSER. Twenty seconds to the Senator from North Dakota.

Mr. CONRAD. Let us compare fairly. The Exon-Grassley proposal, $1.6 billion in actual spending reductions in this year; the Domenici proposal, zero. In 1996, Grassley-Exon $6.4 billion, Domenici $300 million. In 1997, Exon $5.6 billion, Domenici $1.9 billion. The back loading is all in the proposal by the Senator from New Mexico—$19.1 billion of his $26 billion of cuts in the last year.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I thank the distinguished chairman for yielding. We are talking about a lot of issues here. I would like to try to separate them and then get to the real heart of this matter.

First of all, yesterday, we had an opportunity to vote on the Domenici amendment, not as a substitute for savings already in the budget but as an addition to those savings. And as an addition to those savings, I voted for the Domenici amendment.

The Domenici amendment does something that we ought to do every time we pass the budget and every time we claim a savings, and that is it makes the change permanent. As the distinguished Senator from New Mexico has pointed out this morning, one of the fraudulent games we play is that we make the same "reductions" over and over and over, and we claim every year we are cutting something when the reality is that we change the law, we make the change for a specific period of time, and when it expires we get to claim the savings again.

What the distinguished Senator has done basically is extend for another year savings in law that currently exist, and in the process he has claimed more savings. We should make those changes permanent. We should have done it to begin with. And I am for the substance of the Domenici amendment. As I said yesterday, when it was offered as a freestanding amendment to add to deficit reduction, I voted for it.

Also, let me address the defense issue. The distinguished Senator from

Iowa offered an amendment in the Budget Committee to cut spending, discretionary spending by $26 billion. As far as I am aware, as a member of the Budget Committee, in the last 4 or 5 years, this is the first significant amendment that we have adopted in the Budget Committee which has cut spending.

I voted for it in the Budget Committee. I do believe that our fundamental problem is in entitlements. I wish we had an opportunity to cut entitlements more and reform them and control them. We had an opportunity on the Republican substitute, for which I voted. But the real question we are down to today is this: Should we, in a budget that claims to be dealing with the deficit, be taking out the only real spending cut that has been adopted by the Budget Committee in 4 or 5 years?

I guess my philosophy is sort of a coaching philosophy. You have all seen at football games that every once in a while a team will kick a field goal, and the other team will have a penalty on the field goal attempt. And it will give the team that was on the offense the first down. The question is, do you take the three points off the board and take the penalty or decline the penalty and keep the three points?

My basic philosophy has always been do not take points off the board. What we have in the Grassley amendment is a cut in spending of $26 billion. I think the Domenici amendment ought to be adopted, but not as a substitute for that $26 billion.

As far as our national defense is concerned, I take a back seat to no Member of the Senate in my support for defense. I have always believed in a strong defense. I offered the amendment in the House, the Gramm-Latta budget, that rebuilt national defense, that adopted the Reagan Defense budget. And I am proud of the impact of that budget in helping to win the cold war.

I believe defense is being cut too much. I believe even in a world where the lion and the lamb are about to lie down together, America needs to be the lion. But I cannot take the position that every time we are trying to cut any spending program that we can be blackmailed legislatively by those who say if you cut spending, we are going to cut defense.

First of all, if we reject this amendment, defense may be cut again anyway. It was last year. If we accept this amendment, defense may or may not be cut, depending on what we do. I am going to vote in the appropriations process for a full funding of the President's Defense budget. But I cannot take the position that because someone threatens to cut defense that we cannot do anything about reducing the deficit. I think a strong defense is important. I am alarmed about what we are doing, but I am equally alarmed about the deficit. Despite the charts we just saw, I do not believe that we have fundamentally changed the deficit figure.

So the Grassley amendment is a simple, straightforward amendment: Cut discretionary spending by $26 billion over the next 5 years. Do I believe we can do that without decimating defense? The answer is yes.

I intend to support the Grassley amendment and vote against the Domenici amendment.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished Senator from Iowa [Mr. GRASSLEY].

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, it is not easy for me to rise against an amendment by Senator NUNN and Senator DOMENICI because Senator NUNN has been so helpful to me on so many different initiatives I have had on defense procurement reform. Also, Senator DOMENICI has been a very good leader in this area of exposing waste in the budget. And, of course, as Senator GRAMM said, I also supported the substance of this amendment yesterday.

But when you get right down to it, the basic question is whether or not we are going to do more today or wait until tomorrow. I think there is some legitimacy to what the Senator from North Dakota said, that this is a backloading of the Nunn-Domenici amendment, but ours is front-loaded. The exact figures are that outlays under Exon-Grassley would in 4 years be cut $17.9 billion, and Mr. DOMENICI's amendment would cut $6.5 billion.

What the people want is for us to make the cuts now, not put it off until future Congresses and future years when the cuts will not be made.

Last year, we Republicans made a very strong point on the floor of this Senate—and I made it myself as well—that we found fault with President Clinton's first budget because he actually increased taxes before he was sworn into office, while about 80 percent of the spending cuts came in the outyears after his first term in office. So that is not the responsible way to budget. We ought to bite the bullet today.

So if we Republicans last year criticized the President and the majority party for being irresponsible for backloading their expenditures and frontloading their tax increases, it seems to me that we must be consistent this year. If we find fault with the President's budget and we want to make cuts now, cut today, not tomorrow. That is the essence of this debate on the Exon-Grassley amendment versus the Nunn-Domenici amendment, although it is clouded with this issue of defense.

Nobody should accuse the Senator from Nebraska of being soft on defense. He is a senior member of the Armed Services Committee, and he would not do one thing that would hurt defense. Yet, those threats are out there that we are going to take it all from defense. I do not think that is going to happen. In my view, this is a Chicken Little argument. The amendment reflects that. The debate on defense reflects that. The sky is falling, the sky is going to fall on the defense budget.

I mentioned yesterday that the same lame arguments were used in 1985 when we froze the Defense budget: That a reduction in the Defense budget would mean the Earth would stop spinning. But we froze the Defense budget that year. And we still stared down the Soviets into oblivion.

Now I make this point because just today that echo is beginning to reverberate. The Defense Department is putting out the word that the effects of the Exon-Grassley amendment is to cost us two whole divisions. Mr. President, please, please. Why must we suffer these insults on the intelligence of the American people? Those who support this amendment have succumbed to what I think are scare tactics. That is nonsense. That is extortion.

This is a budget resolution. It is not an appropriations bill. If we get scared off this early in the process, when are we ever going to get deficit reduction? Is what we are doing on this budget resolution, just an exercise rather than a serious effort? The President's defense numbers are already at rock bottom. I do not think we can take another $20 billion out of defense because they are already overprogrammed by $20 billion. They are overprogrammed, not underfunded.

There is another point to be made about this amendment. The way I read the Domenici amendment, his savings, as I think the Senator from North Dakota made very clear, come mostly in the outyears. But we need to make those deficit reductions right now.

The sky is not going to fall on the defense budget if the Exon-Grassley amendment is adopted. That was not our intention. It will not be the final result. Those who claim otherwise are crying fire when there is none.

So my advice is to sit down, to relax, to have a cream soda, do what the public wants for a change. What do you hear from the grassroots? "Have guts, make cuts, and just say 'no' to more spending." But, most importantly, Mr. President, do it in such a way that when we go back to tell the people we voted to make cuts that we in fact did make cuts. We made them today, not in the term of the next President of the United States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, how much time is remaining to the opponents?

The PRESIDING OFFICER. The Senator from Tennessee has 6 minutes and 20 seconds.

Mr. SASSER. The proponents?

The PRESIDING OFFICER. The proponents have 21 minutes and 20 seconds.

Mr. SASSER. The distinguished chairman of the Finance Committee is on his way to the floor. I have a message. He was requesting 4 minutes to speak on the Domenici amendment. Will 3 minutes suffice for my friend from West Virginia? I yield 3 minutes to my friend from West Virginia.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia [Mr. ROCKEFELLER] for 3 minutes.

Mr. ROCKEFELLER. Mr. President, I thank the Presiding Officer.

I will try to be very clear about this. At the beginning of this debate, I indicated that I felt it was a cynical amendment. I maintain that thought. The reason I do is because the Senator from New Mexico voted for the Grassley-Exon amendment in committee. In a sense, I thought it was a hangover amendment in fact because what happened was that now all of a sudden the Senator and some of his colleagues are looking up and saying, "Gee. We did not do the right thing. Fifty percent of this money is going to be cut from defense. We don't want to do that. We want to cut it from Medicare, from veterans' benefits, and other things. So we come back and offer another amendment, even though he voted for the amendment in the Budget Committee." That is what I call cynical, because it is.

Let us make two things clear. Veterans are a very important part of this country. And the only way health care reform is going to succeed, and succeed for veterans, is if veterans are included in health care reform. We have set aside $3.3 billion to upgrade the veterans' health care system, to allow it to be competitive to the nonveterans' health care system, so that the 24-plus million veterans who cannot now use veterans hospitals will be allowed to do so. That is the kind of thing which will be undermined and stopped dead in its tracks by the amendment of the Senator from New Mexico.

Second, people can talk until the skies fall, but this is undermining health care reform. The Senator from Georgia talked about the exploding costs of Medicare and everything else. If you want to have control in the long term of entitlements and you want to get a grasp on those, for heaven's sake, do not do anything to undercut health care reform, which is the largest thing this body has undertaken in this century.

The Senator from New Mexico is doing that. It needs to be clear to the membership that he is doing that. This amendment does that, and it is a cynical and unworthy attempt to destroy a classic effort by the President of the United States, and a lot of the rest us, to try to reduce the budget through health care reform and help something called the American people through health care reform.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, the managers on both sides intend to try to stack votes on amendments to a time that would be convenient with the leadership this afternoon. In furtherance of this end, I ask unanimous consent that 4 minutes on the pending amendment be reserved, to be consumed by the distinguished chairman of the Finance Committee when he arrives on the floor. I understand he is en route and wishes to speak on this.

I ask unanimous consent that at 3 o'clock this afternoon the Senate return to the Domenici amendment, which will be temporarily laid aside, and immediately vote on or in relation to that amendment, with no second-degree amendments in order to the Domenici amendment.

Mr. EXON. Reserving the right to object, Mr. President, I was not aware of this. We put off the vote on the Domenici amendment last night for what, in the opinion of this Senator, was a serious nonsensical move for the U.S. Senate. We alerted those who were here until after 3 o'clock in the morning that we would take up the Domenici amendment the first thing this morning. I have some reservations about further delaying the vote on the Domenici amendment.

The Domenici amendment, as I said earlier, is a killer amendment to the Exon-Grassley deficit reduction proposal. I am not certain it is wise, from what I know, to put it off, once again, because we scheduled this originally for between 5 o'clock and 8 o'clock last evening. Then we tinkered around until 3 o'clock in the morning. Now we are talking about putting off a vote until 3 o'clock this afternoon.

May I ask the managers of the bill, why is it that we cannot complete our debate on the amendment before us and then have a vote in the usual procedure?

Mr. SASSER. Mr. President, let me say to my friend from Nebraska that we have been advised by the leadership that there are Senators presently at the White House who could not return in time for a vote if it went off at the regular time here.

Second, the President and Vice President will be in the Capitol today at noon or 12:30 consulting with the Democratic Policy Committee, and the majority leader is reluctant to interrupt their visit here with votes. Beyond that, that is the only explanation that I have.

It is my surmise that this will not disadvantage the opponents of the Domenici amendment. I think, if I may say to my friend from Nebraska, some of his supporters are probably at the White House.

Mr. EXON. That might well be. Given the explanation, Mr. President, and despite my reservations, I yield to the superior judgment of the manager of the bill and do not object.

I simply say that the Senator from Nebraska wishes to make a few closing remarks in opposition to the Domenici amendment at the appropriate time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. DOMENICI. Under the regular routine, one of your Senators would be in order now.

Mr. SASSER. As I understand it, Senator BRADLEY is on his way to the floor.

Mr. EXON. The Senator from Nebraska is prepared to go ahead with his remarks at this time, if you are waiting for Senator BRADLEY. Would that expedite things?

Mr. SASSER. As a matter of fact, we had time reserved for the chairman of the Finance Committee, who I see is now coming through the door.

Mr. President, I will yield the distinguished Senator from Nebraska 2 minutes, and then the distinguished Senator from New York 2 minutes.

Mr. EXON. Mr. President, as usual, we have run out of time. I emphasize once again that the Domenici amendment is a killer amendment with regard to the modest deficit reduction proposal that was supported in the Budget Committee.

I simply say, once again, that I think the points have been made by others of my colleagues, and I need not repeat those. I simply say that if the Domenici amendment were accepted, it would be a monumental setback for real deficit reduction.

There are lots of things wrong that have been advanced on the floor of the Senate today in opposition to the Domenici amendment. The one that I am most concerned about is that it would effectively gut or cut the effectiveness that I think Senator GRASSLEY and I have worked on very hard to craft.

I oppose the Domenici amendment, and I hope it will be resoundingly defeated, for a number of good reasons, when it comes to a vote.

I yield back any remaining time.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. MOYNIHAN. Mr. President, at 1:30 or 2 o'clock this morning, when the Chamber was filled, I took the oppor-

tunity to state a view on this matter, as I had stated earlier yesterday in anticipation of this vote. I simply wish to read my statement of this morning, earlier today.

I said:

I wish simply to say, Mr. President, as I had occasion to say earlier today—

That being yesterday.

that the Domenici-Nunn amendment involves a fateful decision by this body as to the future of health care reform. It would transfer so much in the way of entitlement money, Medicare and Medicaid, requiring them to be cut by the Committee on Finance. These are amounts that were programmed, if you accept that word, for the President's health care bill, and if this measure is to be adopted, it has the most ominous implications for the future of that legislation.

I restate, Mr. President, the most ominous implications for the future of health care reform.

I thank my distinguished friend and chairman of the Budget Committee for the time he has given me in this very tight schedule, and I yield back the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. I thank the distinguished chairman of the Finance Committee.

Mr. President, I would like to yield 2 minutes off the resolution to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. DOMENICI. Mr. President, will the Senator from Nebraska yield a moment on my time?

Mr. KERREY. I yield.

Mr. DOMENICI. Mr. President, I just inquired of the Parliamentarian timekeeper how the time remained. I think there is a slight misunderstanding. I would like to see if the Senator from Tennessee could correct it and clarify it.

I thought our understanding last night was literal that I had 4 hours and 45 minutes and the Senator from Tennessee had 3 hours and 45 minutes with he was getting the last 15 of his at the end of the debate.

I think he is following the previous conventions and not literally doing that but rather equalizing so that I would have no different amount of time than he, and I thought we had agreed to the contrary. Does the Senator agree?

Mr. SASSER. I agree. The agreement last night, as I understand it, is as stated by the distinguished Senator from New Mexico.

Mr. President, could we withhold for just a moment?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

Sitting here listening to both sides makes me wonder just what is this amendment doing. One group of Senators gets up and says it is not doing anything, it is tail-end loaded, or something, even though it is entitlements and we are changing the law permanently so it is not doing enough. But on the other side it is going to destroy health care; it is such a big, big change in things; it is a dramatic using up of resources that are going to be needed for health care.

Mr. President, I do not think we can have it both ways. The truth of the matter is a tiny, tiny morsel of the savings that come from health care reform, as the President desired, will go to deficit reduction under this amendment, the amount being $20 billion. We will be spending $1.6 trillion, and the Senator's amendment is $20 billion over 4 years.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. KERREY. I thank the Chair, and I thank the distinguished Senator from Tennessee.

Mr. President, let me say several things in opposition to the amendment offered by the distinguished Senator from New Mexico and the distinguished Senator from Georgia.

First of all, Exon-Grassley cuts need to be preserved at all costs. I have heard some say that it is a too large a cut. I have heard some say it is too small a cut.

The fact of the matter is what this does is it sends a signal to the market that we continue to be serious about deficit reduction. Though it may not result in immediate reduction of interest rates, I believe it sends a signal to the Federal Reserve that will allow for the Federal Reserve to keep the pressure off of additional raises in interest rates.

I believe it is a market-oriented approach. It says to the market that we understand that our vote last August, our action last August, was treated favorably by the market with lower interest rates. The bonds were bid up as the consequence of that action. The stock market went up as well.

Today the market does not expect us to do deficit reduction, and indeed the Exon-Grassley amendment by lowering the caps is raising the markets, and I think it needs to be retained.

I regret that the amendment being offered by the distinguished Senator from New Mexico and the distinguished Senator from Georgia does not merely add to that because if it did I would support it. If it merely added to what Exon-Grassley were attempting to do, I would support it because with all due respect to the argument of the distinguished Senator from New York, I am not convinced that it kills health care reform. I am not convinced at all. I supported the distinguished Senator's argument last year when he had a cap on entitlements. I wish in fact we had an opportunity to do that again this year.

One of my concerns in the health care debate is that we are not leveling with the American people sufficiently. We are pretending at times to act. We act as if we believed that somehow the American people can get health care for nothing, that there is not some cost to it. There seems to be a promise that I can give you this benefit, this benefit, this benefit, and there will not be any costs attached.

I think increasingly we have to come to the American people and say: If you want a program here is what it is going to cost you.

I believe very strongly that we need a health care program that is very similar to the Social Security in that we have a pay-as-you-go program, we have a program that will require us to stay in balance.

We are not doing that today with our health care system. Thus, I do not object to a cap on entitlements at all because I believe it forces us to tell the American people the truth.

However, I do with regret oppose this particular amendment because I believe it undercuts what Senator EXON and Senator GRASSLEY are trying to do, which is send a signal to the market that we continue to be serious about deficit reduction, we want low interest rates, low inflationary recovery. We see jobs being created out there in the private sector. We want to continue that kind of job growth.

I believe that the amendment offered in good faith by the Senator from New Mexico and Senator from Georgia will undercut the efforts of Senators EXON and GRASSLEY and thus I believe strongly, Mr. President, that it should be defeated.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, under the previous unanimous consent agreement, the Domenici amendment will be temporarily laid aside to be taken up again at 3 p.m.

Mr. President, the next amendment in order would be the amendment of the distinguished Senator from New Jersey who is just off the floor.

I see the distinguished Senator from New Jersey has arrived on the floor.

May I inquire of my friend how much time he would require?

Mr. BRADLEY. Mr. President, I would say no more than 20 or 30 minutes maximum.

Mr. SASSER. I ask my friend if he could compress that. We have a time shortage here this morning.

Mr. BRADLEY. I would be pleased to compress it as short as possible. It depends.

Mr. SASSER. Could we agree on 15 minutes and then if the Senator gets some vibes we can extend it?

Mr. BRADLEY. I do not mind that 15 minutes for my side at all.

Mr. SASSER. I am pleased to yield to the Senator 15 minutes. I do not know of anyone who will speak in opposition.

Mr. BRADLEY. Good. Then I am prepared to move.

AMENDMENT NO. 1568

(Purpose: To express the sense of the Senate that the annual budget process should restrain the growth in tax expenditures)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) for himself, Mr. FEINGOLD, Mr. DASCHLE, Mr. KERRY, and Mr. BRYAN, proposes an amendment numbered 1568.

Mr. SASSER. Mr. President, the Senator is entitled to time on his amendment on his own time. So he can speak on his own time.

Mr. BRADLEY. 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 III, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX EXPENDITURES.

(a) FINDINGS.—The Senate finds that—

(1) continuing budget deficits and the accumulation of Federal debt have a detrimental impact on the Nation's long-term economic growth prospects;

(2) in the absence of further fiscal restraint, the Congressional Budget Office estimates that the Federal deficit will increase to $365,000,000,000 by 2004 and the national debt held by the public will grow to approximately $6,000,000,000;

(3) tax expenditures are growing significantly; and

(4) in some instances, tax expenditures may have the same effect as direct Federal spending and should be subject to the same level of budgetary review.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Congress should consider targets for the growth in tax expenditures similar to the targets for the growth of mandatory spending;

(2) such targets should be specified in any reconciliation instructions included in a budget resolution; and

(3) such targets should be enforceable separately from any revenue targets included in the reconciliation instructions.

Mr. BRADLEY. Mr. President, the amendment that I have sent to the desk makes a very simple point. We can spend money just as easily through the Tax Code as we can through the appropriations process or through the creation of mandatory spending programs.

I think we should be honest about the hundreds of billions of dollars that we spend each year through tax expenditures. Spending is spending, whether it comes in the form of a Government check or in the form of a special exception from the tax rates that apply to everyone else.

Tax expenditures or tax loopholes allow some taxpayers to lower their taxes and leave the rest of us paying higher taxes than we otherwise would pay. The resolution, therefore, simply says that it is the sense of the Senate that we should include specific reduction targets for tax expenditures as a part of the budget reconciliation process. We should put tax expenditures under the same budgetary scrutiny as we do other spending programs.

Mr. President, tax spending does not, as some would say, simply allow people to keep more of what they earned. Rather, it gives them a special exception from the rules that oblige everyone to share in the responsibility of the national defense and protecting the young, the aged, and the infirmed.

Mr. President, we all have been heartened by the recent drops in projected budget deficits. The most recent CBO figures show the deficit dropping to $166 billion in 1996, largely due to the success we had in passing the largest deficit reduction package in history last summer.

We cannot rest on that success. It was a good downpayment on deficit reduction, but it is not enough. And we all know that getting control of runaway health care entitlements is another downpayment on taming the national debt. It will take time for those savings to be realized, however.

We cannot afford to be timid, Mr. President. Our children's way of life is dependent upon our acting on the Federal deficit today and tomorrow and every year thereafter until we restore fiscal sanity to our budget. We cannot wait for the savings to materialize from health care reform. We cannot wait until we grow our way out of the debt. And we should not and cannot wait until deficits start drifting up in the latter half of this decade before we do something.

The Congressional Budget Office tells us that the national debt held by the public will go from $3.5 trillion in 1994 to roughly $6 trillion in 2004. By 2004, the national debt will equal almost 55 percent of our gross domestic product. Just the net interest on that debt will go from $201 billion to $334 billion, or over 3 percent of our gross domestic product. That is not good enough. It simply continues our practice of mortgaging our Nation's future.

Mr. President, let us not kid ourselves. Addressing our burgeoning debt will not be easy. If it was, we would have done it years ago. Balancing the budget is going to require sacrifice from every American. It also means that we are going to have to take a hard look at what we spend the taxpayers' money on. And that means all of our spending programs—tax expenditures included.

Last week, I introduced legislation which would fundamentally reform how we deal with discretionary spending and the appropriations process. It would create real opportunities to redirect spending, guarantee Members the ability to cut spending with a majority vote as opposed to 60 votes and constrain conferences to retain spending cuts agreed to in both Houses. It is not uncommon for a conference report to come back with a higher spending number than either the House or the Senate had in it.

But discretionary programs are only a small part of the deficit problem. We should be honest about spending programs throughout the budget process. That is what this resolution is all about. The sense-of-the-Senate resolution that I offer today simply suggests that we should set specific targets for tax expenditure reductions in our budget resolution process. Those targets would be enforced through a separate line in our budget reconciliation instructions for reductions in tax expenditures. We already do this for other entitlement programs. There is no reason to not do so for tax expenditures. The Senate would pass a budget resolution asking the Finance Committee to reduce tax expenditures, for example, by $10 billion a year or $20 billion or whatever the Senate decided was prudent. It would be up to the Finance Committee to meet those targets through the reconciliation process.

This separate tax expenditure target would not replace our current revenue targets. Instead, it would simply ensure that the committee would take at least that specified amount from tax expenditures. Or, in other words, we would ensure that the committee would not raise the targeted amount from rate increases or excise tax increases.

I plan to follow up this resolution with a bill that will implement these proposed changes to the Budget Act. It is my hope that this bill will help to shed sunlight on the issue of tax expenditures.

I expect to hear from those who will say that I am trying to increase taxes. I strongly disagree. I am simply trying to draw the Senate's attention to the very targeted spending we do through the tax code—spending that is not subject to the annual appropriations process; spending that is not subject to the Executive order capping the growth of mandatory spending; spending that is rarely ever debated on the floor of the Senate after it is put in the Tax Code. The preferential deductions or credits

or depreciation schedules or timing rules that we provide through the tax code are simply entitlement programs under another guise. Many of them make sense, Mr. President. And I would be the first to admit that. Many, however, probably could not stand the light of day if we had to vote on them as direct spending programs.

Given our critical need for deficit reduction, tax spending should not be treated any better or worse than other programs. It should not be protected any more than Social Security payments or crop price support payments or Medicare payments or welfare payments.

What am I really talking about? I am talking about letting wealthy taxpayers rent their homes for 2 weeks a year without having to report any income. That is already in the Tax Code, I am talking about providing production subsidies in excess of the dollars invested for the production of lead, uranium and asbestos—three poisons that we spend millions of dollars on each year just trying to clean up. That is already in the code. I am talking about tax credits for clean-fuel vehicles, cancellation of indebtedness income for farmers or real estate developers, special amortization periods for timber companies' reforestation efforts, industrial development bonds for airports or docks, special treatment of capital construction funds for shipping companies, et cetera, et cetera.

Mr. President, I ask unanimous consent that a list of all the major tax expenditures be printed in the RECORD at this time.

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

TABLE 6–6.—MAJOR TAX EXPENDITURES IN THE INCOME TAX, RANKED BY TOTAL 1995 REVENUE LOSS

[In millions of dollars]

Total revenue loss	1995
Exclusion of employer contributions for medical insurance premiums and medical care	56,265
Net exclusion of employer pension contributions and earnings	55,540
Deductibility of mortgage interest on owner-occupied homes	54,800
Step-up basis of capital gains at death	28,305
Accelerated depreciation (normal tax method)	27,495
Deductibility of nonbusiness State and local taxes other than on owner-occupied homes	25,640
Deductibility of charitable contributions (all types)	19,330
Exclusion of OASI benefits for retired workers	16,525
Deductibility of State and local property tax on owner-occupied homes	14,655
Deferral of capital gains on home sales	14,620
Exclusion of interest on public purpose State and local debt	12,350
Exclusion of interest on life insurance savings	8,730
Exclusion of interest on State and local debt for various nonpublic purposes	7,515
Preferential treatment of capital gains (normal tax method)	6,920
Exception from passive loss rules for $25,000 of rental loss	5,775
Net exclusion of Individual Retirement Account contributions and earnings	5,290
Earned income credit [1]	5,100
Exclusion of capital gains on home sales for persons age 55 and over	4,960
Exclusion of workmen's compensation benefits	4,455
Graduated corporation income tax rate (normal tax method)	3,890
Net exclusion of Keogh plan contributions and earnings	3,875
Exclusion of social security benefits for dependents and survivors	3,730
Deductibility of medical expenses	3,560
Exclusion of employer premiums on group term life insurance	2,880
Credit for child and dependent care expenses	2,820
Tax credit for corporations receiving income from doing business in U.S. possessions	2,630
Expensing of research and development expenditures (normal tax method)	2,390
Credit for low-income housing investments	2,265

TABLE 6–6.—MAJOR TAX EXPENDITURES IN THE INCOME TAX, RANKED BY TOTAL 1995 REVENUE LOSS—Continued

[In millions of dollars]

Total revenue loss	1995
Exclusion of benefits and allowances to armed forces personnel	2,030
Exclusion of reimbursed employee parking expenses	1,930
Exclusion of veterans disability compensation	1,920
Exclusion of social security disability insurance benefits	1,905
Special ESOP rules (other than investment credit)	1,760
Deferral of income from controlled foreign corporations (normal tax method)	1,700
Expensing of certain small investments (normal tax method)	1,560
Additional deduction for the elderly	1,555
Exclusion of income of foreign sales corporations	1,400
Excess of percentage over cost depletion, fuel and nonfuel minerals	1,330
Inventory property sales source rules exception	1,300
Credit for increasing research activities	1,270
Deferral of interest on savings bonds	1,250
Alternative fuel production credit	970
Deferral of income from post 1987 installment sales	935
Exclusion of income earned abroad by United States citizens	895
Exclusion of scholarship and fellowship income (normal tax method)	875
Exclusion of employer provided child care	725
Exemption of RIC expenses from the 2% floor for miscellaneous itemized deductions	690
Exclusion of public assistance benefits (normal tax method)	585
Expensing of multiperiod timber growing costs	575
Exclusion of employee meals and lodging (other than military)	550
Parental personal exemption for students age 19 or over	535
Exclusion of railroad retirement system benefits	400
Targeted jobs credit	395
Exemption of credit union income	380
Empowerment zones	330
Deferral of gains from sale of broadcasting facilities to minority owned business	290
Exclusion of parsonage allowances	290
Suspension of the allocation of research and experimentation expenditures	270
Deductibility of casualty losses	230
Expensing of exploration and development costs, fuel and nonfuel minerals	210
Amortization of start-up costs (normal tax method)	200
Credit for disabled access expenditures	160
Permanent exceptions from imputed interest rules	150
Exclusion from income of conservation subsidies provided by public utilities	145
Capital gains treatment of certain agricultural income	140
Exclusion of employer premiums on accident and disability insurance	140
Small life insurance company deduction	135
Carryover basis of capital gains on gifts	130
Exclusion of military disability pensions	130
Special Blue Cross/Blue Shield deduction	125
Tax incentives for preservation of historic structures	125
Cancellation of indebtedness	110
Tax exemption of certain insurance companies	110
Exclusion of special benefits for disabled coal miners	100
Interest allocation rules exception of certain financial operations	95
Expensing of certain multiperiod production costs	85
Exclusion of employer provided educational assistance	85
Investment credit for rehabilitation of structures (other than historic)	80
Exclusion of veterans pensions	75
Expensing of certain agricultural capital outlays	70
Exclusion of GI bill benefits	65
New technology credit	65
Tax credit for the elderly and disabled	65
Tax credit and deduction for clean-fuel burning vehicles and properties	65
Exception from passive loss limitation for working interests in oil and gas properties	50
Special rules for mining reclamation reserves	50

[1] The figure in the table indicates the effect of the earned income tax credit on receipts. The effect on outlays in 1995 is $15,795 million.

Note: Provisions with estimates denoted "normal tax method" have no revenue loss under the reference tax law method.

Mr. BRADLEY. Mr. President, before there is a long list of people coming down to defend these programs that I just mentioned, let me remind them that this resolution does not pinpoint any specific expenditures. It simply asks that these programs be treated in a similar manner to other entitlement programs.

The Joint Tax Committee estimates the revenue lost from these tax expenditures each year. While interaction effects make it difficult to pinpoint exact costs—how one tax expenditure interacts with another—the Joint Tax Committee list will add up to over $409 billion this year. Unchecked, this list will grow to over $523 billion by 1998. The administration's recent estimates of revenue loss are somewhat higher due to last year's budget bill. Perhaps more interesting, however, are the administration's estimates of what the "outlay equivalents" for these tax expenditures are each year—in other words, what they would cost us if they were transformed into direct spending programs, as opposed to hidden spending programs in the Tax Code. The administration's estimate for outlay equivalents this year added up to $550 billion for 1994. This is scheduled to grow to over $660 billion by 1998. I simply do not believe that we can afford to be that generous in our Tax Code. At a time when we are talking about cutting entitlement spending and cutting discretionary spending—and properly talking about cutting those—tax expenditures should not be out of bounds.

I am not suggesting that we eliminate all these programs. In fact, many of them I support. All I am suggesting is we put them under the same scrutiny that we put other entitlement programs.

If we are serious about deficit reduction—and for our Nation's future I sincerely hope that we are—then every segment of spending will have to take a hit. We will not do it through discretionary spending cuts alone. Indeed, that is an area of the budget that is shrinking in terms of gross national product. We will not be able to do it only through entitlement cuts. We will need also to address tax expenditures.

Finally, we should streamline the budget process. We should make it more transparent and more effective. We have to show the public, who have grown cynical and frustrated with Congress, that we will not hide behind a procedural smokescreen. We have to demonstrate we can do what we have been elected to do, and that is to make the tough decisions in support of our national interests.

I urge all my colleagues to support this resolution.

I list as cosponsors Mr. FEINGOLD, Mr. DASCHLE, Mr. KERRY of Massachusetts, Mr. BINGAMAN, and Mr. DORGAN.

I reserve the remainder of my time.

Mr. DASCHLE. Will the Senator from New Jersey yield for a couple of minutes?

Mr. BRADLEY. I am pleased to yield to the distinguished Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me commend the Senator for offering this amendment and for his comments. I associate myself with his remarks.

It is, really, an amazing fact, given the extraordinary difficulties we in the Senate and Congress continue to face with regard to ratcheting down the deficit we have experienced over many years, that so few of us have a complete appreciation of the cost of tax expenditures year in and year out.

In fact, it is difficult for us to acquire the numbers. According to numbers I

have been given, we had over $375 billion in tax expenditures for 1992 alone. We do not know what the figures are for 1994, and that is the point.

If indeed we are serious about bringing this deficit under control, if we are truly serious about looking at all the means by which we can accomplish that in the balanced and fair manner we all seek, certainly taking the approach in this resolution is essential.

I think there are at least four things this approach would achieve. First, it would provide accountability. Incorporating tax expenditures into our budget process in this manner would force accountability on this kind of spending like it does on other forms of spending.

Second, prioritization. There are many very good tax expenditures, ones I strongly support. Others are certainly worthy of additional scrutiny and debate about whether it is in the national interest to maintain them as a permanent part of the Tax Code.

Third, balance. Obviously, as we look to the array of different ways to address better fiscal responsibility, ensuring we have everything on the table, ensuring we have balance will allow us properly to make the best decision.

Finally, public awareness. As I said, we do not know how much we spent this year on tax expenditures. As we consider the budget debate in coming years, it is critical that public awareness be as evident on this issue as it is on entitlements and discretionary spending and other areas of the budget.

So let me again emphasize how appreciative this Senator is of the resolution offered by the distinguished Senator from New Jersey. It merits our support.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, if the Senator will yield me 1 minute?

I commend the distinguished Senator from New Jersey for offering this very worthwhile amendment. We held hearings in the Senate Budget Committee last year on the whole question of tax expenditures and how very costly many of these tax expenditures are.

The Senator from New Jersey, I think, has put his finger on the problem. Many of these so-called tax expenditures, or tax breaks, or tax incentives—however you wish to describe them—become embedded in the Tax Code. They are subject to little or no review. And they continue there year after year.

Many times we find there was a good and rational public policy reason for putting these tax incentives or tax expenditures into the Tax Code, but that good, sound, public policy reason will expire over a period of time. Yet it still remains in the Tax Code, subject to no review and, frankly, costing the Treasury billions and billions and billions of dollars every year.

So I commend the Senator from New Jersey who has waged this battle all alone for a number of years. He called it to our attention. We held hearings in the Senate Budget Committee. I am pleased to accept his amendment here this morning.

I understand my distinguished colleague, the ranking member, has no objection to this amendment being accepted.

Mr. DOMENICI. We have no objection.

Mr. MOYNIHAN. Mr. President, I want to commend the distinguished Senator from New Jersey [Mr. BRADLEY] for bringing to the Senate's attention the critical importance of tax expenditures in deliberations over the Federal budget. The Senator is quite correct that tax expenditures in many ways have the same effects as direct Federal spending.

The importance of tax expenditures is currently reflected in the President's annual budget, which devotes an entire chapter to tax expenditures. This year it appears as chapter 6 in the Analytical Perspectives volume in the fiscal year 1995 budget.

Similarly, it may also be useful to display levels of tax expenditures in the concurrent resolution on the budget—for informational purposes. This would be useful for Senators in our annual budget deliberations and I commend Senator BRADLEY for bringing this concept to the Senate's attention.

However, as chairman of the Committee on Finance, I would oppose any attempt to include specific ceilings for tax expenditures or specific reconciliation instruction for tax expenditures in the budget resolution.

On those occasions when a budget resolution instructs the Finance Committee to raise a specified amount of revenues, it is important to the committee to retain the discretion to determine how much of this revenue should come from increasing taxes, and how much by reducing tax expenditures. Setting forth specific instructions for tax expenditures would, in fact, have the effect of limiting the Finance Committee's discretion on how best to raise needed revenues.

Reduction of tax expenditures has always been a very important component of the Finance Committee's final determination on how to raise needed revenues—and it will continue to be in the future.

Mr. BRADLEY. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1568) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

TRAGEDY IN EDISON, NJ

Mr. BRADLEY. Mr. President, if I could—and I will not be long—I would like to call attention of the Senate and of the country to the great tragedy that has occurred in New Jersey in the last 24 hours. That is a massive natural gas explosion that burned out of control for over 4 hours last night in Edison, NJ. Many people have had to be evacuated. There are over 30 people hospitalized, up to 100 people missing. There was a giant fireball that many people saw on their television sets last night. Nine apartments have been completely or substantially destroyed. It was a tragedy of enormous proportions.

I know the Congress and the administration is going to do everything it can to try to cushion the impact of this terrible tragedy on the lives of thousands and thousands of New Jerseyans. I intend to do everything I can to see they are given some help and some relief.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. Senator SASSER is recognized.

EN BLOC AMENDMENTS NO. 1569 AND NO. 1570

(Purpose: To express the sense of the Congress regarding health service delivery and water infrastructure in the Indian Health Service, and for other purposes)

(Purpose: To express the sense of the Senate regarding budget authority and outlay figures for the National Aeronautics and Space Administration)

Mr. SASSER. On behalf of Senators BINGAMAN, DOMENICI, and COHEN respectively, I send two amendments to the desk and ask unanimous consent they be immediately considered en bloc; that reading of the amendments be dispensed with; that the Senate agree to both amendments; that motions to reconsider be laid on the table with respect to both amendments; that a statement by Senator BINGAMAN appear at the appropriate place in the RECORD as if given in full.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER] proposes en bloc an amendment for Mr. BINGAMAN, for himself and Mr. DOMENICI, numbered 1569; and, for Mr. COHEN, an amendment numbered 1570, as follows:

AMENDMENT NO. 1569

At the appropriate place in the resolution, insert the following new section:

SEC. . SENSE OF THE CONGRESS REGARDING HEALTH SERVICE DELIVERY AND WATER INFRASTRUCTURE IN THE INDIAN HEALTH SERVICE.

It is the sense of the Congress that—

(1) sufficient funding should be provided to the Indian Health Service to ensure that Indian Health Service hospitals and outpatient facilities in existence on the date of enactment of this resolution, and Indian Health Service hospitals and outpatient facilities scheduled to open during fiscal years 1994, 1995, and 1996, are fully staffed with the appropriate number of health care professionals needed to meet the health and medical needs of the American Indians and Alaska Natives who depend on the Indian Health Service for health care; and

(2) sufficient funding should be provided to the Indian Health Service to ensure that the Indian Health Service is capable of meeting basic public health and safety and sanitation requirements on Indian lands through timely and proper water infrastructure construction and upgrades.

AMENDMENT NO. 1570

Mr. BINGAMAN. Mr. President, I rise today to offer an amendment addressing the administration's proposed budget for the Indian Health Service. I thank the distinguished chairman of the Senate Budget Committee, Senator SASSER, and the distinguished ranking member of the committee, Senator DOMENICI, for their assistance and support for this amendment.

I am offering this amendment because I am apprehensive about the ability of the Indian Health Service to fully meet the health care needs of American Indians in my home State of New Mexico and throughout the country. Rather than cutting the IHS budget as the administration has proposed, I believe the Congress and the administration should work together to ensure that all IHS facilities are fully staffed and capable of meeting the health care needs of the American Indians and Alaska Natives who depend on the IHS. In addition, this amendment states that the IHS should have funding sufficient to ensure that basic public health and safety and sanitation requirements on Indian lands can be met through timely and proper water infrastructure construction and upgrades.

Over the past few months, many Indian tribal leaders have contacted me to express their grave concerns about the administration's decision to cut 460 positions [FTE's] from the Indian Health Service's staff over the next 2 fiscal years. Pueblo governors and tribal leaders from New Mexico have told me that a cut of this magnitude—nearly 8 percent of all IHS employees—could irrevocably harm an already inadequate system of health care for American Indians unless adequate safeguards are in place. As a Senator from New Mexico, I am particularly apprehensive about the newly constructed IHS hospital in Shiprock, NM, which is scheduled to open this summer. We need to ensure that this facility does not open underequipped and understaffed.

Mr. President, I fully understand the need to bring Federal spending under control. But I also share President Clinton's commitment to health security for all Americans. It is for this reason that I am offering this amendment. My amendment does not guarantee funding, but it puts the administration on notice that people are concerned about this issue and it represents a commitment by the Congress to properly and effectively address IHS funding and staffing matters.

Too often in the past, the Federal Government has overlooked the healthcare needs of American Indians. As a result, the Indian Health Service currently meets only 45 percent of the total estimated health care need of our Nation's 1.3 million American Indians and Alaska Natives. Of those Indian people who do have access to care through the Indian Health Service, many still lack adequate access to the type of comprehensive health care embodied in the President's Health Security Act, particularly with respect to preventive care.

Now is not the time to propose cuts in the budget of the Indian Health Service. We simply must not let our zeal to lower the Federal budget deficit and cut waste from the system do harm to Indian children and families. Instead, we should be working to ensure that American Indians have access to the basic health services they need. We need to be working with Indian people to develop better strategies for implementing preventive health programs, including vitally needed alcohol abuse prevention programs and programs aimed at reducing diabetes and other chronic diseases among American Indians.

Mr. President, we know that when access to preventive health care services is limited, the consequences in terms of health status and economics are significant. Already, American Indians suffer higher rates of fetal alcohol syndrome [FAS] and diabetes than any other population in the United States. Each year in New Mexico, more than 36 babies are born with FAS, compared to the national average of 2 FAS births per 1,000 births. Even more significant, New Mexico health officials estimate that the combined FAS rate for our State's 22 Indian tribes is 2 to 5 times that of the national average. Statistics on diabetes are also grim. In New Mexico, the rate of diabetes is nearly twice the national rate; and nationally, Native Americans are 10 times more likely to have diabetes than the non-Hispanic white population.

In closing, I will reiterate my belief that this is not the time to be threatening direct health services and eliminating preventive care programs for American Indians. A wiser course of action would be to streamline administrative services, eliminate bureaucratic waste, and maximize existing resources through the thoughtful, mandatory redistribution of personnel and equipment from areas of lesser need and low productivity to areas of greater need and potential.

I believe this amendment will help us achieve these goals. I urge my colleagues to support it and to make a commitment to working together with Indian people toward a revitalized and efficient Indian Health Service truly capable of meeting the health care needs of those it was created to service.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the en bloc amendments.

The en bloc amendments (Nos. 1569 and 1570) were agreed to.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

AMENDMENT NO. 1567—UNANIMOUS CONSENT

Mr. SASSER. Mr. President, I would like to clear up one outstanding item.

I ask unanimous consent that no amendments be in order to the language proposed to be stricken by the Domenici amendment, No. 1567.

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

Mr. DOMENICI. Mr. President, we have an amendment on our side. The Senator from Florida is ready to offer it. I yield him 30 minutes.

The PRESIDING OFFICER. The Senator from Florida. The Senator has the time on his own right on his amendment.

The Senator from Florida is recognized.

AMENDMENT NO. 1571

(Purpose: To express the sense of the Senate supporting a balanced budget and the creation of a Spending Reduction Commission to achieve this goal)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself, Mr. GRAMM, Mr. COVERDELL, and Mrs. HUTCHISON, proposes an amendment numbered 1571.

Mr. MACK. 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 III, add the following:

SEC. . SENSE OF THE SENATE REGARDING A BALANCED BUDGET AND THE SPENDING REDUCTION COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) the Congressional Budget Office has affirmed that reductions in outlays of $34 billion per year below their current baseline will result in a balanced budget by the year 2000;

(2) the Spending Reduction Commission described in S. 1191 is a proven mechanism

which will provide the necessary reductions in Federal spending required to achieve a balanced budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Federal outlays should be reduced to reflect the aforementioned reductions from the Congressional Budget Office Baseline and that a Spending Reduction Commission should be created to propose annual spending cuts sufficient to reach the yearly spending reduction targets.

Mr. MACK. Mr. President, I want to refer to a couple charts before I make further comments because I want to set the stage for the reason for offering this amendment.

This first chart shows total spending as calculated by CBO in the budget resolution passed last year. It shows the total amount of spending for 5 years of $8.364 trillion. If you look at the other bar, you will find very little distinction between it and the first bar. This is the total spending proposed in the Senate budget resolution that we are debating today. It calls for $8.319 trillion in spending over 5 years. This is roughly a $45 billion change. This amounts to roughly a one-half of 1 percent reduction in spending over a 5-year period.

I heard someone earlier today say in reference to the budget, "let's stay the course." The next chart illustrates what happens to the deficit under a stay-the-course approach. The deficit for the next couple of years will be, in fact, low in relative terms, but it turns up in 1998, 1999, and the year 2000, and on and on and on it goes.

My point is that despite all of the good effort made on both sides of the aisle to come together with a proposal to control Federal spending, frankly, nothing has happened. It is for this reason that I have offered this amendment this morning.

Mr. President, I ask unanimous consent that Senators GRAMM and HUTCHISON, of Texas, and Senator COVERDELL be added as cosponsors.

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

Mr. MACK. Mr. President, despite all the rhetoric about making the tough choices to cut spending, we find overall spending has not been substantially affected.

Last year, CBO projected a fiscal year 1995 deficit of $284 billion. One year later, CBO reestimated the fiscal year 1995 deficit at $171 billion, a decrease of $113 billion. But a quick look at how this was achieved will show that the serious job of making tough choices and cutting spending hardly is happening at all.

According to CBO, the drop in the deficit comes from new taxes and user fees of $46 billion; technical reestimates, $45 billion; economic improvement, $15 billion; spending cuts, $5 billion; debt service, $2 billion.

The point is, out of a $113 billion drop in the deficit, only $5 billion of that is a result of the actions taken to cut Federal spending.

In essence, we have left in place a huge Federal spending machine which is the reason that these numbers are going to go back up in 1998, 1999, 2000 and beyond.

What really drives the deficit is spending, and we certainly have not done nearly enough to cut spending. While it is nice that this year's deficit is below estimates, I am concerned that Congress is not taking advantage of the good fortune a rebounding economy has given us. From all appearances, Congress and the administration are willing to let this opportunity pass by and quietly sweep aside further efforts to cut spending. Should everyone be satisfied just because good fortune has provided us a low in the deficit of $173 billion in fiscal year 1996 before the deficit again begins its upward path?

What has happened to the psyche of the American people and the Congress? Has Congress operated in the red for so long that it is numb about deficits and content with a deficit of $173 billion? What does this say about the Congress' sense of fiscal responsibility? I think there is clearly cause for alarm.

We are all greatly concerned about the future that we leave to our children and to our grandchildren. The recent House and Senate debates on the proposed constitutional amendment for a balanced budget serve as a testament to this. Nearly two-thirds of all the Members of the House and Senate voted for the balanced budget amendment. The measure was defeated because it needed a supermajority vote. But many opponents still support a balanced budget. They simply oppose that particular mechanism for achieving it.

Again, I think it is important to repeat that nearly two-thirds of the Congress supported a balanced budget amendment. Some of the opposition said that a constitutional amendment would wrongly tie the hands of Congress. They argued that there is a constitutional responsibility of the Congress to control spending. I would suggest the Congress had the last 30 years to demonstrate its ability to control spending and has miserably failed.

It is time for the Congress to find a way to balance its books. It is time to "Just Do It." I have received literally hundreds of letters from constituents who are angry and concerned about the debt we are leaving to our future generations. Let me read you a few lines from one of those typical letters:

Dear Senator MACK: I am writing to express my concern about the economic well-being of our country. I'm afraid that we have mortgaged our grandchildren's future in order to finance our Nation's spending habits. I do not think that we can continue to live off the national credit cards in the form of unnecessary Government programs. I believe it is extremely unfair to pass along our debts to our children and our grandchildren's generations. It is imperative that the Congress enact spending cuts to ensure that this country has a balanced budget. Old fashion frugality, which would not affect the health and welfare of our society, would more than balance the budget.

Mr. President, I am not alone in wanting a balanced budget, nor am I alone in advocating the need for serious spending cuts that will help us get there. We have had omnibus spending cut packages, such as the Kerrey-Brown proposal and the Dole proposal, which many of us contributed to and supported. In addition, there have been numerous attempts to cut individual spending items, but nothing has succeeded.

In spite of Congress' track record, almost all of us continue to talk about the need for more spending cuts. It would seem to be a truly bipartisan theme. The President has also signaled on more than one occasion his desire for additional cuts. In last year's State of the Union Address, he said:

To revolutionize our Government, we have to ensure that we live within our means.

I agree with the President. It is time to revolutionize our Government and live within our means. We must restore the faith of the American people, who understand we have more than a debt problem and we have more than a deficit problem. We have a spending problem.

If this issue were not so grave, some of the frivolous spending examples would indeed seem laughable. Syndicated columnist Dave Barry recently wrote about an example that is almost beyond belief. In an article which appeared in the March 20, 1994, Washington Post, he stated that Congress is funding a research project to create mutant constipated worms. Yes, you heard me right. Tax dollars are being used for making mutant constipated worms.

He referred to a Jim Thomas in his article entitled "The Diet of Worms," a professor in the genetics department of the University of Washington in Seattle. Two astounding comments out of the article read. One:

Jim's research is funded by the U.S. Government. He is spending tens of thousands of dollars of taxpayers' money to make constipated worms.

He goes on further to say:

I asked Jim Thomas if there was any possibility that the research would ever in a zillion years have any practical benefits for humans. He couldn't think of any offhand, but he allowed that it might conceivably be possible.

Time and time again, the Congress has attempted to right its fiscal course but continually fails to do so. We all remember the budget summits of the 1980's which promised so much and delivered so little. In every case, the actual deficit has been wildly greater than the promised deficit, and the result has been huge increases in the Federal debt.

Congress just does not have the capability to make the tough budget choices on its own. When push comes to shove, nobody can agree on anything to cut. From all the evidence I have seen, a balanced budget is a goal which will elude the Congress so long as we continue the same failed procedures to attack the deficit.

But what happens if we allow the status quo to rule the day? The Tax Foundation calculates that if every man, woman, and child were billed for a share of the Federal public debt, the bill would come to $13,345 per person or $53,380 for a family of four, and by 1990, the Foundation says those figures will rise to $16,281 a person or $65,124 for a family of four.

To say this in a different way, we will see an explosion of Federal debt of 25 to 30 percent by 1999. Let me say that again. In just 5 short years, our debt will increase between 25 and 30 percent.

I say this country has a grave problem. It is staring Congress straight in the face but many do not seem to realize the problem very simply is spending. While much time, energy, and rhetoric has been directed toward the problem of our debt, nothing in the way we do business has changed. And the Congress continues to demonstrate its inability to address the country's spending problem.

The amendment I offer today is intended to get the Congress back on the right track. It establishes the sense of the Senate to achieve a balanced budget by the year 2000 by reducing overall spending $34 billion per year from CBO's current services baseline. This would result in a compounded total of $522 billion less in spending over 5 years. More importantly, this amendment confirms the sense of the Senate that these cuts be identified by a special mechanism called a Spending Reduction Commission.

You may ask how, given the track record of the Congress, can we possibly ever agree on cuts of this magnitude? Mr. President, I would respond that I have very much doubt Congress can do this by itself. But I would suggest there is a mechanism which can be used to aid the Congress without diminishing its authority. And this mechanism can be found in S. 1191, the Spending Reduction Commission, a commission modeled after the successful Base Closure Commission. The mechanics of its operation are simple and straightforward. No budgetary gimmicks are involved—no smoke, no mirrors, just a simple proven mechanism to help the Congress do what it is supposed to do, and that is control spending.

Gramm-Rudman was criticized primarily because the sequester was a meat ax approach that made across-the-board cuts without establishing priorities. Critics said Gramm-Rudman involved no rational thought, no choices. This commission is a seven-member body that will make choices and establish priorities. The Grace Commission failed because there was no mechanism to enforce the recommendations. The Spending Reduction Commission has a specific enforcement mechanism that has been tested and proven effective through the example of the Base Closure Commission.

The balanced budget amendment failed because people felt it tied Congress' hands. The Spending Reduction Commission keeps the ultimate decision with Congress. Congress is presented with a single vote, up or down, without the ability of individual Members to protect pet programs with separate amendments.

The Spending Reduction Commission, modeled after the Base Closure Commission, fuses the best features of Gramm-Rudman and the Grace Commission. We simply extend the model to governmentwide spending and add a mandated minimum target of spending reductions which the package must achieve. The amendment I offer today would require the Congress to impose fiscal discipline upon itself.

I ask that my colleagues support this amendment. Moreover, after its adoption, I ask that you join me in enacting this legislation to create it.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDENT pro tempore. Is the demand sustained? Obviously, there is a sufficient number. The yeas and nays are ordered.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, will the distinguished Senator yield for some questions?

Mr. MACK. I will be delighted to yield.

Mr. LOTT. Mr. President, I have enjoyed listening to the remarks of the Senator from Florida. I thought about this proposal a great deal, as he knows. I have talked to him about it. When the suggestion was originally made, I cosponsored his legislation now in the form of this amendment. I hesitated to do it because I just really thought that the answer to the problem with the deficit and the growing debt is for Congress to face up to the problem and make tough decisions. I am one who has never been a big fan, quite frankly, of the Base Closure Commission because I did feel as if, once again, we were sort of abdicating our role to a commission, with recommendations, admittedly, from the Pentagon, and with the President's involvement because he had to approve it and because we had to approve the final product.

I was concerned it was going to lead to some decisions that would be very questionable and court actions and a lot of other things. But I have to admit that it accomplished what the original sponsor, Congressman ARMEY of Texas, intended, and most Senators have supported its continuation. I guess we are going to have another round of base closure next year.

I guess that was part of my concern. And I was concerned about how you would have this Commission made up and ensure it was fair and how they would do the job. But my first question is obvious. The way to deal with this problem is for us to do it. But I take it that the Senator is absolutely convinced we are not going to face the problems of making the tough choices and that the Senator feels this is the only way to go now. Is that correct?

Mr. MACK. The Senator is absolutely correct. I have come to that conclusion—and the question the Senator asks is a very fair one. The question which is asked over and over again is—were you not elected to make those tough choices? And my answer is, "yes," but we have failed. It would be wrong for us to go back to our constituencies and say, "yes," we failed for the last 12 to 30 years because we cannot make tough spending cut decisions under the procedures currently in place. It seems to me we ought to come to the conclusion that we need to adjust the procedures to try to make them work.

We went 15 years without closing a military base in this country and people said it never could be done because of the politics and the way the place worked. So we came up with a procedure. Yes, it is tough and, yes, it requires some tough action. But if we are really serious about getting control of Federal spending, it seems to me that the only way we are going to do that is to establish a commission like the Base Closure Commission.

Mr. LOTT. I say this somewhat facetiously but also somewhat seriously. We have a Base Closure Commission to deal with the fact that some bases needed to be closed and we could not deal with the politics of it. We had a commission not exactly like this, but we had one that helped us try to address the problem of Social Security back in the 1980's. Of course, we had the Gramm-Rudman-Hollings-Mack legislation to try to deal with getting control of the deficit. Are we just going to create one commission after another and basically turn our responsibility over to a series of commissions and only rubber stamp what they do?

Mr. MACK. Again, I thank the Senator, for raising a valid charge, but I would go back again to my prior response. We were successful with the Base Closure Commission. We were successful with the Social Security Commission. I think we can be successful with a Spending Reduction Commission.

I would say to the Senator to say, this is going to establish another commission and because I do not want to see another commission established we

are going to be in opposition to it, is ignoring reality. If we continue the status quo, we are going to see spending increased year after year after year, and it will drive up the deficit as I have shown earlier. I have no confidence in the ability of the Congress to control Federal spending unless we put into place a commission to help it. I know of no other way.

Mr. LOTT. Let me ask——

Mr. MACK. Could I ask the Senator to be brief on this because I have to finish.

Mr. LOTT. I was enjoying this considerably, but I will try to ask only a couple more questions.

About the Commission itself, how long does the Senator envision this Commission being in place?

Mr. MACK. Initially, I thought the Commission would be in place long enough to get us to a balanced budget. That would be around the year 2000, according to the Congressional Budget Office, if we make the kind of reductions that are called for, and that is roughly $34 billion a year from the Congressional Budget Office baseline. But I think it would be important to keep it in place whenever there was a time when there was a projected deficit so that we would have a means on which to fall back.

That is point one.

Point two. I would like to make this comment. We are not taking away Congress' authority. Congress can go ahead and carry out their responsibility for making $34 billion a year in spending cuts. If they do that, there is nothing for the Commission to do. But if the Congress fails to meet that target, then the Commission goes into effect.

Mr. LOTT. Mr. President, let me emphasize that I understand this is not a deficit reduction commission. This is a spending reduction commission.

Mr. MACK. That is correct.

Mr. LOTT. I think that is a very important distinction because far too often around here anytime we pass an effort supposedly to deal with the deficit is just to be able to find another tax or raise taxes.

I still maintain—and I know the Senator from Florida does—that the problem is not insufficient revenue coming into the Federal Government. It is too much spending and an inability to prioritize that will not allow us to move toward a balanced budget. That is a significant point.

I appreciate the effort of the distinguished Senator in this regard. I think he is provoking a lot of talk by a lot of Senators. I have joined in cosponsoring this legislation. I certainly am supportive of his amendment today. I thank him for yielding for these questions.

Mr. MACK. I thank the Senator.

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

The PRESIDENT pro tempore. The Senator has 39 minutes and 38 seconds.

Mr. MACK. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDENT pro tempore. The Senator from Texas [Mrs. HUTCHISON] is recognized for 5 minutes.

Mrs. HUTCHISON. Thank you Mr. President. I really appreciate what our colleague from Florida, Senator MACK, is doing, and I certain liked the colloquy between the two Senators because it really does show what our problem is.

Federal deficits and accumulated Federal debt long ago passed the point of threatening our children and grandchildren. Congressional rhetoric on this issue long ago numbed the ears of even the most interested taxpayer. We need a completely different approach. This amendment, Mr. President, is such an approach.

Ordinary common sense restraint has not prevented Congress from running up the national debt to more than $4 trillion. And when Congress has tried to enforce fiscal discipline through stop gap devices or the long range Gramm-Rudman-Hollings plan, the discipline breaks down as soon as the spending cuts become politically inconvenient.

Last year, President Clinton mustered bare majorities of both Houses of Congress to win approval of the largest tax increase in the history of our country. Spending cuts were promised. But the spending cuts have not come.

Fortunately, we do not have to look far. Several years ago, Congressman DICK ARMEY led the fight in Congress to enact a most innovative solution to a nearly intractable problem—military base closings. And it worked.

Last year the independent Base Closure and Realignment Commission created by Congress went step-by-painstaking-step through an open, public process of deciding how best to downsize our military facilities. That this downsizing was necessary, no one disputed. But the political will to make the tough, necessary choices just was not there.

So Congress agreed to establish a group of outside experts: to look at the whole structure of U.S. bases, to evaluate future needs, and to make a package of independent recommendations.

The result was painful for people and communities. Nearly every State lost jobs and defense installations in the Commission's first round of actions. But without the Base Closing Commission we could never agree on the necessary action. It worked.

Now Senator MACK has been very creative in applying the same principle. The Spending Reduction Commission would order a formation of a parallel commission and charge it with finding $34 billion in real spending cuts every year until a balanced budget is reached. The Mack amendment specifically protects Social Security from these cuts.

The Congressional Budget Office has estimated that $34 billion in cuts per year, beginning in 1995, would balance the budget—by the year 2000. Just a little more than 5 percent reduction per year isn't too much to ask of a Federal Government that has grown fat and bloated.

There is no magic about this. Many justifiable cuts have already been identified—under Gramm-Rudman, the Grace Commission report, the Vice President's reinventing Government plan, the Penny-Kasich budget proposal and the Dole-Hutchison $50 billion spending reduction bill.

There are a multitude of ideas. I think an independent commission could find enough cuts to make that job work.

By using the base closure model, a national Spending Reduction Commission can present Congress with a sensible list of substantive cuts, which would be set before Congress to be approved or disapproved—no amendments, no smoke and mirrors. The Commission is a vehicle to stop partisan gridlock by making cuts that are fair, that reflect long range national priorities and needs.

My colleague from Florida has proposed a constructive solution to cut the Gordian knot of deficit reduction. This is one of those rare, fresh ideas that could really work. It is an idea that could really work. In fact Mr. President, not calling for a spending reduction commission is like the captain of the *Titanic* not calling for help! Help is here—lets grab it.

I commend my colleague from Florida. I am proud to be a cosponsor of this amendment. It is an idea whose time has come.

Thank you Mr. President. I yield the floor.

Mr. SIMPSON. Mr. President, I rise in support of the Spending Commission amendment proposed by my friend and colleague, Senator MACK of Florida.

Mr. President, we are in the process of debating a budget resolution which will leave the budget deficit on an ever upward course, if not in the immediate future, then certainly in the long run. Even the official annual deficit 5 years from now projects to be higher than it is today.

There is no great mystery about why this is the case. We know where the budget is growing, and where it isn't. We do not lack for any information about why the budget deficit has not been brought under control.

What we lack, it has been said on both sides, is sufficient political will. I could not possibly count the number of times that Senators on this floor have argued against such measures as the line-item veto and the balanced budget amendment by saying that "we don't need gimmicks. We need political courage."

If political courage is what this body lacks, then it is entirely appropriate to

use the necessary means to help that political courage to develop.

Senator MACK has chosen to build upon past successful efforts rather than to simply decry current political failures. We have recently had a few instances in which politically hazardous tasks were faced and handled about as well as they could be. The most obvious of these was the task of closing defense bases. That was truly a thankless job; a pure political loser. No one, in any district, was going to warm to the idea of the local base being closed.

Leaving this process up to politics of usual would have combined the necessary sacrifices and difficulties, with unneeded charges of politicization. That is why we developed a base closure commission; we recognized that bases had to be closed, that someone's ox had to be gored, and that the fairest way to do it was to convene a commission to do it on a nonpartisan basis, and then to leave us with the opportunity to accept or reject the recommendations as a whole.

The parallels between base closures and discretionary spending cuts are obvious. We know that both must occur. We also know that there will be public cynicism about the choices we make—that we are deterred from getting the job done by the prospect of having the process being labeled "political" or "cruel" or "unfair." And we know that every such decision made will adversely affect someone's constituents.

Senator MACK's amendment would enable us to achieve both the reality and appearance of nonpartisan fairness in the course of identifying appropriate discretionary spending cuts. It sets a clear target for what spending restraint is to be achieved, and creates a mechanism to get us there. And it attacks the fundamental problem in Congress with respect to producing spending restraint—that being the difficulty of mustering the requisite political will to do the job.

I hope that the Senate will support Senator MACK's amendment, and I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I do not think this amendment is really something we can expect very much from.

We have heard proposal after proposal in this body over the years that Congress give up its responsibility, give up our duty, give up ways to giving up finding ways to reduce the deficit. But that is what we are elected to do here by the people of this country; to deal with the budget; to deal with budgetary matters.

As the distinguished President pro tempore has pointed out time after time on the floor of this body, the power of the purse is fundamental to any legislative body. It was the power of the purse that allowed the British Parliaments to wrest authority and jurisdiction from the British Kings. That was really the cradle of the democracy that we now enjoy in this country. It emerged from the British Parliaments who gained their power and their jurisdiction and their authority to represent the people of the United Kingdom, the British Isles, as a result of having the power of the purse to deal with an arbitrary monarch.

Are we going to casually just throw that away and say, "Well, we cannot do the job? Let us get a commission to recommend what we ought to do. Why don't we just give the Commission our votes and let the Commission have the final vote on what we ought to do?"

I do not think any Senator or anyone would seriously recommend that be done.

Let us look at the history of these commissions. I well remember the National Economic Commission, the 1988 National Economic Commission. That was formed by President Reagan as I recall or President Bush. In any case, there was a National Economic Commission. It may very well have been a creature of the Congress. I think it was. We had a National Economic Commission to study our budget, to review the fiscal mess that we had gotten ourselves into in the 1980's, and to make recommendations to the Congress. The cochairmen of that Commission were former Secretary of Transportation, Drew Lewis, and former Ambassador, Robert Strauss. That Commission labored mightily for many, many weeks. In the final analysis, it became heavily politicized and represented the same paralysis that at that time was represented here in this body. We simply could not move in the direction of reducing deficits.

We are moving in the direction of lowering deficits now. We have not solved the problem totally. I will be the first to admit that. But deficits were projected in March 1993 by OMB to total $350 billion for fiscal year 1994, and because of the action taken on this floor by the elected representatives of the American people, who by a majority rose to their responsibility and passed the deficit reduction act of 1993.

That deficit that was going to be $305 billion was reduced to somewhere in the neighborhood of $171 billion. As a result of the action taken last year, we are now looking at declining deficits for 3 years. That is the first time that has happened, as I said earlier, since Harry Truman was President of the United States. We see that discretionary spending for fiscal year 1995 is going to be actually lower than it was in fiscal year 1994, in nominal terms. That is, in dollars that are not inflation adjusted. So when you take the discretionary spending in 1995 below down where it was in 1994, you are also taking it down even further, because that discretionary spending has to absorb a small amount of inflation. This is the first time discretionary spending has come down in this country since 1969.

I say to my friends that I think we are now, at long last, starting to do our jobs. But I add that we have a long way to go. But we have taken the first step here. I see no reason to move forward with a national commission to make recommendations, because I think those recommendations, frankly, would be brushed aside just as the recommendations of the National Economic Commission were brushed aside in 1988. I also think that we have to give up this idea that we can hand off our responsibility to others and that we can narrow and diminish our jurisdiction simply because we do not want to accept our responsibility and face the political consequences of our actions.

So, Mr. President, I have the highest regard for my friend from Florida, and I think he knows that. I think his heart is in the right place here. But I must say that I am not an enthusiastic supporter of this proposal, and when the time comes, I expect I will be voting against my friend from Florida.

Mr. MACK addressed the Chair.

The PRESIDENT pro tempore. The Senator from Florida [Mr. MACK] is recognized.

Mr. MACK. Mr. President, I yield 3 minutes to Senator GRAMM from Texas.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized for 3 minutes.

Mr. GRAMM. Mr. President, I thank our dear colleague from Florida.

Mr. President, one of the most successful initiatives we have undertaken in the last decade, in terms of getting Congress to do something that is important and difficult, is the Base Closing Commission. As all of my colleagues will recall from their own individual experiences and that of watching others, closing a military base is a very, very difficult thing. In the old days, what happened was, even though it was obvious to a blind man that, with the defense build down we had after the Vietnam war, we needed to close military bases, we did one of two things: First, we kept bases open because we had powerful Senators who wanted the base kept open; or, second, we went through a charade where a decision would be made to close the base, and the Senator would go out to the base, throw his body in front of the bulldozer, instruct the trusty staff to, as the bulldozer was bearing down on him, to pull him out—all of that captured on video tape—and was then able to say to the people in his State—or in the case of Congressmen, in their districts—that he had done everything he could to protect the base.

We established a Base Closing Commission which produced an objective evaluation, and we voted not on an in-

dividual base, but on the recommendations of the commission. Through that process, we have closed a lot of bases. Some of them I did not want to close. Yet, I felt a responsibility to the process, and I voted for the commission's report.

Senator MACK proposes to bring that same process to spending reduction. It is a great idea. I find only one thing wrong with it: The Senator from Florida had the idea and not me. It makes eminently good sense to have an objective evaluation of spending, get input from everybody in America who wants to have a say, have a recommendation to reduce spending, and force Congress to vote yes or no on the recommendation. I can assure you there would be many individual programs or projects recommended to be cut that I would oppose, but I can guarantee that I would vote for the overall recommendation, never having seen it, because it is a process that I believe is the right way to do it.

So I am strongly for this amendment. I cannot see a reason in the world that anybody should oppose this amendment—other than one reason: That they do not want to control the growth of Government spending. The only reason to oppose this spending reduction commission is because people want to continue business as usual in the American Government. I think the public wants change. This amendment would give us change.

I thank the Chair and yield the floor.

Mr. MACK. Mr. President, I yield myself 2 additional minutes.

The PRESIDENT pro tempore. The Senator from Florida [Mr. MACK] is recognized for 2 additional minutes.

Mr. MACK. Mr. President, in closing, I think this is an amendment that needs to be supported by my colleagues on both sides of the aisle. As the Senator from Texas indicated a moment ago, you can oppose this amendment if you do not believe that, fundamentally, the problem is spending. I happen to believe our deficit is driven by our failure to control spending all of these years.

The second point, that is one of the strengths in this proposal is that we are not giving up our responsibility. In fact, the Budget Committee would still do its work and should they meet the targets outlined in the resolution, there would be no reason for the Spending Reduction Commission to take any action. Moreover, if the Commission has to act, Congress still has to deal with the Commission's recommendations with an up-or-down vote. The important distinction to note is that such a vote would be an up-or-down vote, with no amendments. Again, neither I nor any other Member of the Senate would be able to come to the floor to offer an amendment to protect something of interest to our States.

There may be people who would claim that is a terrible thing to do. But I happen to believe that the accumulation of the debt and the increase in spending year after year has to stop. So the conclusion I have come to is that the most significant way to go about cutting spending is to put into place a Spending Reduction Commission. A commission patterned after the Base Closure Commission, which we all know has made some very tough decisions and has moved us forward in the right direction.

So, Mr. President, I yield the remainder of my time and urge my colleagues to support the amendment.

Mr. SASSER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, I have just a couple of comments. Again, with regard to the whole question here of forming a commission to recommend savings to Congress, one of the problems we have in Government now is that we have too many commissions. The cost of these commissions averages, I am told, about $2 million a year. So what the Congress is being asked to do here, in essence, is to fund a $2 million commission to tell the Congress what to do.

I thought that is what we were elected to do, and I thought that is what the American people were paying us to do. At the end, I think this commission has a 1-year life, after which it must be reenergized and reauthorized by the Congress.

I would predict this Commission would be like all of the rest of the commissions; once you have it in place, it would endure almost into perpetuity. The bureaucracy of this Commission, which would be paid by taxpayers' dollars, would be up here lobbying the Congress, saying, "Keep us in place another year or 2 or 3, and we are going to get this problem solved."

Before you know it some people would have their friends over there on the staff of this Commission and the administration going out of power, or an officeholder who happens to lose an election would suddenly end up over there on this Commission.

So it becomes another sinecure for various and sundry individuals, all at the expense of the taxpayer.

What is it all about? It is simply to recommend to this Congress that it do what it is charged to do anyway. We are simply creating here another layer of bureaucracy that would cost us, I would guess, at least $2 million a year, which is the average, I am told by a very reliable source, of the commissions across the spread of the Government.

If we want to start saving money, the first thing we can do is not form another Commission.

So I would urge my colleagues to reject this concept, even though I know the Senator from Florida is acting from the purest of motives and does have a profound interest here in reducing the deficit, as we all do. But we are working on that and we are making some progress.

I think we can look with some pride on the progress that we have made over the last year. Certainly we have a ways to go, but the deficit package that was passed last year that we said would reduce the deficit by $500 billion, many people laughed at that and said that is not going to happen; it cannot happen. The facts are that that deficit package that we passed last year by one vote, Mr. President—by one vote—and I might say that many of our friends who are now expressing grave concern about the deficit—and they are genuine in that concern—those friends voted against that deficit reduction effort. But that deficit reduction effort that was calculated last year to reduce the deficit by $500 billion a year has now been recalculated, and is calculated now to reduce the deficit over 5 years in excess of $600 billion a year.

So I say to my friends; we are making progress here, we have a ways to go, and I do not think we need to spend money on forming another Commission here. Let us just carry on and do our duty, make the appropriate cuts, live up to our responsibility of dealing with the budgetary matters, and stay the course. I think we are making progress.

The PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. I yield myself 2 minutes.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I want to first thank my friend from Florida.

We are trying very hard on our side to reduce the time on amendments. Even though statutorily each amendment is allowed 1 hour on each side, we are trying to get our proponents to reduce them.

The Senator did fairly well. We came in at about 31 minutes, and I think he agreed to 30. I thank the Senator very much for that.

I gather the Senator from Tennessee is going to yield back his time in opposition?

Mr. SASSER. I am.

Mr. DOMENICI. Has he already?

Mr. SASSER. I am prepared to do so.

Mr. DOMENICI. Then we will stack this vote also, I might ask my friend.

Mr. SASSER. Has all time been yielded back?

I yield back the remainder of my time.

The PRESIDENT pro tempore. All time has been yielded back.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. DOMENICI. Is there a consent that this would be set aside?

The PRESIDENT pro tempore. Not as yet.

Mr. DOMENICI. I thank the Chair.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I ask unanimous consent that all time on the Mack amendment having been yielded back, that the pending Mack amendment be temporarily laid aside to be disposed of following the Domenici amendment No. 1567, and that no further amendments be in order to the Mack amendment.

The PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDENT pro tempore. The Senator from Nevada reserves the right to object.

Mr. REID. I withdraw the reservation.

The PRESIDENT pro tempore. Is there objection?

The Chair hears no objection. It is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself an additional minute.

The PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. DOMENICI. Mr. President, let me say that on our side we are prepared to proceed with one amendment after the other in a very timely manner.

I understand that Senator HUTCHISON will go next, and while she has agreed to try not to use more than 20 minutes, that will be left up to the junior Senator from Texas.

But after that, I might state, we are ready with an amendment from the senior Senator from Texas, Senator GRAMM. He has agreed to 20 minutes in behalf of his amendment. We will proceed in that manner with something between 15 and 20 minutes on our side for each amendment. We are ready after Senator GRAMM with another, if that suits the chairman. If not, we will rotate as he desires.

Mr. SASSER. Mr. President, let us proceed with the amendment of the Senator from Texas, and then we will try to work out a rotation here.

It may very well be that some of our amendments may be falling by the wayside here. But let us proceed with the amendment of the Senator from Texas.

Mr. DOMENICI. Mr. President, I yield myself 1 additional minute.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized for 1 minute.

Mr. DOMENICI. I say to fellow Republican Senators, we still have a list of somewhere around 10, maybe 12 amendments.

I hope those who have amendments that we have on our list will agree to take no more than 20 minutes on each amendment, and that there will be no other amendments other than the ones we have, although we are not restricting them to that. We will get everybody up and they will all have a little bit of time, if we could do it that way.

So I urge consideration of fellow Senators who have amendments in trying to restrain the amount of time Senators would require.

I thank the Chair. And I yield to the Senator from Texas.

The PRESIDENT pro tempore. The Senator from Texas [Mrs. HUTCHISON] is recognized.

Mrs. HUTCHISON. I thank you.

AMENDMENT NO. 1572

(Purpose: To reduce Function 800 to reflect a 7.5 percent reduction in legislative branch appropriations)

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

The PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Senators KEMPTHORNE, BROWN, MCCAIN, BENNETT, ROTH, COVERDELL, and FAIRCLOTH, proposes an amendment numbered 1572.

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

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

The amendment is as follows:

On page 5, decrease the amount on line 1 by $200,000,000.

On page 5, decrease the amount on line 2 by $400,000,000.

On page 5, decrease the amount on line 3 by $500,000,000.

On page 5, decrease the amount on line 4 by $600,000,000.

On page 5, decrease the amount on line 5 by $700,000,000.

On page 5, decrease the amount on line 11 by $200,000,000.

On page 5, decrease the amount on line 12 by $400,000,000.

On page 5, decrease the amount on line 13 by $500,000,000.

On page 5, decrease the amount on line 14 by $600,000,000.

On page 5, decrease the amount on line 15 by $700,000,000.

On page 5, decrease the amount on line 22 by $200,000,000.

On page 5, decrease the amount on line 23 by $400,000,000.

On page 5, decrease the amount on line 24 by $500,000,000.

On page 5, decrease the amount on line 25 by $600,000,000.

On page 6, decrease the amount on line 1 by $700,000,000.

On page 6, decrease the amount on line 7 by $200,000,000.

On page 6, decrease the amount on line 8 by $400,000,000.

On page 6, decrease the amount on line 9 by $500,000,000.

On page 6, decrease the amount on line 10 by $600,000,000.

On page 6, decrease the amount on line 11 by $700,000,000.

On page 6, decrease the amount on line 17 by $200,000,000.

On page 6, decrease the amount on line 18 by $400,000,000.

On page 6, decrease the amount on line 19 by $500,000,000.

On page 6, decrease the amount on line 20 by $600,000,000.

On page 6, decrease the amount on line 21 by $700,000,000.

On page 7, decrease the amount on line 1 by $200,000,000.

On page 7, decrease the amount on line 2 by $400,000,000.

On page 7, decrease the amount on line 3 by $500,000,000.

On page 7, decrease the amount on line 4 by $600,000,000.

On page 7, decrease the amount on line 5 by $700,000,000.

On page 36, decrease the amount on line 20 by $200,000,000.

On page 36, decrease the amount on line 21 by $200,000,000.

On page 37, decrease the amount on line 2 by $400,000,000.

On page 37, decrease the amount on line 3 by $400,000,000.

On page 37, decrease the amount on line 9 by $500,000,000.

On page 37, decrease the amount on line 10 by $500,000,000.

On page 37, decrease the amount on line 16 by $600,000,000.

On page 37, decrease the amount on line 17 by $600,000,000.

On page 37, decrease the amount on line 23 by $700,000,000.

On page 37, decrease the amount on line 24 by $700,000,000.

On page 70, decrease the amount on line 21 by $400,000,000.

On page 70, decrease the amount on line 22 by $400,000,000.

On page 70, decrease the amount on line 24 by $500,000,000.

On page 70, decrease the amount on line 25 by $500,000,000.

On page 71, decrease the amount on line 2 by $600,000,000.

On page 71, decrease the amount on line 3 by $600,000,000.

Mrs. HUTCHISON. Mr. President, we all say that Government must live within its means. If we cannot reach that goal today with the whole Federal budget, we can at least make a meaningful down payment, one the American people will understand and I believe they will approve. We can tighten our belts here in Congress.

My amendment will cut the overall legislative branch appropriations by just 7.5 percent. It reduces fiscal year 1995 spending by $200 million in budget authority and in outlays from the baseline. Over the next 5 years, that will cut a total of $2.4 billion from legislative branch spending.

Mr. President, this is a reasonable amendment. It shows that we will take the first step to do what we say all Government should do, and that is, make a modest cut in our own budgets as we are asking many Federal agencies to do.

I would like to take this chance to ask some of my colleagues if they would like to speak on this amendment.

I yield 3 minutes to the Senator from Georgia.

The PRESIDENT pro tempore. The Senator from Georgia [Mr. COVERDELL] is recognized for 3 minutes.

Mr. COVERDELL. Mr. President, I rise in support of the amendment by

the distinguished Senator from Texas and am proud to do so.

Most of us who are Members of this body who have recently come from the election process, have been indelibly marked by the electorate's broad dissatisfaction with the manner in which we have been conducting our business in Washington. They read of the size of the Federal Government, they read of the size of the staff, and the apparatus that surrounds the legislative as well as the executive branch, and they raise a loud voice of objection.

The Senator from Texas, in pointing to the size of the amendment, used a physical gesture that this would not be all that much. I understand why she does that. But probably, if you put this in the hands of the electorate of Texas or Georgia, they would say that is right; that is not near enough, but they would also commend her for taking the initiative.

Congress has increased spending for its own budget at double the inflation rate. We talk about health care. We have the same runaway increase in expenditures in our own legislative branch. In 10 years, the Consumer Price Index has risen 44 percent, the legislative branch 95 percent.

The legislative branch staff has approximately 38,000 workers, which is larger than the combined legislative staff of Canada, Great Britain, Germany, and France. Canada has the second largest legislative staff with only 4,000 employees.

When the American people say as loudly as they did to the Congress of the United States in 1992, that they wanted things to be done differently in Washington, they meant it. And the amendment that the Senator from Texas has sent to the desk is exactly what they are talking about. They want us to lead the way to sound and practical financial practices in the Government of the United States of America.

Again, I say to the Senator from Texas, I appreciate the time she has allowed for me to speak to her amendment, and I wish her much success in her presentation of this important amendment.

I yield back to the Senator from Texas.

Mrs. HUTCHISON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank my distinguished colleague from Georgia for those very important remarks. Those facts are very important for the American people to realize the magnitude of what we are talking about here.

I want to say that, in addition to Senator COVERDELL, Senators KEMPTHORNE, BROWN, MCCAIN, BENNETT, ROTH, and FAIRCLOTH are also cosponsors of this amendment.

I am pleased to yield 3 minutes to my colleague from Utah, Senator BENNETT.

Mr. BENNETT addressed the Chair.

The PRESIDENT pro tempore. The Senator from Utah [Mr. BENNETT] is recognized for 3 minutes.

Mr. BENNETT. Mr. President, I recently appeared before the Rules Committee to testify on the proposed changes in the structure of the Senate with respect to committee assignments and other activities. I have not put a sharp pencil on the savings which the Senate would achieve if some of those changes were made, but I am confident that the elimination of some of the standing committees, as contemplated by the Rules Committee, and the elimination of some of the select committees, and some of the joint committees, as contemplated by the Joint Committee on Congressional Reform, would make it possible for us to achieve the kinds of savings that the amendment written by the Senator from Texas contemplates.

I have learned in this world that one can talk about reforms, one can talk about changes and get a lot of enthusiasm for it, but one does not achieve those changes where there is money involved unless there are money caps that accompany the conversation.

So I submit to this body that the approval of the amendment offered by the Senator from Texas will provide the impetus that the Rules Committee needs to achieve the kinds of reforms that were discussed in the hearing where I testified.

It is for that reason, along with the others that have been talked about here, that I am happy to rise in support of this amendment.

For those who say, "Well, Senator, that will cut your allowance; that will cut your staff," I recognize that that is a very real possibility and, indeed, have been living with that kind of cut ever since I came to the Senate. This first year in the Senate, we returned over 10 percent of the amount of the staff money available in my office in anticipation of just such an amendment. So we have gotten used to being at that level and we discovered that we can function just fine.

Therefore, I am proud to support the amendment offered by the Senator from Texas and tell her that she will not only achieve the goals she is searching for in terms of a budgetary impact, but will provide some teeth to the Rules Committee as they attempt to achieve some reform in structural restructuring. Without the prod of the money on one end, the good intentions on the other are less likely to come to pass.

Mrs. HUTCHISON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Utah for being a leader in putting his money where his mouth is. He ran as an outsider, as a small business person. He knew that you could consistently bring down a budget, and he has cut 10 percent from his own budget.

I said I would do the same thing when I ran for this office, and so far—I have not been here a year—I am running on a 20 percent lower budget than is my allocation. We do not send franked newsletters. We have cut back on office space in Texas to save rent expenses, and we curtail travel wherever possible.

Senators DOMENICI and BOREN have worked very hard this session pushing the Joint Committee on the Organization of Congress to make many of the reforms necessary to cut the legislative branch by 7.5 percent. Just cutting down on the number of committees and reducing subcommittees to 4 per committee, except for the Appropriations Committee, would downsize Congress. It would help us in making these cuts. I hope we can do this today to show the American people that we are willing to take these steps.

Our Founding Fathers established the legislative branch to pass legislation and to check the powers of the executive branch. Visionary members of the Constitutional Convention may have foreseen 50 States and 535 legislators, but I do not think they foresaw a congressional staff of 38,000 people.

Over the past 10 years, Congress has increased its own budget at double the rate of inflation. During that time, the Consumer Price Index rose 44 percent, while outlays for the Federal legislative branch rose 95 percent. In 1983, we spent $1.3 billion. Last year, we spent $2.3 billion.

Mr. President, I grew up in La Marque, TX. It is near Galveston. I just love it. We have about 15,000 people there. Its annual budget is $7.4 million. La Marque is a city of honest people, hardworking people that go to church, raise their children, and pay their taxes. And they have common sense. None of them could be convinced that it takes more than twice the population of our city to operate our Capitol, with a budget that is 460 times what it takes to run their whole city.

If we make this small cut today, we may get to spend more time at home with our constituents and our families next year. The reduction could cut the number of bills that are introduced, the number of statements that are inserted into the CONGRESSIONAL RECORD, the number of committee and subcommittee hearings that are held each day, and the hours of speeches when we are in session. And we certainly learned that this morning when we left the Capitol at 3:30 after a very long night.

Many people in America would say "hallelujah" if we cut back. But, Mr. President, most would not notice any difference at all.

I think the time has come to make this first gesture to show that we are serious about what we are asking the American people to do and the Federal agencies of this Government to do.

Mr. President, I ask for the yeas and nays. But first I want to yield 3 minutes to my colleague from Arizona [Senator MCCAIN].

The PRESIDENT pro tempore. The Senator from Arizona, Mr. MCCAIN is recognized for 3 minutes.

Mr. MCCAIN. I thank the Chair and I thank my distinguished friend and colleague from the State of Texas, who I think is bringing forth a very important and valuable amendment.

First, I would like to discuss some facts, and then I would like to discuss some problems that this Congress has in perception in the minds of the American people.

The amendment, as we know, will represent a $200 million reduction for fiscal year 1995 and $2.4 billion over 5 years. I think it is well to note that the Congress has increased spending for its own budget at double the rate of inflation in the last 10 years. In fact, in the last 10 years, the Consumer Price Index has risen 44 percent, while outlays for the legislative branch have grown 95 percent. Appropriations from the legislative branch have increased from $1.3 billion in 1982 to $2.3 billion in 1993.

Mr. President, that is an astounding number. It is so astounding, I will repeat it. The appropriations for the legislative branch have increased from $1.3 billion in 1982 to $2.3 billion in 1993. This legislative branch employs more people—38,000 people—than any other legislative entity in the world. Canada employs the second largest number, which is 4,000 employees.

We are in the process of passing legislation, the buyout bill, which will downsize the Federal Government by almost 300,000 employees. Clearly, there is no reason Congress should not downsize itself at the same time.

Passing this amendment would not affect the business we must complete. For example, we could achieve much of this proposed cut by eliminating slush funds and forcing the Congress to turn back any unused appropriation, reduce the use of the frank, implement the plans proposed by the Joint Committee on the Reorganization of Congress, which would reduce the number of Senate committees and subcommittees.

Finally, if anybody in this body thinks the approval rating of the American people of this legislative branch of government is good, they have not seen the figures that I have seen. Around 28 percent of the American people approve of Congress.

One of the reasons they disapprove is they think we spend too much money and waste their money.

As usual, the American people are correct. I think the amendment of the Senator from Texas is a reasonable one and one we could adopt and send a signal to the American people we are willing to make the same sacrifices we are asking them to make on a daily basis.

I thank the Senator from Texas again and yield back to her the remainder of my time.

The PRESIDENT pro tempore. Who yields time? Time is being charged against both sides.

Mrs. HUTCHISON. Mr. President, how much time do I have left?

The PRESIDENT pro tempore. The Senator has 45 minutes and 15 seconds remaining.

Mrs. HUTCHISON. Mr. President, I would like to reserve 10 minutes for closing on my amendment.

The PRESIDENT pro tempore. Very well.

Mr. REID. Mr. President, is that in the form of a unanimous-consent request?

The PRESIDENT pro tempore. The Chair did not understand the Senator.

Mr. REID. I did not either. Is she yielding the remaining 35 minutes?

The PRESIDENT pro tempore. The Senator from Texas is reserving 10 minutes of her remaining time to close her debate.

The rest of the time is running on both sides equally.

Mr. BENNETT. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. BENNETT. If a quorum call were called at this moment, against whom would it be charged?

The PRESIDENT pro tempore. It would be charged against the side which controls the time.

Mr. BENNETT. I thank the Chair.

The PRESIDENT pro tempore. In other words, only those who control time or their designees may put in a quorum.

The Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator is speaking as the designee?

Mr. REID. Yes, of the manager of the bill.

The PRESIDENT pro tempore. Of Mr. SASSER; and is speaking in opposition. He yields himself such time as he may require.

Mr. REID. Mr. President, the proponent of this amendment has stated it is reasonable. She wants to take the first step for the legislative branch to save money.

In all due respect to my friend from Texas, the proponent of this amendment, I say the amendment is not reasonable and certainly it is not the first step. I believe those people who are pushing this amendment either do not understand what has gone on during the past 6 years in the legislative branch appropriations bill, or they choose not to understand what has gone on. Because far from this amendment being the first step to saving this branch of government money, it is way, way removed. There have been many steps taken.

For example, there has been some talk that perhaps we should do something about franking. Franking, as I will indicate in a few minutes, has been cut dramatically.

There has been a statement made on the floor this would force the Appropriations Committee to do something. The Appropriations Committee has not been forced to do anything in the past. We have done it because it is the right thing to do. We have cut the legislative branch Appropriations Committee dramatically. We have fewer people working in the legislative branch of Government today than we had 14 years ago. That does not sound to me like runaway inflation. It does not sound to me like we have not taken care of the legislative branch.

There has been talk that this branch of government has 38,000 employees. The fact of the matter is, if you add in the Library of Congress, the General Accounting Office, the Government Printing Office, Office of Technology Assessment, you do get up, counting interns, and part-time people, to that number.

Of course the executive branch of the Government has well over a million people. In fact, my statement of a million people is about 250 percent short, there are over 2½ million people who work in the executive branch of government.

I was a member, as were a number of other people—six Democrats and six Republicans from this body—of the Committee to Reorganize Congress. We issued our report at the end of last year to reorganize Congress. I think we did some responsible things. Our committees, chaired by Senators DOMENICI and BOREN, I think were responsible. That matter is before the Rules Committee, and the Rules Committee is going to take some action. But you cannot do it out of a vacuum. There have to be some responsible measures taken.

I chaired the task force to find out about Senate coverage; that is, the bills we pass and impose on the rest of the American public, how should those acts of legislation we passed apply to us? We made a report, Senator STEVENS and I. We gave our report to the majority leader and the minority leader. Of course it is no secret. One of the things that it calls for is we are going to have to hire some people in the legislative branch of government to make sure we can comply with those things. If in fact there is some organization or individual out of compliance, we need some mechanism to allow compliance.

We have the Americans for Disabilities Act apply to this body. We have the last civil rights legislation we

passed apply to this body. We are now going to come before the Senate and ask for money to pay for the lawyers it has taken us to comply with that act.

Mr. President, this amendment is not reasonable, nor is it the first step. As I indicated earlier, I am sure the press release on this amendment has already been written.

(Mr. CAMPBELL assumed the chair.)

Mr. REID. Mr. President, they no doubt proclaim that the sponsors have offered a proposal to slash the fat from a bloated legislative branch bill. But before anyone takes these claims at face value, they should be aware of an uncomfortably inconsistent fact. The real news is we have already put the knives to whatever bloat existed in the institutions and agencies making up the legislative branch of Government. In fact, I would argue that we have already cut into the bone and the muscle, in many cases. Let me give you a few examples, Mr. President.

The legislative branch today is funded at a level that is below total funding for fiscal year 1992 and nominal dollars, that is dollars not adjusted for inflation or other uncontrollable cost increases. We are one of the few appropriations bills that appropriated last year less in actual dollars than we appropriated the year before.

Mr. President, we not only did it last year, we did it the year before when that kind of action was unheard of around here.

This amendment is not the first step. As a result of some of the work that has been done by this legislative branch—and I might indicate, Mr. President, that I have had some cost-cutting people as ranking members of this subcommittee—Senator NICKLES, Senator GORTON, and now I have Senator MACK. These people are not spendthrifts. Anything I have gotten through the committee I have had to clear with these Senators, which I think indicates, just by mentioning their names, are some of the most cost-conscious people in the entire Congress.

As a result of the action we have taken, the legislative branch is now 12 percent in budget authority and 11 percent in outlays below what it was 2 years ago. I think that is pretty good work. I think this is not the first step. The first step was taken many years ago when I had to deal with DON NICKLES as a ranking member of this committee. We worked very hard to cut franking and other things.

The result in personnel intensive agencies, like those of the legislative branch, is predictable. Staffing levels are falling and they are falling rapidly. The Library of Congress, for example, now has 568 fewer full-time equivalent positions than it had in 1990. Let me repeat that. Almost 600 people are working someplace else or unemployed who were working at the Library of Congress.

The General Accounting Office, which this amendment would cut 10 percent below the current level, has almost 600 fewer full-time equivalent positions than it had in 1990. In both cases, this amounts to about a 10-percent reduction to the on-board staff. That seems like we have done something.

I, frankly, Mr. President, resent people coming on this floor and saying we have not cut the legislative branch. I repeat, they either do not understand the facts or have chosen to ignore them. Talk to the people at the Library of Congress if you think they have not been cut. There has been a little gesture made in this, title 180 or 18, whatever it is, will not apply, which is an effort to say these cuts will not apply to the Library of Congress.

Let everyone understand that this amendment will cut the heart out of the Library of Congress because what choice would we in the Appropriations Committee have? It is one of the largest budgets. We would have to do something with the Library of Congress which already—already—let everyone understand this, we are already, if we do not cut another penny from the Library of Congress, if we even-fund them this year, we are talking about closing the Library of Congress on weekends, closing them every evening. I resent it being said that this is the first step. Talk to Dr. Billington at the Library of Congress if you think this is the first step. He has had to lay off people, experienced people, at the Library of Congress.

The across-the-board legislative branch staffing is 1,400 people in full-time equivalent positions below the level of 1990, not counting the staff reductions in the House. It sounds pretty good to me, and for someone to say that there have been no steps taken? Those statements are made for the press releases. They are not made based upon facts, and everyone within the sound of my voice has to understand that.

These people I am talking about, these 1,400 people, are real human beings who no longer have a job in the legislative branch.

For the record, it should be noted that since fiscal year 1990, we have reduced and denied requests for staffing in continuing and new positions by a total of $1.1 billion and almost 2,000 positions. This does not include the House. Given the constraints in the budget resolution as it now stands, we fully expect that it will be necessary to continue this level of fiscal constraint.

There will not be enough funding in the fiscal 1995 legislative branch appropriations bill to cover uncontrollable costs and increases, let alone any growing workload or new program requirements. The result will inevitably further reductions in resources and the elimination of additional staff.

Mr. President, the State of Colorado is still a rapidly growing State. It is a bigger State than the State of Nevada. I do not know how many people live in Colorado, but there are a lot more people who live in Colorado than Nevada.

I, from the small State of Nevada, get as many as 4,000 pieces of mail a week—a week, not a month. Do those people who write me those letters want answers to the letters, or do they want me to just put them in the trash can? I think they want me to answer those letters, and I do answer those letters the best I can with my hardworking staff.

We also have developed the people's branch of Government. That is what we are. We are the people's branch of Government, as indicated by Thomas Jefferson and many others. My office, and I think most of the offices here, work to get through the bureaucracy. We are the bulwark against the bureaucrats that sometimes have no heart.

My Nevada staff works on casework. They do not do much on legislation, just like the President presiding over this body, just like the other Members of this legislative body. We work to help our constituents through the red tape.

In coming over here today, I asked my staff to pick up a couple letters because my staff in Las Vegas, Carson City, and Reno are very proud of the work they do, and rightfully so, to help us get through the bureaucratic morass to help people.

Here is a letter that just came in. I am familiar with it because I just read it yesterday:

> DEAR SENATOR REID: Sometime ago, I wrote your office in regards to my husband, Earl Gladstrap, who was in the Navy for 10 years serving in World War II. He has dementia and I'm his sole caretaker. This has been happening over a period of 5 years, and I was in desperate need of some help. I am most happy to report to you that thanks to your personal efforts and the efforts of your staff—

More my staff than my personal efforts—

> the VA has approved adult day care for him 3 days a week for an initial period of 6 months. This has been a tremendous help to me. I believe it is also beneficial to my husband. Thanks for showing your concern for older and now often powerless veterans who once gave their skills and risked their very lives to help preserve our freedom. Thank you also for the gift of hope, rare, indeed, in these circumstances.

This is a person who would not have had help but for my congressional staff. And we can multiply that thousands and thousands of times in the State of Nevada, the State of Colorado, the State of West Virginia. I do not know about everyplace, but I think so. That is what the staff is all about. That is why we need staff, diminished as it is: to respond to our constituents. We do not have these staffs for our personal aggrandizement. They are staff

to help my constituents, your constituents.

Another letter: "Just today"—and this letter is written to one of my staff, one of my loyal staff who works on Social Security cases mostly, Janice Miller. She has been with me a number of years; a very, very loyal employee, and the Federal Government gets their money's worth from Janice.

DEAR MS. MILLER: JUST TODAY WE RECEIVED FINAL ACTION FROM MEDICARE PHOENIX ON CLAIMS THAT HAVE BEEN PENDING SINCE LAST JULY.

This letter was written in December.

There is absolutely no doubt in our mind that had it not been for the effort expended on our behalf by Senator REID's office—

By Janice

these claims would still be in the bureaucratic mill. For your help, we're grateful and forward our heartfelt thanks.

It is not a letter written to me. This is a letter written to one of my staff. This letter could be used as representative of every Senator in here, I hope, because that is why we have staff.

Mr. President, that is a situation under the resolution as reported. The legislative branch is going to continue to shrink, and we are putting at risk some of our essential functions as a coequal branch of government. We have three separate branches of government, but that does not say it all. We have three separate but equal branches of government according to the Founding Fathers, and they set this up so there would be a constant battle between the three branches to maintain the equal power.

We fight with the executive branch every day. We fight with the judiciary every day, as does the executive. We do that because we know we are a separate branch of government, but we want to be an equal branch of government. We cannot do that if we cannot answer our constituents' mail, if we cannot respond to casework within our State.

If you add this amendment to what the resolution already provides, the impact will be disastrous on the institutional capacity of the Congress and its supporting agencies.

I want to say again, remember the figure thrown out by the Senator from Georgia, 38,000 people in the legislative branch. They are not our employees, Mr. President. They work, 5,000, for the General Accounting Office, the watchdog of Congress; the Library of Congress, 5,000 people there approximately, the finest library in the history of the world—not of this country, not of Europe and the United States, the finest library in the history of the entire world ever—not today but ever. We maintain that library. That is one of our responsibilities. The idea came from Thomas Jefferson. The first books in the Library were his books. We still have some of his books in the Library.

Over the last several years, we have instituted a number of money saving reforms in regard to franking.

We replaced former joint appropriations for both Houses, both the House and the Senate, so we would have a separate account for each.

There were some who told Senator NICKLES and this Senator that, well, if you join them together, we do not know what the House is doing or what the Senate is doing. It was, I think, a good criticism. So we were able, after some consternation, to work this out with the House so we have separate accounts now. We know how much each body spends.

We persuaded the House to adopt explicit mail allowances to individual Members comparable to the Senate allocation system. The House adopted our system. It was hard but they did it. We have worked well with the House. This limits amounts Members can mail. Formerly, Mr. President, there were no limits.

This amendment is not the first step. We require public disclosure of mail costs of individual Members of the House and the Senate. In prior years, you could not determine how much anybody had spent. You can now. As to individual Members, you can determine—it is published every 6 months—how much they spent on mail. That is a reform that we came by.

In the Senate, the allocation is tied to the amount appropriated, which has been coming down. In fiscal year 1992, the Senate appropriation for official mail was $32 million. For the current year, it is $20 million. That is a significant drop. On a percentage basis, Mr. President, that is about a third—a 33-percent drop.

Overall, the total cost of the frank for both Houses declined from a high of $114 million to now $35 million. Everyone, listen to that, from a high of $114 million to $35 million, a difference of 70 percent.

Now, does anyone question why I am resentful of someone coming on this floor and saying we have done nothing, that this is the first step? We have cut mail costs 70 percent.

This amendment would reduce the funding for the elements of the legislative branch within Function 800 by 7.5 percent or about $200 million below the 1995 baseline and freeze it at that level through 1999. This would include both Houses of Congress and most of the related agencies funded in the legislative branch appropriations bill.

Mr. President, I had hoped the Senate might be spared the spectacle—and I call it that—of yet another assault on the first branch of government by one of its own Members. But I was wrong. I want everyone within the sound of my voice to hear, I repeat, that this amendment that is offered is not a first step, and it is not a small step. The person offering the amendment either is unaware of the facts or chooses to ignore them. I have gone over some of the things that we have cut. I am going to continue.

The demagogic value of bashing the people's body, the Congress, I know is very—it is a lot of fun. I know Congress is not well thought of out there, Mr. President. You know that. So it is easy to get up and posture at the expense of the institutions of representative democracy. It does not, however, include the Library of Congress, they say. Wrong again. Members should not allow themselves to be deceived into believing that the Library will not be affected. I can assure you that if the amendment is incorporated in the final budget resolution, the Library will not be spared the pain when it comes time to mark up and pass the legislative branch appropriations bill for 1995. We would have no choice. A reduction in the allocation of the legislative branch subcommittee will inevitably take its toll on all the agencies and institutions in this bill.

Let us take a look at the fine print of this amendment, the assumptions—and they are exactly that—on which this proposal is apparently based.

First, we are told to assume that the recommendations of the Joint Committee on the Organization of Congress will be adopted and will result in a 25-percent cut in committee staff. Well, this is an interesting assumption, but that is all it is, an assumption.

The joint committee's recommendations are pending, as I already indicated, before the Rules Committee. It is a little premature to decide what the outcome of those recommendations might be and base our budget on crystal-ball gazing, guesswork.

Just one example of the contingencies involved. This amendment involves the elimination of subcommittees, but the joint committee recommendations did not kill a single subcommittee. I was on the joint committee. There was a decision made by Senators BOREN, DOMENICI, and the other members of that committee not to directly affect subcommittees. Instead, the hoped-for reduction in subcommittees will be achieved by limiting the number of subcommittees each full committee could have—for example, three for A's, two for B's. Will these limitations be adopted and enforced? If they are, would they eliminate subcommittees with large staffs, subcommittees with small staffs, average staffs? Would they eliminate any of the subcommittees? If subcommittees are abolished, their functions and workload would have to be reassigned, either to other subcommittees or to the full committee. Is it not likely the staff might follow the function and continue doing some of that work?

The honest answer to all these questions is, who knows?

Mr. President, one of the recommendations—and it may come to

be—is that we would eliminate the Small Business Committee. Senator BUMPERS is the chair of that. Does that mean we do not have problems in this country with small business and some other committee would not have to take a look at some of the problems that Senator BUMPERS has been working on in that subcommittee? Of course, we would have to look at small business. Small business is affected by everything we do. It is affected by crime. It is affected by welfare reform, health care reform. There is not a thing we do that does not directly impact on small business. But one of the things we are talking about doing is eliminating the Small Business Committee. Sure there still would be work that would have to be done.

We stand on the floor of this Senate and are being asked to give serious consideration to a proposal that is based on analysis that is at the very best conjectural.

Another point about the Joint Committee on the Organization of Congress recommendations, which this amendment assumes will be adopted. The joint committee also recommends that we carry out a study of the legislative branch structure and staffing modeled on the National Performance Review to guide our efforts to achieve staffing reductions.

This is not something that was pushed by the legislative branch. This is something that was adopted by Senator BOREN, Senator DOMENICI, and the rest of committee. There were as many Democrats as Republicans. No one would assume we should take a meat ax to what is going to go on. We need, as indicated by the joint committee, to staff on the model that we will get from the National Performance Review. That seems reasonable.

Even more to the point, and I want everyone also to make sure they understand this: the Office of Technology Assessment—I have conducted those hearings for the last many years. Every year we have Senator KENNEDY, Senator STEVENS and, most of the time, Senator HATCH. This was their baby. The Office of Technology Assessment was their model to allow America, to allow the United States, to compete scientifically with Japan and other countries.

Do you know what this amendment does to the Office of Technology Assessment? It wipes it out. It eliminates it. The President's chief scientific adviser, where did he get his background? He led the Office of Technology Assessment.

I will let others also speak to this. I hope my friend, Senator KENNEDY, will come to the floor, and maybe Senator STEVENS, to talk about the Office of Technology Assessment. I do not know if he will be able to be here.

I find it puzzling that the Republican Party, not our party, would want to cripple the Congress' watchdog on Government waste, fraud, and mismanagement. That does not make sense. That is the effort here, to go to the General Accounting Office, the watchdog of Congress. What they are recommending, what this amendment would do is slash the General Accounting Office by 25 percent.

Congress gets some bad marks. We acknowledge that. But I do not know of any bad marks of the General Accounting Office. They are the watchdog of the Congress of the United States. They are able, without demanding appointment, to serve for terms of 16 years or 12 years. The Comptroller General of this country is not a political job. He does outstanding work through the employees that he has. If we cut them 25 percent—remember, we have already cut them about 600. So we would cut them another 25 percent. As I indicated, the funding would be cut by 10 percent, which would mean a staff cut at 25 percent.

The GAO is operating now with about 11 percent fewer full-time public staff than in 1992. Why were they cut? Because we did it. The legislative branch did it: Senators REID, NICKLES, GORTON. And this year I am sure Senator MACK will join us in some of the things that we have done.

This amendment assumes we can eliminate 25 percent of the remaining GAO personnel. If we did that, we would precipitate a wholesale reduction in force with all the disruption it would entail. Try to imagine that. It is one of the few entities within the legislative branch that is accepted almost universally as being a unique, powerful, equitable entity that does tremendous good for this country—overcharging for military parts in the military, toilets seats, hammers, too many spare parts, all from the General Accounting Office.

We, in effect, I think, Mr. President, would be closing the GAO. We are going to close OTA. Let us close the GAO. It would be so disruptive. I do not know what kind of work they would do with this meat-ax approach.

Mr. President, I ask if the Chair would advise the Senator from Nevada how much time he has remaining?

The PRESIDING OFFICER. The Senator from Nevada has 25 minutes.

Mr. REID. Thank you, Mr. President.

Every Senator has a stake in the outcome of this amendment; not a stake to have plush carpeting, not a stake to have people drive you around, not for limousines, not for food. No. Legislative branch costs do not cover that. But, Mr. President, what it would do is dramatically affect how we can do business, how we can respond to the people in the States that we represent.

The cuts, we assume, would not just apply to the support agency or to the legislative branch in general. They also are aimed directly at the Senate offices, including the personal offices of each Senator. This amendment would cut the appropriations for the Senator's Official Personnel and Office Expense Account, as well as other Senate offices by more than 5 percent. This reduction would be on top of the 2.5-percent reduction that we took last year.

My mail has gone up dramatically since I became a Member of the Senate 8 years ago. There has been a tremendous increase in the amount of mail from the State of Nevada. I have trouble keeping up with my mail. We work hard, but it is really difficult to do.

This amendment would mean a reduction in allowances for people to do that kind of work, or to help work through the bureaucracy, as I have given illustrations earlier in my remarks. Our allowances are exceeded by a substantial amount in the appropriations. We simply, Mr. President, have to realize that this amendment would do Senate offices irreparable harm in our ability to respond to our constituents. And that is what our job is.

Senators are authorized to incur obligations against their allowances notwithstanding the amount actually appropriated. We have frozen the appropriation for the past 3 years. As a result, we are encountering growing shortfalls which we have been able to cover with savings in other Senate accounts. In effect, some Senators have not adjusted their money, as the Senator from Utah said. He did not lose 10 percent of his. That has been used by us to cover the shortfalls in the appropriated amounts. But that will be no longer possible in 1995, separate and apart from this amendment. It has nothing to do with this amendment. The funding constraints of the last few years have removed that option. So from now on we will have to be sure that the cost of the Senate allowances are fully funded. They have not been in the past.

The current appropriations for Senators' offices is $185 million. A 5-percent cut would leave $176,479,000. Projected obligations under existing allowances total almost $200 million.

So if this amendment is adopted, the difference between the amount appropriated and the obligations would be a shortfall of over $21 million. To eliminate that shortfall and avoid exposing Senate officers to the violation of the Anti-Deficiency Act, allowances would have to be cut by this amount. Thus, a 5-percent cut in the appropriation that funds the cost of Senators' office allowances would result in an almost 11-percent cut in the actual budget of these offices.

So, Mr. President, before the Senators cast their votes on this amendment, they should confer with their office staffs on the impact of the 11 percent reduction in their budget.

In this regard, I want to commend the sponsor of this amendment for her

honesty. I think, Mr. President, it is time that we recognize that we cannot continue voting for cuts in the legislative branch and in the process exempt our own offices from the consequences. My colleagues will recall last year we reduced the total allowances for Senators' offices by 2.5 percent. Even that modest reduction has caused significant problems for some offices which is not surprising given the growing workload we all face. The State of Texas has a lot more staff than the State of Colorado and the State of Nevada. Some offices have had significant problems with the cuts that we have made.

Let me give you one fact that is indicative of the larger reality. In 1990, Senate offices received a total of about 28 million pieces of mail. In 1993, the total was about 43 million. Much of that mail requires more than just a letter of response. Some people write to us that have significant legislative questions that we have to respond to. They are difficult to respond to.

So the increase of 15 million pieces of mail says a lot.

Much of that mail, as I indicated, needs more than a letter in response. Often our constituents write and ask for help with a problem they may be having with a Government agency. Other times, they may want information on any number of topics, all of which require research and capable staff work. So letters offer much more than so much correspondence.

So it is up to the Senate to decide whether we are prepared to defend the institution, Mr. President. I am willing to do my share of cost cutting. I think I have done it. We have done it in this committee. We have had votes in the last few days that call for cutting. But let us not do something that will hurt our ability to do our work. Is there anybody here who wants to close the Library of Congress on weekends or at night? Do we want to cut another thousand people out of the Library?

As we speak, we have in the Library not thousands or tens of thousands, but millions of items that are backlogged, that we need to catalog and get out of mildewed rooms so they are not destroyed forever. We need to be able, somehow, to save those pieces that are in the Library of Congress. We are having trouble keeping up.

Senator HATFIELD and I have worked extremely hard to have certain people—in fact, this is all their job is—try to do away with the backlog at the Library of Congress. We are damaging items in the Library of Congress because we do not have money to repair the roof. We had to close part of the Botanical Gardens because we did not have money to repair the roof. These are not repairs that take $1,000. To repair the Library of Congress' roof, which was completed in the 1880's, is going to cost about $12 million. The Botanical Gardens will cost $28 million. We have closed part of the Botanical Gardens, one of the treasures of this country, because we do not have the money to do it. We are being asked by this reasonable first step to close other parts of the Library and, I assume, other parts of the Botanical Gardens.

I have worked very hard with Senator MACK, and I think we have a way that we can do some of the things that need to be done. But give us the chance to do it. Senator MACK and I, I think, will have a bill we will be proud of. Do not do this to me; this is not fair.

So it is really, Mr. President, up to the Senate to decide whether we are prepared to defend our institution and maintain the resources necessary to support the proper discharge of our constitutional responsibilities.

I, Mr. President, know it is easy to beat up on Congress, to talk about pay raises, to talk about limousines, to talk about health care we do not have, and free haircuts which we do not have. It is easy to talk about all these things. But let us talk facts—real, honest-to-goodness facts. If you do that, we cannot do these things that would be caused by this amendment—the General Accounting Office, Office of Technology Assessment, or our personal staffs.

So it is really up to the Senate to decide whether we are prepared to defend our institution and maintain the resources necessary to support the proper discharge of our constitutional responsibilities.

I certainly hope, Mr. President, that we will be able to do the right thing on this amendment. If the budget resolution is amended in this regard, it is going to be real, real difficult. The way that Washington conducts business will be changed to the detriment of the people of this country.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If no one yields time, it will be deducted equally from both sides.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON] is recognized.

Mrs. HUTCHISON. Mr. President, if the Senator from Nevada is willing to yield the remainder of his time, I would like to do the same and reserve 10 minutes to close on my amendment. I think we can finish this amendment quickly.

Mr. REID. I appreciate the willingness of the Senator to yield her time. I am unable to do that because people have indicated they want to speak on this amendment, and I have to protect them.

I do not know for sure if they will be here.

Mrs. HUTCHISON. Mr. President, I ask that the Chair notify me when I have 10 minutes left to close on my amendment. I will be happy to wait for people who might be speaking in opposition.

The PRESIDING OFFICER. The Senator currently has 41 minutes remaining.

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

The PRESIDING OFFICER. There are 41 minutes 4 seconds remaining.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah needs to have time yielded from the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield 5 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I proceed for these 5 minutes on an unrelated matter.

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

PROPOSED CHANGE IN SENATE RULES

Mr. BENNETT. Last night—or more accurately, earlier this morning—we had an interesting time in the Senate, staying until 3 o'clock. When I went home and my wife asked me what we were doing, I had a hard time explaining it to her. We were not declaring war. We were not dealing with major national emergencies.

We were dealing with a circumstance that was inside baseball, if I might use that term, which I had a hard time explaining to her.

If I have a hard time explaining it to the wife of a Senator and the daughter-in-law of another Senator, I would have an even harder time explaining it to my constituents.

Therefore, I have today asked my staff to start drawing legislative language, which I will introduce after the recess is over, which will make this change in the Senate rules.

Whenever a conference report contains language that does not arise from the language passed in either House or deletes language that was passed by both Houses, that report will be subject to a point of order and require 60 votes to pass.

We are seeing, Mr. President, a circumstance where legislation by conferees is replacing legislation by the two elected bodies.

As a freshman, I do not have enough seniority to get appointed to a conference committee, and that means that I am disfranchised from voting on the actual language if the votes that are taken in this Chamber are disregarded by the conferees.

I think if we had had such a rule in the Senate prior to last night, we would not have had the circumstance that we had last night where one Senator was sufficiently offended by the fact that his amendment which had passed both Houses was removed by the

conferees, that he exercised the rights that he exercised last night and caused us the circumstance that we went through.

The language, as I say, is being drafted now. I intend to speak more at length about it. But I wanted to make this statement on the floor at this time while the memory of last night's experience was still fresh in our minds.

I thank the Chair.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, I would like to just close by discussing a few of the items that the distinguished Senator from Nevada brought up.

First of all, when a mayor is facing a cut in a city budget, the mayor does not come in and cut the police department. The mayor looks for the nonessential spending items. In fact, many mayors in this country would be happy to have only a 7.5-percent cut in their budgets.

So the answer is not to talk about shutting down the Library of Congress or the Capitol Police or casework.

I have cut 20 percent from my own office budget voluntarily because I thought that was the right thing to do. We answer the mail. We do casework. We are very attentive to our State.

I think the people of Texas are well served because they know that I am doing what every one of them has had to do at some point in their business or in their households, and that is cut their budget 5, 10, 15, or 20 percent. But we are only asking today for a 7.5-percent cut in the offices of Congressmen and Senators, and the money it takes to run the Capitol and pass the laws for our land.

A number of businesses are living with a lot of the mandates and laws that Congress has passed. So, when the Senator from Nevada talks about Congress having more expenses because we have to live within our legislative mandates, the businesses of this country know what he is talking about. But they do not have the ability to just increase their budgets, they have to pay for those mandates by cutting in other areas. And that is what we in Congress must do. We must prioritize our spending.

Our amendment does not eliminate anything. It does not eliminate the General Accounting Office or the Office of Technology Assessment. It is an overall cap on spending. It cuts $200 million for fiscal year 1995, and more thereafter. The total cut from the baseline is $2.4 billion over 5 years.

I think if the American people have a choice of whether to keep their tax dollars or whether we mortgage the future of our children and grandchildren—we have some of these committees that we could cut back or franked newsletters that maybe they do not need—they are going to choose to keep the money that they work so hard to earn. They may want to take the kids on a vacation or buy them shoes, or whatever the family decides to do with their money.

Last night I was very impressed with Senator FORD. Senator FORD is the head of the Administration Committee, and he was looking at the costs that our being in session at 3:30 this morning was costing the taxpayers of America. He was trying to cut the printing costs from our CONGRESSIONAL RECORD, and he was looking at the light costs and the staff costs. I admire him, and I think he is right to do that, and I am glad that the people of America know that Senator FORD is looking out for their taxpayer dollars.

Most businesses in America have had to cut 7.5 percent from their budgets at some point. Most homes in America have had to do the same thing. I think it is time for Congress to show leadership, to show we are serious about budget cuts and say that we can do the same.

Thank you, Mr. President.

I ask for the yeas and nays, and I yield the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. REID. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. What is the matter before the body?

The PRESIDING OFFICER. The matter is the Hutchison amendment No. 1532, and the Senator has asked for the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I would just briefly respond.

The assumptions that we received from the Senator's office that was passed out with this amendment on March 22, 1994, at 11:35 a.m. indicate that there would be these significant cuts. I did not make these up. This is information we got from her office. These are assumptions she made.

Mrs. HUTCHISON. Mr. President, will the Senator yield?

Mr. REID. Mr. President, let us take the General Accounting Office. If we do follow the assumptions of the Senator from Texas that we do a 25-percent cut in addition to the 600 people we already cut from GAO, how much Government waste, fraud, and abuse will occur as a result of the General Accounting Office, our watchdog being unable to discover fraud, waste, and abuse within the Federal Government on all levels of Government?

I am working with one of my colleagues to take a look at the Federal Reserve Board. The General Accounting Office is the only body equipped to do that. It is very difficult, very time consuming, and my colleague and I have a tremendous interest in this.

If there is a 25-percent cut of the staff of GAO, that will never happen.

What about the problems we have in the military of excessive contracting? We know the money that has been saved and people have gone to jail as a result of the work of the General Accounting Office.

Mr. President, I would also talk about franked newsletters. In the U.S. Senate there are no franked newsletters. We do not have the money. In the U.S. Senate each Senator does not have enough money to mail one letter to each of his or her constituents.

So I say how in the world could we send newsletters? We cannot. There is not enough money.

Mrs. HUTCHISON. Mr. President, will the Senator yield?

Mr. REID. I am happy to yield on the time of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I just want the Senator from Nevada to understand that the Senate minority Budget Committee prepared a draft of possible ways that the cuts could be made. These are not my priorities, and I did not distribute this. I would not make some of these cuts. I would have a different list of priorities. This amendment is an overall budget cut of the general Government function, and that is all.

So it is a mistake, and I am sure it is just a misunderstanding to say that it is part of this amendment to make the cuts that the Senator is suggesting.

Mr. REID. Mr. President, I would respond to my friend from Texas that all I am doing is reading a document that says Senator HUTCHISON is reducing funding from the legislative branch that was passed out Tuesday. That is where the document was obtained.

It is easy to say, "I make other cuts." The fact of the matter is this is the guide.

I yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate the Senator yielding to me.

I was not here for all of the presentation by the Senator from Texas [Mrs. HUTCHISON]. However, I heard enough to know that she just showed up in Congress a little late with respect to cutting franking. The Senator from Nevada [Mr. REID], has been cutting and cutting and cutting our franking, or mailing, budgets in recent years.

The franking budgets in both the House and the Senate used to be far more substantial than they are now. We have cut our franking spending radically.

Second, let me respond to the possibility of cuts to the General Accounting Office. I think it would not be a thoughtful exercise to suggest that we cut 25 percent more from the General Accounting Office, in addition to what we have already cut. The GAO is crucial to the ability of Congress to ferret out Government waste.

Let me give you one example. Do you know that the Defense Department decided to buy some ant bait? That is right, ant bait to kill ants—they wanted to buy 27,000 dollars' worth of ant bait. Do you know how long it took them to buy ant bait? It took 29 pages of procurement regulations and 270 days to buy 27,000 dollars' worth of ant bait.

Who helps us discover that sort of absurdity, that kind of grotesque waste, that bizarre purchasing behavior? The GAO. The General Accounting Office is worth billions and billions of dollars in savings to American taxpayers.

So I would only say that if we believe that we are serving the taxpayers' interest by cutting 25 percent from the General Accounting Office, in addition to the personnel cuts the GAO has already suffered, we are not saving anybody anything. We are costing the American taxpayers billions and billions of dollars more by not being able to discover that trying to buy ant bait ties us up in knots. We are buying cream-filled cookies with 16 pages of regulations. We need the General Accounting Office to help us discover what is going on in the executive branch when it spends $1.5 trillion.

I want to emphasize this point. There have been sustained budget cuts in congressional spending under the leadership of the Senator from Nevada.

With respect to franking, Senator REID has successfully led the fight to substantially reduce the franking budget.

It is easy to talk about cutting these things, but the proof is what has been done here in the Senate. And I just rise to compliment the Senator from Nevada on his real budget cuts, which have made a difference in the legislative branch appropriations.

Mr. REID. Mr. President, I appreciate very much the Senator from North Dakota, who is also one of the leaders in the Congress for fiscal constraint and saving money. No one that I know of has done a better job of articulating the need for this country to cut its spending than the Senator from North Dakota.

Mrs. HUTCHISON. If the Senator will yield, I would just like to set the record straight, Mr. President.

My office did not distribute the allocations that both Senators have mentioned. There are suggestions that were made by the Senate Minority Budget Committee as to some of the ways that the cuts could be made. I do not know if these are the committee's priorities. And I am sure that the Senator from Nevada, who has a record, I am told, of fiscal responsibility, would set the priorities and that the priorities would be correct. But again, these are not my priorities at all. This is a cut in the General Government function.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. REID. The Senator and I would yield back our time; is that right?

Mrs. HUTCHISON. I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I would like a few minutes before the time is yielded back, if I could.

Mrs. HUTCHISON. I am happy to yield from our side to the Senator from Oregon.

The PRESIDING OFFICER. Does the Senator from Texas yield time to the Senator from Oregon [Mr. HATFIELD]?

Mr. REID. Mr. President, I apologize. I did not see the senior member of the minority of the Appropriations Committee here or I certainly would not have called for yielding back the time.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized, Mr. HATFIELD.

Mr. HATFIELD. Could I have about 6 or 7 minutes?

Mr. REID. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Nevada has 13 minutes.

Mr. REID. The Senator from Oregon can consume whatever time up to 13 minutes that he desires.

Mrs. HUTCHISON. I would like to reserve the right to close after the Senator from Oregon [Mr. HATFIELD] has finished his remarks.

The PRESIDING OFFICER. At this time, the Senator from Texas has 30 minutes under her control and the Senator from Oregon is yielded the remainder of the time under the control of Senator REID.

Mr. DORGAN. I ask unanimous consent, if the Senator from Oregon does not consume the entire amount, that I might be allowed to use part of the remaining time of the Senator from Nevada.

Mr. REID. I have no objection.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, we get into these exercises of contesting who can cut most—who can cut here, who can cut there—and we think we are going to get a lot of political brownie points from the public or the constituents out of this great budget-slashing activity.

Well, I think there is always a threshold between responsible budgeting and irresponsible budgeting. I think this amendment is irresponsible. And I say that because the chairman of our subcommittee, the Senator from Nevada, has already demonstrated the overall picture of what has been happening in the past 3 or 4 years of reducing the legislative branch expenditures. Let me say, Mr. President, there is no other subcommittee that can take the kind of pride in true responsible budget cutting than the legislative subcommittee.

Now we reach a threshold of whether we are responsible or irresponsible. I want to say that there is not a Senator here on this floor that cannot move ahead unilaterally and do all the budget cutting they want in this legislative branch by cutting their own offices. No one is precluded from cutting their office. If they think they can operate on this kind of reduction at their offices, go ahead and cut it.

There are a number of Senators who have turned back unexpended, unobligated funds from their personal office budget. Nobody is being forced to spend this money under this legislative branch appropriation bill that relates to their own office.

If one is on a committee and they can move and get the support of the committee to cut the budget, cut the committee budget. There is no one preventing them from doing that.

This big display about a big amendment on the floor that is going to balance the budget or lead us to that wonderful rosy tomorrow when the budget is balanced by taking these unnecessary, irresponsible slashes at the legislative branch is not really, in my view, seeking to do the best for the Congress or for the budget process.

Let me take one example: The Library of Congress.

Mr. President, in the old days, when invading armies hit a city or a country, instead of going to the television stations to capture the television stations, which they did not have in those ancient days, they went to the library. That is where they went. The invading armies went to the libraries, the source of information and knowledge, and they took control of the libraries.

Well, those libraries are as vital and important to civilization today as they were in those ancient times.

Let me just read from the record. We have already reduced the Library of Congress by $142.537 million and 854 personnel.

I would like to know how much advantage the Members of this Senate that are promoting this particular budget cut, how much advantage they have taken of the CRS, the Congressional Research Service of the Library of Congress? If they are really sincere about wanting to move this budget down on the Library of Congress, let us see us take the initiative by reducing our demands on the Library of Congress.

Now, we might say, well, that may not be a category included in the

amendment. But, Mr. President, let us be honest about this. If you have this kind of reduction from the legislative branch, the Library of Congress is going to have to take a further reduction.

You can tell the public's reaction when we had to restrict the hours of the Library of Congress. It is the old story: "Don't cut the things that I am interested in." Cutting the hours of the Library was very highly resented, but they had to be cut because of the budgetary reductions our committee has imposed upon the Library.

Mr. President, we are in arrearages of that Library of catching up the titles, the thousands of titles that are put into that Library every year. We have been moving very carefully on bringing up that backlog over a period of time. This will further, then, push us back in time of those arrearages.

Now those arrearages are not just a matter of making it more convenient to have access to the Library for people here in Washington. Every library in the country depends on the currency and access to the information of the Library of Congress. Starting with Dan Boorstin and others following him, they have moved this Library of Congress out of Washington, DC, in terms of the access of local communities and States across this country, accessing that great treasure of information and knowledge, the greatest in the world.

If you look at the program we have had on preservation, we are losing books year after year all across this country because of the acid ink used on the paper. They have been disintegrating at an ever-increasing rate. We have been trying a very carefully designed program of preservation. It is not just in the books; it is in the film, it is in the photographs, it is in the records. It is in all the multiple means of preserving history we have in our Library. We cannot afford to let that get ahead of us as we have in the past. We are trying to catch up as it is.

Mr. President, I hope this amendment is rejected at this time, knowing the committee has done its work and is continuing to do its work in reducing the legislative branch expenditures. They are doing it on a careful basis, not on some amendment that has been put together by a couple of staff people maybe within the last half-hour or day or two, and thrown up here on the floor where there has been no analysis.

I would like to take the Senator into a colloquy, to go into the dollar-by-dollar analysis of this proposed cut—I will restrain my desire to do so—because I have the records here, where we have moved on those cuts. I know of their careful consideration, through hearings and testimony, that has not been accessed here on the floor—at least not to my knowledge. I have not seen any such Senators around our committee process. Yet all of a sudden we come up here with a great amendment that is going to save money for the legislative branch.

My simple description of this amendment comes back to the word "irresponsible."

The PRESIDING OFFICER (Mrs. BOXER). The Senator from North Dakota has 4 minutes 56 seconds remaining. The Senator from Texas has 30 minutes remaining.

Mr. REID. I yield 4 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me follow the remarks of the Senator from Oregon by saying that I have spent a lot of time on the issue of Government waste. In this body and also over in the House of Representatives I have voted continually to cut and cut and cut. I will continue to do that. The recent rating that came out rating Members' proclivity to favor cuts shows I rank number five on this side of the aisle in the U.S. Senate, in voting to cut spending.

I have spent about 2 years working on a waste project, identifying $83 billion in waste that we can target to reduce Federal spending. So I do not take a back seat to anybody on the question of whether we should cut spending. Of course we should. We ought to continue spending on things that work and cut spending on things that waste.

My concern is, it is all too easy not only to join but also in some cases lead, those who want to create an impression that the Congress is a real cesspool of excess.

There are plenty of blemishes, plenty of problems, plenty of things wrong with Congress. But we actually have fewer people working in the legislative branch today than we did in 1980. That is just a fact—fewer people working in the legislative branch of Government today than we did in 1980. We have cut.

I mentioned the franking. The Senator from Nevada has led the effort on franking. I was surprised when I came to the Senate to see what had happened to the franking budget. It is substantially below what it was. It was cut substantially time after time.

I mentioned previously, when I spoke about the value of the General Accounting Office, that we spend $1.5 trillion in the Federal Government. The GAO is our watchdog. How many in this room know that in the inventory down in the Department of Defense are 1.2 million bottles of nasal spray? There are 1.2 million bottles of nasal spray in inventory at DOD. Do you know how many years of runny noses it would take to consume 1.2 million bottles of nasal spray?

How do we know they wasted money in inventory mismanagement that way? The GAO. The GAO helps us find out how do you spend the taxpayers' money. We appropriate the $1.5 trillion money and then someone else spends it. I do not disrespect anybody's motives. I think everybody has a right to offer amendments on anything. But I urge that we not try to beat up on the institution of the Congress. We need the resources necessary to do our job. We have brought to this floor, from a subcommittee under the leadership of the Senator from Nevada, proposals that cut spending in real terms. These are proposals that are thoughtful, that move in the right direction, and cause us to tighten our belts when we ask others to tighten their belts. That is a fact.

But what we ought to do is make sure we also fund our obligations, make sure the $1.5 trillion we spend of the taxpayers' money is spent wisely. That is embodied also in a significant part of the legislative branch funding.

I am going to vote against this amendment. This amendment has nothing to do with Government waste. I vote against Government waste and will vote to cut the legislative branch. But I will not vote for an amendment that seems to imply the major problem in Federal spending is in the legislative branch. The fact is—let me repeat it—there are fewer people working for the legislative branch today than there were 14 years ago. Why? Because we have had substantial cuts in the legislative branch. The Senator from Nevada has led us in this effort. And I am proud of that. I will continue to participate in that. But this is an amendment that, in my judgment, is not worthy of our support.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Texas.

Mrs. HUTCHISON. Madam President, I would like to close on this amendment. All of the problems of the Federal Government are not embodied right here in the legislative branch, but if we are going to ask the people of America to accept higher taxes or fewer services, and if we are going to ask the people who work in our Federal agencies and Departments to cut back and to watch expenditures, I think Congress should lead the way. We are talking about a $200 million cut from a $2.3 billion budget. We have not cut the budget of the legislative branch from the $2.3 billion level for the last 3 years. It has been relatively the same. In fact, I do not know how many people were working here in 1980, but in 1983 the budget was $1.3 billion. In 1993, it was $2.3 billion. That is not a decrease; it is a 95 percent increase in the budget.

The arguments we hear are like the Washington Monument syndrome. It goes like this: "If you cut the Federal budget, we are going to have to shut down the Washington Monument." Opponents always pick the most visible expenditure to fight losing their debate.

I think maybe we should cut nasal spray from the Department of Defense,

Senator DORGAN. It looks like maybe we found a budget cut. I appreciate that being brought forward. We should make every cut in unnecessary spending we can to balance the budget.

It is very important that we take the lead and show that we can do what most businesses in this country and most households in this country have been able to do. That is, cut 7.5 percent of discretionary spending by prioritizing and making sure we fund what we need to fund, but returning to the taxpayers of America $2.4 billion over the next 5 years. I really think it is a small step for us, and a very important one, to show we are going to balance this budget and we are not going to give the bill to our children and our grandchildren.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator yields her time. The Senator from Nevada has 25 seconds left.

Mr. REID. Madam President, that is the whole point. The Senator from Texas has missed that. We have already done what we are asking the American public to do. That is the whole point. That is why we made all these cuts, and I have outlined those today, in franking and the general expenditures of this legislative body.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada has 6 seconds remaining.

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

The PRESIDING OFFICER. Who yields time?

UNANIMOUS-CONSENT AGREEMENT

Mr. DORGAN. Madam President, I ask unanimous consent that all time on the pending Hutchison amendment be yielded back; that the pending Hutchison amendment be temporarily laid aside to be disposed of following the Mack amendment, No. 1571; that no amendments be in order to the Hutchison amendment or to the language proposed to be stricken by the amendment.

The PRESIDING OFFICER. All time has already been yielded back. Is there objection to the remainder of the request? Without objection, it is so ordered.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I want to commend the Senator from Texas, who has been with us a rather short time in chronology but is a wonderfully active participating Member of the U.S. Senate. She feels strongly about this issue. Many of us may not concur, but it is certainly important that she has presented it and done it in a very commendable way.

And I thank the Senator from Nevada for his generosity and courtesy.

AMENDMENT NO. 1573

Mr. SIMPSON. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1573.

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

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

The amendment is as follows:

On page 5, line 22, decrease the amount by $2,000,000,000.

On page 5, line 23, decrease the amount by $13,200,000,000.

On page 5, line 24, decrease the amount by $22,400,000,000.

On page 5, line 25, decrease the amount by $33,600,000,000.

On page 6, line 1, decrease the amount by $46,200,000,000.

On page 6, line 17, decrease the amount by $2,000,000,000.

On page 6, line 18, decrease the amount by $13,200,000,000.

On page 6, line 19, decrease the amount by $22,400,000,000.

On page 6, line 20, decrease the amount by $33,600,000,000.

On page 6, line 21, decrease the amount by $46,200,000,000.

On page 7, line 8, decrease the amount by $2,000,000,000.

On page 7, line 9, decrease the amount by $15,200,000,000.

On page 7, line 10, decrease the amount by $37,600,000,000.

On page 7, line 11, decrease the amount by $71,200,000,000.

On page 7, line 12, decrease the amount by $117,400,000,000.

On page 8, line 7, decrease the amount by $2,000,000,000.

On page 8, line 8, decrease the amount by $13,200,000,000.

On page 8, line 9, decrease the amount by $22,400,000,000.

On page 8, line 10, decrease the amount by $33,600,000,000.

On page 8, line 11, decrease the amount by $46,200,000,000.

On page 9, line 14, decrease the amount by $1,300,000,000.

On page 9, line 15, decrease the amount by $8,100,000,000.

On page 9, line 16, decrease the amount by $13,200,000,000.

On page 9, line 17, decrease the amount by $19,500,000,000.

On page 9, line 18, decrease the amount by $26,500,000,000.

On page 26, line 16, decrease the amount by $200,000,000.

On page 26, line 23, decrease the amount by $600,000,000.

On page 27, line 6, decrease the amount by $1,000,000,000.

On page 27, line 13, decrease the amount by $1,300,000,000.

On page 27, line 21, decrease the amount by $600,000,000.

On page 28, line 3, decrease the amount by $3,700,000,000.

On page 28, line 10, decrease the amount by $6,200,000,000.

On page 28, line 17, decrease the amount by $9,700,000,000.

On page 28, line 24, decrease the amount by $13,900,000.

On page 30, line 21, decrease the amount by $100,000,000.

On page 31, line 3, decrease the amount by $800,000,000.

On page 31, line 10, decrease the amount by $1,500,000,000.

On page 31, line 17, decrease the amount by $2,200,000,000.

On page 31, line 24, decrease the amount by $3,000,000,000.

On page 33, line 18, decrease the amount by $100,000,000.

On page 34, line 1, decrease the amount by $500,000,000.

On page 34, line 9, decrease the amount by $800,000,000.

On page 34, line 17, decrease the amount by $1,100,000,000.

On page 34, line 25, decrease the amount by $1,500,000,000.

Mr. SIMPSON. Madam President, I have never really been much into charts, but the principal manager of the bill, the Senator from Tennessee, has presented me with a remarkable instrument which as you keep pulling on, suddenly you have this remarkable pointer. I appreciate Senator SASSER furnishing me this remarkable thing because I want to share with you some interesting charts.

The basis of these charts is a powerful literary work of my friend PETE PETERSON and the support of the Concord Coalition. Remember, the Concord Coalition was started by two people who have been deeply respected in this body. I served with both of them: Senator Paul Tsongas, of Massachusetts, a magnificent man. I enjoyed him so. Still do. Indeed he is very vital. And Senator Warren Rudman, just a dear, dear friend. They are doing things as united Republicans and Democrats because the rest of us do not do them, and I do not either. We all talk a great game. That is all we do—is talk a great game.

So let me just acquaint my colleagues with a few things on these charts. Most of this will not be news to anybody because people like Senator SASSER and Senator DOMENICI have in one way or another been alerting us to this for years.

So it will not be news. But at some level in the human psyche, in some dim, dark recess of our minds, we know all of the truths about Federal spending—where it has been, where it is going. But we do not like to talk about it. It is too, too painful. We do not like to confront it even though it is our responsibility to do so. Instead, we take refuge in old canards about, "Why do we not do something?" That is marvelous.

Or our constituents say, "Why don't you do what you get paid to do; you should vote the tough votes." You vote the tough votes and your constituents retire you.

That is an interesting conflict. There were several in this body who cast tough votes in 1985 when we froze the entire Federal budget, cut everything on Earth except Social Security but let it go up only 2 percent, and in the next election period, six of our Members dis-

appeared like squash vines in the wintertime. The ads in the paper were: "Here is the squirrel who took your Social Security. Here is the guy who cut your veterans benefit. Here is the guy who took your railroad retirement."

So who is to do the heavy lifting? It is a representative Government. People must like it that way. So we take refuge in those things.

Then they ask us about congressional perks and what we are making. And then we say, "Well, I pay my own Social Security, and I pay my own health insurance, and I pay 8 percent of my salary into a pension, instead of 7 like other Federal employees, so I do get more back. And I pay my mortgage, groceries, gas and oil. So what is it you think I get that you don't get?" They say, "I don't know, I just read it in the Reader's Digest, that's all I know," or "I heard it over one of those talk shows."

That is not good enough.

Then we have a field day talking about, "Well, if we would just get rid of foreign aid, or Lawrence Welk's house in North Dakota, or the study of tsetse flies, or why sheep do what sheep do on the range"—whatever it is. That is what you hear when you get home.

I then say, "Will somebody step up to the plate and tell me who will help me do 'means testing' or 'affluence testing' on—guess what—the Social Security cost-of-living allowance which was 7 billion bucks last year and goes out to people regardless of their net worth or their income? You can save a lot of tsetse fly studies, and all the rest of it, if you step up to the plate and do that."

When we even mention that, here comes the AARP, the Committee for the Preservation of Social Security and Medicare, the Gray Panthers, the Pink Panthers, and every other known organization, to fill our mail rooms to the brim with what we are doing cruelly to the aged and to the infirm, and so on.

Foreign aid, that is a great one. It is 1 percent of the budget. It is less than 15 billion bucks out of a budget of 1 trillion 500 billion bucks, and half of it goes to Israel and Egypt, where it ought to go. The results are heartening there, even through the pain of recent times. The rest of it goes around the world, and some of it, yes, finds its way to despotic tinhorn dictators. But 40, 50 percent of it finds its way into the swollen belly of a starving child, and I will continue to vote for it as long as I am here.

There is a vibrant and active and very tough constituency served by the entitlement programs of the United States, and that makes up the majority of our Federal budget. In deference to them, we remain relatively silent, at least when it comes to "specifics." Oh, we are very good when it comes to generalities, but remain silent about specific ways to slow the truly huge spending increases. So I will hold my tongue for a bit about these energetic, spirited, often selfish, interest groups. I wish instead to use my time to lay out, very dispassionately, of course, the facts. It will not take but a few minutes.

Here is one you do not want to miss—30 years ago, entitlement spending and interest payments together made up approximately one-third of the Federal budget. Today, they compose two-thirds of the Federal budget. Hear us when we say that 67 percent of the budget of the United States goes out to the citizens without us ever casting a vote. Sixty-seven percent of the budget of the United States. is out the door without us ever stepping up to the plate and casting a vote. Try that one.

So when we talk about cutting discretionary spending, we will never get there. We will not get to balanced budgets by cutting Amtrak or foreign aid. All this mandatory spending is going out the window. It is gone, leaving nothing there to cut in discretionary. You cannot get there.

That is one I wanted to share with you.

And then, not all entitlement programs have contributed equally to this tremendous spending explosion. The largest increases have come from three areas: Health care benefits, Federal pensions, and Social Security cash; together, those three areas. Federal spending in those areas has increased by 6.7 percent of GDP, gross domestic product, since 1965. Those are striking figures. These other things have not gone up like that. We think of food and housing benefits, unemployment and welfare cash, other nonretirement cash. That is not where the rise is. It is in health care, Federal pensions, and Social Security, period. Forget anything else. And we all know it. That is the part that is so curious.

But here is the greatest myth of all time, that somehow this myth is that entitlement spending embodies Government assistance to "the needy." Almost three-quarters of all entitlement spending is given out regardless of need. It goes out to people regardless of need or net worth or income.

Please hear that. We do not like to hear it; our constituents do not like to hear it, but that is where it goes. Regardless of need, three-quarters. And only $1 out of every $6 serves to lift people above the poverty line. That is the way it is. Every one of those figures are completely attributed, completely correct and from several sources: CBO, OMB, BEA, NTUF. There it is. I almost hate to bring out a chart like that, to be called mean-spirited, ugly, and all the rest. But somebody ought to do this now and then.

And then there are some programs that preferentially serve the poor. For example, food stamps, Medicaid. No one is questioning the need for those, but others like Social Security and Medicare deliver larger benefits to those who are well off. These two tendencies virtually—really, actually—cancel out each other to the point where households earning over $100,000 in income receive just as much entitlement assistance as do households that bring in less than $10,000 per year.

Look at this. Federal benefit dollars are just as likely to go to the affluent as to the needy. Here is the column, a total of $5,560 for that family, $5,600 here, and this is for household income over $100,000. And only a little bit of it means tested down here with welfare and food stamps.

There it is. It is absolutely absurd that we have to listen to the assertion that we are taking care of the poor. We are not taking care of the poor. We are taking care of a lot of people that are very well off.

The common denominator of our Federal entitlement system is therefore that it is not a system that transfers benefits from the well off to the needy. It is, rather, a system that now transfers from the young to the elderly, regardless of need, and that is absurd.

There is another interesting statistic; that if we do not start doing something about it, in the year 2010, 60 percent of the domestic budget of the United States will be going to people over 60, and the young people will simply be ignored, apparently, at least if we allow the greed level to continue as it does with certain senior citizens groups. And, of course, it is entirely appropriate for society to set resources aside to take care of Americans in their years of retirement.

At 95 my father died. He probably put $10,000 in Social Security. But when you live to be 95, in a gracious way he wanted that money to go to the Little League and he gave it to other groups or to his grandchildren. I said, "Well, Pop, maybe you should let the Government give it to the Little League." And he said, "Mind your own business son." A wonderful man, a wonderful father and a magnificent human. But that was his. He said, "I want to give it. I put into it from the beginning."

What I tell others who say that: "Well, remember what you put in from the beginning then because if you were in Social Security from the beginning, you put in $30 a year for the first 13 years, and then you really got struck with a hammer blow. You put in $174 by 1960. Ladies and gentlemen, you toadied up 174 bucks a year in 1960, and then you got nailed $300 a year, $500 a year, $800 a year, $1,200 a year, $1,500 a year, and blood pouring out of your eyes finally $2,000 a year. Now it is up to about $3,300 a year, and guess what? People are paying more in Social Security now than they pay in income tax, and they are getting very tired of it.

Then the people that come to the town meetings are getting $500 to $700

a month out of a system where the most they ever paid in was $3,000 a year, and that is in this year. Now, let us all step up and put your foot on the bar rail and try to withdraw ourselves from the elixir they present to us all.

Here we are now where we say we want to take care of Americans in retirement, and yet they are the better off in society now, the seniors.

It is equally appropriate to set aside, in my mind, "something" on behalf of our children and our grandchildren. And yet we give, and please get these figures, 11 times more to the elderly than we give to our children.

There are the figures. Benefits for the elderly, 65 and over, have shot through the roof. Since 1965, the benefit increase for those over 65, $9,632; for those under 18, the benefit increase is $655. No society can exist when you ignore your young.

We have all been through this. My good pal DANNY ROSTENKOWSKI several years ago found some deceptively frail people pouncing all over his car saying that they were not going to let him do catastrophic health care, by George, which would cost them $884 a year. And guess what? If we had done the catastrophic health care bill, which I did not vote to repeal, we would not be in the mess we are with regard to health care. Because if we had done catastrophic health care, 60 percent of the people who are covered, the elderly, would have paid no supplemental premium beyond 7 bucks a month, and then the wealthiest of all of them, the 5 percent at the top, the people that we all heard from—that was when the mailman from Sun City had a hernia hauling the mail in here as to what was happening to these people—those people would have had to pay $884 a year more, and they brought it down. They destroyed it. And thanks to this, we are now largely enraveled in a health care problem. If we had done the catastrophic health care in a sensible way, and it was. And oh, boy, what benefits it had. I did not hear many seniors remembering what we had in it: 365 days of unlimited hospital care, hospice care for a terminal illness, no copayments for hospital care, not over 600 bucks a year for your pharmaceuticals—unbelievable—for 7 bucks a month except for the fat cats at the top who would have had to put up $884 a year. And they crushed it, and now we are going to spend billions of their money—billions of their money—to correct what they could have fixed or allowed us to fix a few years ago.

Well, another recurring fiction, if I may share it with you, is that beneficiaries of these entitlement programs are "only getting back what they paid in." I have touched on that. And there we see another chart. That argument that they are only getting back what they paid in is certifiable, unmitigated hogwash. They know and we know about the Social Security and Medicare contributions collected in this country over the years. They were inadequate to keep the system from going virtually belly up approximately a decade ago, and people like Senator PAT MOYNIHAN and people of good will in both parties finally got together and reconstructed what was headed for disaster, leaving, of course, a group called "notch babies," which we have all heard from.

Notch babies are people who received more than they ever should have received under any scenario known to man or woman, and yet they come to the town meetings. They do not come to mine anymore, which is very good, actually. I said I would put a notch in one of them one day myself.

Now, these are the people who put in the least, the least, and got out the most. In fact, the replacement rate on Social Security for the average recipient is about 41 or 43 percent, and a lot more of the percentage of it goes to the wage earner, the ditch digger. He or she gets more than the affluent. And so that is what we did, but the notch baby was receiving up to 55 percent and it was headed for 100 percent of what they had put in, and thanks to the blue ribbon commission on Social Security, we corrected it. And they still come to the town meetings, and they have received more than any other people who put in that amount, without question. And then a year later there is a difference in benefits received by those folks, and now they "want their money." It would only take something between $200 billion and $400 billion over 10 years to give them what they want. And I am not about to vote for that.

Finally, I think that issue has died down around here. Nobody has the gumption to step up and really say that these people are aggrieved, when they have received far above the typical replacement rate for Social Security.

I just wanted to show you that. The payback on Social Security and Medicare far exceeds what they have paid in plus interest. They always say, "If I had had that money, plus interest, and put it in an investment, I would not be here. I want it out and I want it separate." I respectfully say that is not so.

See here lifetime benefits, for a worker with a nonworking spouse, $308,000. For new retirees, the benefit payback can be almost four times the tax paid. Lifetime benefits for a single worker, $184,000. Medicare, part B, is paid 25 percent by the beneficiary and 75 percent by "Joe Six-Pack." Wait until we try to correct that. The mail room will break down. I have been through this one.

You tell me why somebody should be paying $41.10 a month, which is 25 percent of the part B premiums, while the general taxpayers are paying 75 percent regardless of their net worth or their income? You think we will correct that in the health care debate? The mail room will break down.

Those are some things that I want to share. I think it is very important. I think the American people are smarter than their elected politicians. That is the way it has always been.

You have to admire people like Senator SASSER, Senator DOMENICI, former Senator Lawton Chiles, people who have worked on this through the years. They deserve awards because they try to tell us these things, and they do. We will not do anything, but one thing will happen. The staff will bring to us the mail for that week and say,"Oh, God. Don't touch that; 5,000 cards from outraged senior citizens." And they are highly organized. I can tell you that. I think they are feeling guilty, at least if they have children and grandchildren, because right now we have a situation where three people are paying into the Social Security System and one taking out.

When I was a freshman at the University of Wyoming, there were 16 loyal workers contributing to Social Security and one taking out. Today there are 3.2, and in 30 years there will be two people paying in and one taking out. Can you imagine the generational struggle that will take place in this country when two fine working people are putting in $12,500 each so some guy can get $25,000 out, regardless of his net worth or his income?

And pay close attention to a little item in this budget this year, in the words of Leon Panetta, who is gutsy beyond belief. It is in there. It says that unless we do something, all generations born from this day forward will be paying 82 percent of their wages to sustain these systems in the United States: Social Security, Medicare, Medicaid—82 percent. That is where we are.

These benefits are so out of control that there are some projections which indicate, as I say, that they could by themselves create payroll taxes above 50 percent by the year 2040. Well, I do not claim that will happen. The latter is a "worse-case" scenario.

Social Security is not rising nearly as quickly as is Medicare. But it is clear that the more pessimistic projection is nothing short of disastrous for our country. Yet the most optimistic projections are that come the year 2040, as I say, there will be only two workers putting anything in. They will be required to fund more than $17 trillion in outlays in Medicare, Social Security, Federal pensions, and interest payments promised to just those future beneficiaries who are already alive.

So then let me conclude, because the managers want to get on with their work. I will obviously have to go back and begin answering the phone, which will be ringing off the hook far into the night.

The "aging of America" means that a growing number of Social Security and Medicare recipients must be supported by worker paychecks, two workers to put in the bucks and one to take them out, regardless of their net worth or their income. And unless the current policy is reformed, it could cost future workers a huge chunk of their payroll in taxes. There it is. And there is no question about where that goes, in any scenario.

Finally, today's adults are promised $14 trillion more in benefits than they will ever earn through payroll contributions. In 1991, unfunded benefit liabilities amounted to $14 trillion in this system. So there you are, America.

That is an expectation that can only be met by means of a colossal and economically ruinous injustice against future generations. That is the figure in the President's budget. If that was President Bush or President Reagan, they would have had a fainting spell around the city.

It comes from a gutsy guy named Leon Panetta, who stuck it in there because he and his able Deputy Alice Rivlin know what is happening in America. That is what is happening in America.

So I am sure the AARP will gear up, and we will hear from all of them. It will be a riotous time when we deal with these really gut-hard issues, and we have to do it.

There are only two options for changing this outlook. One is to shift some of that tax burden from future generations onto current ones. That is the policy that was pursued by this President and this Congress last August. We passed a massive tax increase, one which the administration claims cut that future tax rate from 93 percent to 82 percent, by asking today's generations to pay $250 billion more in taxes.

But we cannot get very far with that choice. Shifting some of tomorrow's tax burden onto today's generations may make things more fair but it does not change the fundamental problem. The essence of that problem is that we are promising levels of benefits that require exorbitant, confiscatory tax rates—whether collected today or tomorrow.

This brings me to describe what I am offering today. This is an amendment that would slow the rate of growth in a number of mandatory spending categories. I want to stress that point—my amendment would slow growth rates, not make cuts, in entitlement programs.

Last September, the bipartisan Concord Coalition—a group headed up by our great friends and former Senators Paul Tsongas and Warren Rudman to dramatize the perils of our Federal deficit—unveiled a program to balance the budget by the end of the decade.

The essential point that comes through loud and clear in reviewing their program is that we cannot balance the budget without effecting changes in the mandatory entitlement system. If we cannot balance the budget, we cannot make any progress in reducing the total debt that we are leaving to future generations. You can't get there by cuts in foreign aid, in defense, or even solely through appropriations cuts at all. You have to go where the money is.

But even that is not the real point. We ought not to go after entitlement spending simply because it is the largest and fastest rising part of the Federal budget. We ought to review our entitlement system because it so little resembles what an entitlement system ought to be.

It is my view—and, I believe, the view of many Senators—that the entitlement system should represent a safety net for those Americans who, whether from poverty, illness, or age, are unable to fully provide for themselves. It is not intended to be a system of dependency for those Americans who do not need it. It is not intended to provide incentives for healthy, fully productive Americans to spend one-third of their lives in retirement, at the taxpayer's expense.

Because of this we ought, for a number of reasons, to take a close look at proposals that seek to slow the flow of dollars from working Americans to entitlement beneficiaries who are better off than those who are supporting them. There is no reason for Federal spending to soar so that we can maintain a flow of benefits upstream.

The Concord Coalition unveiled a proposal to means-test entitlement benefits for those households who already have annual incomes above $40,000 per year. This was a critical component of what the Concord Coalition concluded was necessary to balance the budget. I am going to call it affluence testing—sounds better.

I am not out here to seek to implement the Concord Coalition's proposal. Let me make that clear from the beginning. In the first place, there are valid, legitimate questions to be asked about the efficacy of such an affluence-test. One of them is whether or not income is even an accurate measurement of the wealth of elderly beneficiaries. Perhaps total assets held, or accumulated wealth, is a better definition of means for the purposes of determining what kind of affluence benefits these households should receive. And further, there are enforcement questions; it is not at all clear whether seeking to withhold benefits as a function of income is an enforceable proposition, or whether it invites evasion and abuse of a type that we have seen with Medicaid and other need-based programs. It could well be that means-testing is best enforced through the Tax Code, or by some other means different from that suggested by the Concord Coalition.

These are the types of issues that I will be studying as a member of the President's Bipartisan Commission on Entitlement Reform. My discussion of this amendment is not intented to preempt those findings in any way.

The Congressional Budget Office [CBO] has scored the effects over 5 years, of implementing the Concord Coalition's proposal immediately. Instead, my amendment would cut spending growth by an amount equal to the savings that would be achieved if we were to slowly phase in the Concord Coalition's program—20 percent each year, for 5 years, until finally reaching full implementation in 1999.

There are other points that I would like to make in discussing my amendment.

The first is that an amendment to the budget resolution does not implement a policy. That is left to the appropriate committees. What it does do is to set revenue and spending targets for Congress to meet.

Thus, my amendment does not introduce means-testing or any other policy change. Let no one come forth to the field of combat and say that we are voting on means-testing entitlement benefits. That is not done in a budget resolution. My amendment leaves the door open to achieving savings by any means that the appropriate committees choose.

I have discussed the Concord Coalition's means-testing proposal because I do not believe that such an amendment should be offered as a vague cap or black box, with no honesty about the difficult choices that are necessary to adhere to such spending restrictions. It is my aim for the Senate to confront the types of policy changes that will be necessary if we are to get mandatory spending under control.

Sooner or later, this body will have to do that—I can assure my colleagues that the longer we wait, the more painful it will be.

The second point I seek to make is that I am not talking about making any cuts. I know that I will hear a chorus of howls and shrieks from certain interest groups, alleging that such an amendment would cut Medicare or Social Security.

In fact, that is one reason why I have phased in the Concord Coalition savings over 5 years—to ensure that we do not have a cut in current dollars from one year to the next.

An amendment to the budget resolution makes for confusing reading, so let me describe my amendment to my fellow Senators.

My amendment would make changes in projected Medicaid spending. I will be curious as to whether the changes I suggest can be defined as a cut. Here are the outlays that will result in the Medicaid portion of the budget if my amendment is adopted; $122.5 billion in 1995, $135.3 billion in 1996, $149.2 billion

in 1997, $164.4 billion in 1998, and $181.2 billion in 1999. If there are any cuts in there, I am quite lost and befuddled. There is not an annual change in that series that is less than a 10-percent increase. Those are increases in real dollars, in current dollars, relative to GNP—pick your measure. These remain increases in every sense of the word.

I know, however, that people will call this type of change a cut. But let me read from page 75 of the budget resolution—the very document that we are deliberating today. "The baseline concept has been misused to portray policies that would simply slow down the increase in spending as spending reductions." That is so very true. And yet I fully expect that my amendment would be opposed on the basis of the cuts it would require.

Let me now discuss Medicare. What would my amendment do to Medicare? We would have outlays of $159.9 billion in 1995, $174.5 billion in 1996, $189.9 billion in 1997, $205.4 billion in 1998, and $225.1 billion in 1999. Again, my amendment would effect increases of at least 8 percent every year. Those are increases in real dollars, in current dollars, or however you want to measure.

And now, the big one: Social Security. My amendment would provide for a growth in Social Security—from $286.3 billion in 1995 to $310.5 billion in 1999. I know how people are going to respond to that one. Although most Americans would consider that an increase, people will point out that this growth will be less than inflation, meaning that, if we did not effect some kind of means-testing, then COLA's, at least, would be in jeopardy.

I expect to hear some savage criticisms of my amendment on that basis alone. But I would say to my colleagues: These difficult choices, between means-testing, COLA eliminations, and retirement age increases, are not created by AL SIMPSON.

These are choices imposed on this Congress by the inexorable progress of budgetary events currently beyond our control. I am not the author of this predicament; nor does my amendment create it. This predicament exists in any event, and it will impose itself on this and all future Congresses.

Let me reiterate my principal points for those who may have missed them. First, my amendment would reduce projected spending baselines by an amount equal to what you would get if you phased in the Concord Coalition's "means-testing" proposal over 5 years. Second, my amendment does not dictate that we achieve the savings in that way. All options are still open to this Senate. Third, my amendment does not require Congress to cut any of these programs. It would require us to develop a means to slow only a little bit of the projected rate of increase in these programs.

It is my hope that this amendment will force the Senate to confront just a small fraction of the types of measures which will be necessary to get our fiscal house in order. My amendment does not come close to balancing the budget over 5 years. We have to go far, far beyond this if we are to get to that point. But if we are talking about getting Government spending under control, this is the sort of thing we will have to do.

It is the sort of thing that we must do—but I know quite well that we will not do it today. I have been around this Chamber long enough to be able to count votes pretty well and there aren't enough enthusiasts in this body who are willing to cast votes in favor of this amendment.

I will withdraw the amendment, for it would garner at least 10 votes. Because of the clogging that would take place in the elevator area during the rollcall on that one, we would not be able to get to work for 2 days. They would be camped out in the streets saying, "Don't cut any of this or that or we will all die. Everybody will be broke. We will be destroyed." And remember the greatest, the most egregious one of all. That is when they say, "you are cutting Medicare and Medicaid." Do not buy it, America. Wake up and smell the coffee, for God's sakes, because Medicaid is going up 29 percent. And we are saying let us let it go up only 10 percent, and that is called a cut by these groups. Medicare is going up 13 percent, and they say, "Oh, you let it go up only 8 percent. That is a cut." It is not a cut. It is an 8-percent increase.

So wake up and have one on me. If you do we will do the treats out in Wyoming.

The PRESIDING OFFICER. Without objection, the Senator has the right to withdraw the amendment. The Senator asked to do that.

The amendment (No. 1573) was withdrawn.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1574

(Purpose: To reduce the deficit, reduce the tax burden on children, and promote the private pursuit of happiness)

Mr. GRAMM. Madam 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 Texas [Mr. GRAMM] proposes an amendment numbered 1574.

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

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

The amendment is as follows:

On page 3, decrease the amount on line 5 by $10,380,000,000.

On page 3, decrease the amount on line 6 by $26,000,000,000.

On page 3, decrease the amount on line 7 by $27,600,000,000.

On page 3, decrease the amount on line 8 by $30,000,000,000.

On page 3, decrease the amount on line 9 by $32,300,000,000.

On page 3, decrease the amount on line 13 by $10,380,000,000.

On page 3, decrease the amount on line 14 by $20,000,000,000.

On page 3, decrease the amount on line 15 by $27,600,000,000.

On page 3, decrease the amount on line 16 by $30,000,000,000.

On page 3, decrease the amount on line 17 by $32,300,000,000.

On page 4, decrease the amount on line 7 by $10,380,000,000.

On page 4, decrease the amount on line 8 by $26,000,000,000.

On page 4, decrease the amount on line 9 by $27,600,000,000.

On page 4, decrease the amount on line 10 by $30,000,000,000.

On page 4, decrease the amount on line 11 by $32,300,000,000.

On page 4, decrease the amount on line 15 by $10,380,000,000.

On page 4, decrease the amount on line 16 by $26,000,000,000.

On page 4, decrease the amount on line 17 by $27,600,000,000.

On page 4, decrease the amount on line 18 by $30,000,000,000.

On page 4, decrease the amount on line 19 by $32,300,000,000.

On page 5, decrease the amount on line 1 by $34,437,000,000.

On page 5, decrease the amount on line 2 by $41,896,000,000.

On page 5, decrease the amount on line 3 by $46,641,000,000.

On page 5, decrease the amount on line 4 by $40,493,000,000.

On page 5, decrease the amount on line 5 by $45,034,000,000.

On page 5, decrease the amount on line 11 by $34,437,000,000.

On page 5, decrease the amount on line 12 by $41,896,000,000.

On page 5, decrease the amount on line 13 by $46,641,000,000.

On page 5, decrease the amount on line 14 by $40,493,000,000.

On page 5, decrease the amount on line 15 by $45,034,000,000.

On page 5, decrease the amount on line 22 by $10,584,000,000.

On page 5, decrease the amount on line 23 by $29,223,000,000.

On page 5, decrease the amount on line 24 by $35,986,000,000.

On page 5, decrease the amount on line 25 by $41,131,000,000.

On page 6, decrease the amount on line 1 by $40,215,000,000.

On page 6, decrease the amount on line 7 by $10,584,000,000.

On page 6, decrease the amount on line 8 by $29,223,000,000.

On page 6, decrease the amount on line 9 by $35,986,000,000.

On page 6, decrease the amount on line 10 by $41,131,000,000.

On page 6, decrease the amount on line 11 by $40,215,000,000.

On page 6, decrease the amount on line 17 by $204,000,000.

On page 6, decrease the amount on line 18 by $3,223,000,000.

On page 6, decrease the amount on line 19 by $8,386,000,000.

On page 6, decrease the amount on line 20 by $11,131,000,000.

On page 6, decrease the amount on line 21 by $7,915,000,000.

On page 7, decrease the amount on line 1 by $204,000,000.

On page 7, decrease the amount on line 2 by $3,223,000,000.

On page 7, decrease the amount on line 3 by $8,386,000,000.

On page 7, decrease the amount on line 4 by $11,131,000,000.

On page 7, decrease the amount on line 5 by $7,915,000,000.

On page 7, decrease the amount on line 8 by $204,000,000.

On page 7, decrease the amount on line 9 by $3,427,000,000.

On page 7, decrease the amount on line 10 by $11,813,000,000.

On page 7, decrease the amount on line 11 by $22,944,000,000.

On page 7, decrease the amount on line 12 by $30,859,000,000.

On page 8, decrease the amount on line 7 by $204,000,000.

On page 8, decrease the amount on line 8 by $3,223,000,000.

On page 8, decrease the amount on line 9 by $8,386,000,000.

On page 8, decrease the amount on line 10 by $11,131,000,000.

On page 8, decrease the amount on line 11 by $7,915,000,000.

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On page 11, increase the amount on line 6 by $100,000,000.

On page 11, decrease the amount on line 14 by $4,000,000,000.

On page 11, decrease the amount on line 15 by $1,300,000,000.

On page 11, decrease the amount on line 22 by $3,900,000,000.

On page 11, decrease the amount on line 23 by $2,500,000,000.

On page 12, decrease the amount on line 5 by $4,100,000,000.

On page 12, decrease the amount on line 6 by $3,200,000,000.

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On page 14, decrease the amount on line 3 by $700,000,000.

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On page 33, decrease the amount on line 18 by $300,000,000.

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On page 35, decrease the amount on line 8 by $337,000,000.

On page 35, decrease the amount on line 9 by $584,000,000.

On page 35, decrease the amount on line 15 by $204,000,000.

On page 35, increase the amount on line 16 by $669,000,000.

On page 35, increase the amount on line 22 by $721,000,000.

On page 35, increase the amount on line 23 by $1,476,000,000.

On page 36, increase the amount on line 5 by $2,172,000,000.

On page 36, increase the amount on line 6 by $2,534,000,000.

On page 36, increase the amount on line 12 by $3,273,000,000.

On page 36, increase the amount on line 13 by $4,092,000,000.

On page 36, decrease the amount on line 20 by $800,000,000.

On page 37, decrease the amount on line 21 by $100,000,000.

On page 37, decrease the amount on line 2 by $600,000,000.

On page 37, decrease the amount on line 3 by $1,700,000,000.

On page 37, decrease the amount on line 9 by $1,100,000,000.

On page 37, decrease the amount on line 10 by $1,800,000,000.

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On page 37, decrease the amount on line 23 by $2,500,000,000.

On page 37, decrease the amount on line 24 by $3,400,000,000.

On page 38, decrease the amount on line 13 by $92,000,000.

On page 38, decrease the amount on line 14 by $92,000,000.

On page 38, decrease the amount on line 20 by $462,000,000.

On page 38, decrease the amount on line 21 by $462,000,000.

On page 39, decrease the amount on line 2 by $965,000,000.

On page 39, decrease the amount on line 3 by $965,000,000.

On page 39, decrease the amount on line 9 by $1,107,000,000.

On page 39, decrease the amount on line 10 by $1,107,000,000.

On page 39, decrease the amount on line 25 by $92,000,000.

On page 40, decrease the amount on line 1 by $92,000,000.

On page 40, decrease the amount on line 7 by $462,000,000.

On page 40, decrease the amount on line 8 by $462,000,000.

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On page 40, decrease the amount on line 21 by $1,107,000,000.

On page 40, decrease the amount on line 22 by $1,107,000,000.

On page 41, decrease the amount on line 4 by $92,000,000.

On page 41, decrease the amount on line 5 by $462,000,000.

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On page 41, decrease the amount on line 7 by $1,107,000,000.

On page 41, increase the amount on line 11 by $7,800,000,000.

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On page 41, increase the amount on line 18 by $4,900,000,000.

On page 41, increase the amount on line 19 by $800,000,000.

On page 41, increase the amount on line 25 by $5,600,000,000.

On page 42, increase the amount on line 1 by $3,100,000,000.

On page 42, increase the amount on line 7 by $8,700,000,000.

On page 42, increase the amount on line 8 by $8,300,000,000.

On page 42, increase the amount on line 14 by $20,100,000,000.

On page 42, increase the amount on line 15 by $11,800,000,000.

On page 70, increase the amount on line 21 by $41,896,000,000.

On page 70, increase the amount on line 22 by $29,223,000,000.

On page 70, increase the amount on line 24 by $46,641,000,000.

On page 70, increase the amount on line 25 by $35,986,000,000.

On page 71, increase the amount on line 7 by $40,493,000,000.

On page 71, increase the amount on line 3 by $41,131,000,000.

Mr. GRAMM. Madam President, I have sent to the desk what some will view as a radical amendment. We have voted on several amendments today. We voted on several yesterday. Most of those amendments made only marginal changes: Take a little money from here; put a little money there; sustain a marginal cut here in discretionary spending versus a marginal cut there in entitlement spending.

The amendment that I am sending to the desk represents a dramatic departure from budgeting as we have practiced it since 1982.

To save everybody's time, let me describe the amendment in a little bit of detail. Then let me talk about the issue in terms of what it is really about. And I will try to do all of that in such a way as to deviate from my background as a school teacher and get my presentation finished by the time that we start voting on amendments at 3 o'clock.

My amendment makes two kinds of cuts. First of all, it accepts every cut in the Clinton budget, but accepts none of the add-ons. But, in addition, it fully funds the FBI, the U.S. Attorney's office, justice assistance, DEA, INS, U.S. Marshals, and organized crime drug task forces.

In other words, it takes every cut in the Clinton budget except, unlike the Clinton budget, it fully funds our law enforcement effort. It takes none of the President's add-ons. In the process, it saves $72 billion over a 5-year period.

Second, once you have made those cuts it freezes for 5 years the authority to spend or what we call budget authority which is just the right to spend money, and that saves $85 billion.

Then it does two things with the money. First, it applies some of it to deficit reduction. Taken with the Grassley-Exon amendment that was adopted in committee, it reduces the deficit by $57 billion as compared to the original budget.

Then, second, it takes the remaining $126 billion and it uses that to fund a doubling of the child exemption, the deduction that people get on their income taxes, and will allow them to keep more of their money to raise, to feed, to clothe, to educate, to house their children. That current dependent deduction is $2,350, which is about a third the level, in real dollars after inflation, that existed in 1950.

It raises that dependent exemption, so that families can keep more of what they earn, from $2,350 to $4,700.

So what the amendment before us does is, it takes all the President's savings, and it fully funds law enforcement; it freezes discretionary spending for 5 years; then it dramatically reduces the deficit, and it doubles the dependent exemption for every working family in America.

This dependent exemption will mean that American families with children will get to keep more of their own money, and they will get to spend it. I am sure someone will say, well, there probably is a rich person in America somewhere with a child, and since you have at least one rich person that might benefit, then we do not want to give this to anybody. I remind my colleagues, that, as we are all aware, 90 percent of the savings of doubling the dependent exemption for children

would go to families making less than $75,000 a year. Under existing law, in fact, the ability to use deductions starts phasing out at $122,500.

What is the purpose of this amendment? Well, the purpose of this amendment is to control Government spending and to give money back to working families that they earned in the first place, and to let them spend the money themselves.

I know some of my colleagues want to say that by freezing spending, you are going to produce a situation where less money is being spent on housing; less money is being spent on nutrition; less money is being spent on education. But I respond by saying that is not true.

It is true that less money will be spent by Government on these things, but what my amendment does, which some in this body will call radical, is it lets families spend their own money on these things. It takes the view that we know Government, and we know how it works, and we know how it does not work, and we know American families, and we know the difference. By doubling the personal exemption for children, what we are going to do is not cut spending on housing, nutrition, or education, we are simply going to have different people spending the money.

The existing budget offered and supported by Democratic colleagues says: Let Government spend the money.

My amendment says: Let the families spend the money.

I know Government, I know the family, and I know the difference. I believe that by letting families keep more of what they earn to invest in housing, feeding, and educating their own children, they will do a better job, and that American children will be better housed, better fed, better educated, and our society will be richer, freer, and happier.

What am I trying to respond to here, Madam President? Well, let me try to summarize it as follows: In the last 2 months, we have had three or four different polls that have shown something I think is pretty startling about our country.

In the last 2 or 3 months, we have had three different pollsters find that when you ask Americans, "Do you believe you are better off than your parents were?" by a slight majority, people say, "No."

Then when they ask people, "Do you feel your children are going to do better than you have done?" by almost a 2-to-1 margin, today, in 1994, Americans say, "No."

What we are seeing, Madam President, is an assault on the American dream. Like many Members of this body, I grew up in a family where neither of my parents graduated from high school; yet, my mother never had any doubt in the world that I was going to graduate from college. I fought it, resisted it, and they kept trying to vaccinate me with learning. I failed the third, seventh, and ninth grades, but my mother prodded me every step of the way through college and through a Ph.D. in economics. In the world I grew up in, in the 1950's and 1960's, mothers' dreams did not die easily in America. The real tragedy of the 1990's is that all over our country, mothers' dreams today are dying. I believe that something needs to be done about it.

Why is it that Americans are so worried about the future? Why is it that by almost a 2-to-1 margin, Americans believe that their children are not going to do better than they are doing? What has happened to this pillar of American society called the "American dream"?

Well, I think there are a lot of reasons that the dream is fading. Part of it is the ineffectiveness of Government services in education and in law enforcement. Part of it is the explosion of Government bureaucracy, where small business people feel that Government exists to put them out of business. And whether Government is out to do it, or whether it is just happening, people see it happening every day, and they do not believe their children will have the same opportunity to start out with a dream of owning their own business and making it prosper and grow.

The part of the American dream that is fading that I am trying to deal with here has to do with the family. In 1950, the average American family making the median income with two children sent $1 out of every $50 it earned to Washington, DC. Let me repeat that statistic: In 1950, the average American family with two children that made the median income sent $1 out of every $50 it earned to Washington, which meant that $49 out of every $50 it kept and either spent at the State level in taxes or, more importantly, the vast majority of that money retained by the average working family in 1950 was invested in its future and in the future of its children.

Today, the average American family sends $1 out of every $4 it earns to Washington, DC. When you take State and local taxes, which have exploded since the 1950's, what you are finding is that the average working family is giving more and more and more of its money to Government, and it is getting to keep less and less. In fact, new statistics indicate that in a two-wage-earner family, the second wage earner is sending to the Government, as compared to the situation that existed in 1950, two-thirds of his or her income. If you have a couple, where both the husband and wife work, as compared to 1950, the second wage earner is sending two-thirds of the income to Washington, DC, to fund more Government, instead of investing it in their family and their future.

What I have proposed to do, Madam President, is to reverse that, to take the President's cuts, to freeze discretionary spending, to take part of that money and apply it to deficit reduction but to give the rest of the money back to working families by doubling the dependent child exemption so that families can invest their money in their future, so that families can make decisions about their expenditures on housing, education, and nutrition.

I believe that this is the kind of change in public policy we need.

I think that it is very dangerous in America when, by a margin of more than 2 to 1, parents believe that their children are not likely to do better than they have done. That is a fundamental assault on the American dream and on American society.

I submit, Madam President, that one of the reasons that is so is that in the last 40 years we have seen an explosion in Government. Whereas, the average family with children was then sending $1 of every $50 to Washington, today it is sending $1 out of every $4. I am trying to reverse that.

This does not raise the child-dependent exemption to the level that existed in 1950, but it takes us in that direction. It is an important first step. I hope my colleagues will adopt it.

I know that some are going to get up and say the way we are doing budgets now, since the 1990 budget summit agreement is if, you want to let people keep more money you have to cut it out of certain kinds of expenditures. Madam President, we are capable of changing that law right here on the floor of the Senate. We are capable of waiving that requirement.

Some are going to say that is the way we did it. The point is the way we are doing it is not working. I want to make a dramatic change. That is what this amendment is about. It is about privatizing worker income. It is about letting families invest in their future.

I see I have several colleagues here and I would like, Madam President, to yield 5 minutes to the distinguished Senator from Indiana [Mr. COATS].

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

I remind Senators that at 3 o'clock, according to the previous order, there will be several back-to-back votes.

Mr. COATS. Madam President, I may not use all the 5 minutes I have.

Madam President, when you look at the Tax Code, its seems that everyone gets a special tax break. But no one deserves or needs it more than the most special, special interest of all—the family.

Earlier today, the Senate rejected a budget alternative that would have provided much-needed tax relief to hard-working middle class families in the form of a $500 family tax credit.

The Gramm-Coats amendment offers another chance for Senators to allow families to keep more of their hard-earned tax dollars.

WHAT OUR AMENDMENT DOES

Our amendment doubles the dependent exemption from the current $2,350 to $4,500 a year.

The amendment not only pays for a doubling of the exemption, but it also fully funds the Senate crime bill and it reduces the deficit by an additional $31 billion.

The amendment would accept the nondefense discretionary reductions proposed in the President's budget, except for cuts proposed for crime-fighting agencies—FBI, U.S. Attorney's Office, Justice Assistance, DEA, INS, U.S. Marshals and organized crime drug enforcement—which would be restored.

In addition, it would freeze budget authority for remaining nondefense discretionary spending to achieve a total budget authority freeze over 5 years.

The question our amendment asks is fundamental: Would a family rather have more money in their pockets to spend as they choose or would they rather have bigger Government in Washington that offers little to the average family?

WHY WE NEED TO PROVIDE TAX RELIEF TO FAMILIES

Why is this measure needed? It's needed because over the last several decades, tax burdens have been radically redistributed—not from poor to rich or rich to poor, but directly on families with children.

Single people and married couples with no children face just about the same tax rates as they did in 1960. But for a couple with two children, average taxes have risen about 43 percent. A family with four children has found their tax bill more than tripled.

The reason is simple. The personal exemption—the way the Tax Code adjusts for family size—has been eroded by inflation and neglect.

Congress has allowed the exemption that once protected families with children to fall in six decades to less than a third of its original value.

The bipartisan National Commission on America's Urban Families accurately stated the problem in its January 1993 report entitled "Families First":

> As the dependent exemption has shrunk as a percentage of income, families with children have incurred much larger tax increases than other groups of Americans. . . . The previously favorable Federal Tax Code treatment of families with children has steadily deteriorated in recent decades.

The Progressive Policy Institute, in its 1990 manifesto: "Putting Children First: A Progressive Family Policy for the 1990's," points out:

> In 1948, there was a pro-family Government policy based on a simple notion: The Government should not tax away that portion of a family's income that is needed to raise children. . . . The 1948 personal exemption was $600 and median family income was $3187. This meant that a family of four at median income paid a minuscule 0.3 percent of their income in Federal income taxes.

Today, that family shells out one-quarter of its income to Uncle Sam. If you add in State and local taxes, the tax burden on that family grows to more than 38 percent of its income.

According to the Urban Institute, if the value of the personal exemption for taxpayers with children had been adjusted for inflation and real growth in income since 1948, it would have been $8,652 in 1993. Today, it stands at $2,350.

CHILDREN ARE EXPENSIVE TO RAISE

For many families, this tax burden is a source of economic distress. Children are more, not less, expensive to raise.

According to Family Economics Review, it currently costs between $4,000 and $5,000 per year, per child, depending on the age of each child.

Anybody who has ever bought a pair of Air Jordans at $125 a pair for their teenager knows how expensive it is to raise kids. That is a pricetag of about $80,000 by the time each child reaches 18—before that child even leaves for college.

An increase in the personal exemption will help restore the protection families once enjoyed in the Tax Code.

By putting money directly back into the hands of the American family as the Gramm-Coats amendment would do, we can provide them the power to make their own choices without Government interference. We can provide parents with the ability to better care for themselves and their children.

THE TIME HAS COME FOR FAMILY TAX RELIEF

Contrary to what some may believe, American families do not view their earnings as a source of tax revenue, but as the just reward of their own work.

Ronald Reagan once commented, "For too long, Government has stood in the way of people taking home more of what they earn, no matter how hard they try. It is economics without a soul."

As a candidate, President Clinton echoed a similar thought in advocating family tax relief: "We need to stop taxing away the money parents need to raise a family, and restore the value of the children's tax exemption."—From "A Plan for America's Future."

Families should clearly be allowed to keep more of their hard-earned tax dollars.

It is a matter of simple equity for millions of American families that have been ordered by the Government to give until it hurts and then give some more. A vote for the Gramm-Coats amendment is a vote to restore equity to the Tax Code.

I am pleased to join my colleague, the Senator from Texas, in offering this amendment. It is an issue that I have been working on, and a number of us have been working on, for a long, long time. That is to bring equity to working families who are trying to raise children and meet the expenses of doing so.

This battle began way back in the early eighties as we began to talk about how we could restore equity to families who had been shortchanged under changes in the Tax Code that had been in place since 1948 when the Congress first implemented the personal exemption. It has not kept pace with inflation; it has not kept pace with the cost of raising children and raising a family. We were fortunate enough to finally double it in 1986, but we did not begin to restore it to full equity.

This amendment does not do that either, but it sure takes it a long way towards restoration of equity.

It seems like over the past 20 years virtually every special interest group in America has received a special tax break through the Tax Code, except for the most special of special interests, and that is the American family.

This particular amendment comes on the heels of a defeat in this body of an attempt just yesterday to propose an alternative which would have provided a $500 tax credit for every child in America. I regret that that alternative was defeated. This is a second attempt to restore equity to the American family.

I commend Senator GRAMM for his efforts in this regard, and I am pleased to work with him and join him in doing so.

What is important here is that this amendment is paid for. It is paid for with real dollars, which offset the loss of revenue which would ordinarily come to the Treasury if this exemption were not increased. It is paid for in a way that helps fund the crime bill, which is important to Americans. That reduces the deficit, which is important to Americans and American families, and pays for the personal exemption.

It addresses the question that was raised yesterday as a special tax break going to the rich, because under current law this exemption will be phased out the higher your income level. It is not discriminatory toward the poor because their opportunities under the earned income tax credit and, depending on what their income level is, the combination of EITC and the personal exemption will provide them relief.

What it goes to is at the heart of the question, and that is how do we provide relief for the middle-income family. That is the family that has seen an increasing percentage of their income go to fund the Government, to fund Government programs.

That is the entity, and those are the people that Members from both sides of the aisle during their campaigns have said we want to help.

President Clinton in his campaign was explicit in terms of trying to reach out and help middle-income families, trying to give them some relief, and he is on record as saying that.

It has not been provided by the administration. It has not been provided

in the Democrat budget. So this is an opportunity for Members to state where they stand in providing real relief for American families and particularly middle-income families.

Contrary to what many believe, American families do not view their earnings as a source of tax revenue but as a just reward for their own work. President Reagan once commented "For too long Government has stood in the way of people taking home more of what they earn, no matter how hard they try. It is economics without a soul."

As a candidate, President Clinton echoed a similar thought in advocating family tax relief by saying: "We need to stop taxing away the money parents need to raise a family and restore the value of the children's tax exemption.

Families should clearly be allowed to keep more of their hard earned tax dollars.

It is a matter of simple equity for millions of American families that have been ordered by the Government to give until it hurts and then give some more. A vote for the Gramm-Coats amendment is a vote to restore equity to the Tax Code.

It is fair, it is paid for, and it is time we delivered on our promise to bring relief to American families.

Madam President, I yield back the remainder of whatever time I have.

The PRESIDING OFFICER. The Senator from Tennessee.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Madam President, I ask unanimous consent that at 3 p.m. the Senate proceed to consideration of the conference report to accompany H.R. 3345, the Federal workforce restructuring bill; that there be 10 minutes for debate, equally divided between Senators GLENN and GRAMM at that time; that at the conclusion or yielding back of time, the Senate resume consideration of Senate Concurrent Resolution 63, and vote in accordance with the previous order on or in relation to the three amendments that were stacked to begin at 3 p.m.; that upon disposition of the Hutchison amendment, the Senate vote to invoke cloture on the conference report of H.R. 3345; that if that vote is not successful, the Senate then, without any intervening action or debate, vote a second time to invoke cloture on the conference report to accompany H.R. 3345, with the mandatory live quorums being waived.

I further ask unanimous consent that the second and succeeding votes in this sequence be 10 minutes in duration; that the second vote would be 10 minutes in duration; and that if cloture fails the Senate resume consideration of Senate Concurrent Resolution 63.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, and I will not object, I arrived from another engagement, as the chairman knows.

Senator CRAIG has been waiting for a long time to speak 3 or 4 minutes on the Domenici amendment. How will that work into this? Will he be unable to do that?

Mr. SASSER. I would not think so because we would be moving into this at 3 o'clock. If this UC fails, of course we would move into the votes previously ordered.

Mr. DOMENICI. Could we not give him 2 minutes right now or 5 minutes?

Mr. CRAIG. Maybe I can do it in 4.

Mr. DOMENICI. Could we do it later? Perhaps the Senator could insert it right before we vote on my amendment. Perhaps he could have 5 minutes.

Mr. SASSER. Before moving on that, we should dispose of this unanimous-consent request.

Mr. DOMENICI. Mr. President, reserving the right to object, and I will not.

I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Tennessee?

Hearing none, it is so ordered.

AMENDMENT NO. 1567

Mr. SASSER. Madam President, I ask unanimous consent that the Senator from Idaho be allowed to speak for 5 minutes on the Domenici amendment at this time.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized for 5 minutes to speak on the Domenici amendment.

Mr. CRAIG. Madam President, let me thank the chairman and the ranking member for this consideration. I know that time has been a struggle here the last 24 hours and the accommodation is truly appreciated.

I stand today in support of the Domenici amendment because clearly this Congress and this Senate has to address deficit reduction across the Federal budget. I say that because for so long we have relied on what we argue is deficit reduction coming primarily out of discretionary money while we have allowed entitlements to grow at an astronomical rate in a way that clearly has set this budget out of control. I do not care whether President Clinton comes to the Hill and says, or any Member of this Senate says, that we have a Federal budget that is in control. They simply cannot argue that. The facts are not there.

We are dealing with very fragile projections in these kinds of issues.

Let me give you an example of the very type of thing we are talking about. CBO has re-estimated the President's budget to show deficits in every year higher than OMB has projected.

Well, over the next 5 years, we have $113 billion more in deficits projected out there than we had projected in the President's budget. In less than 2 months—January through March—CBO's projections of its own baseline deficits already have gone up by $46.8 billion for the next 5 years. And yesterday morning, what did we hear? Orders for U.S. factory durable goods dropped 2.5 percent in February, a leading indicator of the health of the U.S. manufacturing economy. The Federal Open Market Committee of the Federal Reserve said this week it would raise Federal fund rates by a quarter of a percentage point, following an identical increase on February 4.

Why cannot this Congress understand that long-term projections for the budget it is dealing with and the deficit it is dealing with can be so much gamesmanship?

I stood on this floor a month ago arguing for a balanced budget amendment to the Constitution and every time, folks in opposition to it would come to the floor of the Senate and say, "Give us your plan. We can't balance the budget without a plan."

Well, let me tell you what this body is not doing. With all the effort here today on this budget resolution, we are not talking of balancing the budget. We are not talking of getting anywhere near that.

But with the Domenici amendment—even with the Grassley amendment, although I would disagree more with it because of where it sends the money—we are seeing some movement toward reducing deficits.

Let me give you some interesting figures. This is something that I think few of us want to talk about today. This chart I had my staff work with me on—and we have consulted CBO on it—shows two alternative deficit projections, the yellow line being the projected Clinton deficits. I have already told you that even as we were putting this chart together, CBO said, "Whoops, these figures are wrong. They are off by maybe $100 billion."

In the outyear of 1999, we are looking at a deficit somewhere between $200 billion and $300 billion under the President's budget and at today's interest rates.

What did I just say? Interest rates already are moving up. They started up in February, they were up again yesterday, and it appears that they can move further.

So in talking with CBO, I asked if they would help us extrapolate and if they would work with us, starting with the same guaranteed deficit—because, let me tell you, what is in the Clinton budget, although it is a projection, you can bet it will not be any lower unless we can bring about cuts as proposed in the Domenici-Nunn amendment.

But, in reality, if you take that guaranteed, fixed, minimum deficit, by the time you get out to 1999, we are going to have a $6.5 trillion debt, guaranteed, locked in. It is already planned. That is $2 trillion added to our $4.5 trillion or $4.6 trillion existing debt.

Here is something. And this is a no-no, Mr. President. I took Jimmy Carter's interest rates—because it is something that we still remember; most of us were around during those days—and I applied them to the Clinton debt. And guess what we got? We got, by the year 1999, we follow this red line straight up to nearly a $500 billion annualized deficit; that is, with the very budget that is here on the floor today that we are debating, and just adjusting it for 1980 interest rates. No gamesmanship. That is reality.

Now what does this spread mean in terms of the difference in deficits and in the interest charged on the debt structure? By 1999, the spread, the annual increase in spending, all of it deficit spending, on additional interest payments alone would be 46 percent of all discretionary moneys, 62 percent of the planned expenditure for Social Security, 98 percent of defense spending, and 167 percent of Medicaid. That is reality. That is how vulnerable we are to possible, even overnight, changes in economic conditions.

That is why we have to support the deficit reduction in the package presented across the board in the Federal budget with the Domenici amendment. That is reality. Why fool ourselves any longer? These planned, and potentially much larger, deficits are Bill Clinton's burden. He ought to face it. He ought to work with us. So should the majority. Guard against reasonable changes in interest rates and other economic indicators. More and more debt is the reality of this budget. We cannot escape it, so let us deal with it.

Mr. President, I rise in opposition to Senate Concurrent Resolution 63, the budget resolution for fiscal years 1995–99, as reported.

ONE MORE ARGUMENT FOR THE BALANCED BUDGET AMENDMENT

Just a few weeks ago, when we debated Senate Joint Resolution 41, the balanced budget amendment to the Constitution, opponents said that the budget could be balanced without a constitutional amendment.

But the plan before us will not lead to a balanced budget—ever.

Opponents to the balanced budget amendment challenged supporters with the mantra, "Where's your plan?" asking about the hard choices needed to work toward a balanced budget.

Today, we see again that the opponents have no plan. This week's budget resolution is one more argument—the 57th argument in 65 years—for why we need to add the balanced budget amendment to the Constitution.

DEFICITS, DEBT IN THE STAND-PAT, STATUS QUO BUDGET

Some of us are ready to make significant reductions in the deficit, and supported the Domenici substitute this week. That alternative included pro-family, progrowth policies, real deficit reduction, and the middle-class tax cut the President promised when he was a candidate. I am disappointed that a majority passed up the chance to adopt that serious, thoughtful plan. Instead, we are left with Senate Concurrent Resolution 63, the stand-pat, big-debt budget resolution.

The President and Senators on the other side of the aisle are defending the status quo and touting "the first 3 consecutive years of deficit reduction since Harry Truman was President."

However, even under the best case scenario, the deficit reduction projected in this budget resolution is short term and temporary. Modest deficit reductions will be followed in 7 out of 8 years by growing deficits. Harry Truman would not have approved.

DEFICITS

[In billions of dollars]

	Fiscal year—					5-year totals
	1995	1996	1997	1998	1999	
Senate Concurrent Resolution 63	174	173	186	181	192	906
CBO March baseline[1]	174	176	192	187	213	944
Clinton budget (CBO)	168	175	209	224	230	1,006

[1] Excludes emergency earthquake supplemental.

The deficits planned in this budget resolution would have been even worse, had it not been for the Budget Committee's adoption of the bipartisan Exon-Grassley amendment, which trimmed an additional $43 billion in budget authority and $26 billion in outlays over 5 years. I commend my colleagues for making at least some headway in committee.

Even with the Exon-Grassley amendment, however, the fiscal year 1999 deficit is only marginally lower than the $213 billion deficit in the Congressional Budget Office's March baseline—less than 10 percent lower. In fact, if tax revenues related to the administration's health care plan weren't included, this budget resolution's deficits would be larger than the baseline deficits.

More ominously, this budget does nothing to address the major policy changes necessary to bring down deficits over the long term. CBO currently projected a deficit of $386 billion for fiscal year 2004—a projection that is already $21 billion above CBO's January baseline projection.

We've heard much about the lean, mean Clinton budget. But let's look at the levels of debt that the President, according to his own numbers, promise to achieve:

PROJECTED GROSS FEDERAL DEBT, END OF EACH FISCAL YEAR

[Dollars in trillions]

	Fiscal year—					
	1994	1995	1996	1997	1998	1999
Debt	4.676	4.960	5.267	5.601	5.954	6.305
Change year/year	.325	.284	.307	.334	.352	.352

THE CLINTON BUDGET VERSUS THE REAGAN RECORD

We've heard from the other side that much of this debt is not President Clinton's fault, that he inherited it. They've said that the Nation is still reeling from the debts run up during the 1980's. But how does borrowing on President Reagan's watch compare with President Clinton's?

President Clinton has submitted two budgets covering 6 fiscal years, 1994–99. President Reagan submitted eight budgets, for fiscal years 1982–89. Here's how their records compare:

Gross Federal debt added during the first 4 years for which each submitted budgets:

Reagan fiscal year 1982–85: $823 billion, actual; Clinton, fiscal year 1994–97: $1.250 trillion, budgeted.

Gross Federal debt added during the first and last 6 years for which each submitted budgets:

Reagan first 6 fiscal year 1982–87: $1.351 trillion, actual; Reagan last 6 fiscal year 1984–89: $1.496 trillion, actual; Clinton fiscal year 1994–99: $1.954 trillion, budgeted.

Gross Federal debt added during all 8 years for which President Reagan submitted a budget: fiscal year 1982–89: $1.873 trillion actual.

In other words, President Clinton has proposed to add more to the national debt in 6 years than actually was added during President Reagan's 8 years.

One other thing is important to keep in mind. For 6 of his 8 years, President Reagan was hampered by gridlock. For just 2 years, in 1981–82, there was enough bipartisan cooperation to enact and protect most of his budget cuts and tax relief. An 8-year run of record-breaking prosperity was the result.

But in 1982, the other party regained full control of the House and 6 long years of divided government followed. Partisan gridlock prevented any deficit reduction consensus from forming. Six times, President Reagan sent up budgets with significant spending cuts and deficit reduction, only to see congressional Democrats declare them DOA: Dead on arrival.

I've always believed, and always said, that both parties and both branches bore responsibility for gridlock and deficits during the 1980's. But let's remember our history accurately: The $1.496 trillion added to the debt in fiscal year 1984–89 were added because of gridlock.

The 1992 Presidential election ended gridlock. The same party is firmly in control of both ends of Pennsylvania Avenue now. This President's budgets may have items or policies that are MIA—missing in accounting—but they are not DOA.

So, if this President and this congressional Democratic leadership wanted to slash the deficit and move toward balancing the budget, they could do so. But when we look at this budget reso-

lution, we see that they have decided not to.

In fact, 6 years of gridlock between President Reagan and the Democratic leadership produced 23 percent less debt than the 6-year increase in debt budgeted as a result of cooperation between President Clinton and the Democratic leadership.

PROJECTIONS ARE FRAGILE

But even this storm cloud of debt has a darker, more ominous lining. The nearly $2 trillion in new debt in the first 6 years of Clinton budgeting is only a projection. These and other current budget projections are based on, among other things, no economic downturn in the foreseeable future and a continuation of some of the lowest interest rates in 30 years.

In other words, these projections are based on assumptions about future economic behavior that is dynamic and unpredictable. The economy, and as a result, budget and deficit projections, can change a little or a lot at any time.

For example:

CBO's re-estimate of the President's budget already shows deficits in every year that are higher than Office of Management and Budget projections, as follows:

[Dollars in billions]

	Fiscal year—					5-year
	1995	1996	1997	1998	1999	
Differences	2.6	5.1	22.7	34.0	49.1	113.5

Another example:

In less than 2 months, January-March, CBO's projections of its own baseline deficits already have gone up by $46.8 billion over 5 years;

Two additional examples appeared in this week's news:

Orders to U.S. factories for durable goods—a leading indicator of the health of U.S. manufacturing—dropped 2.5 percent in February;

The Federal Open Market Committee of the Federal Reserve System said Tuesday it would raise the Federal funds rate for short-term borrowing by 0.25 percent, following an identical increase on February 4, for a new rate of 3.5 percent.

CLINTON DEFICITS PLUS CARTER INTEREST RATES

Keeping in mind how subject to change economic and budget projections are, we should heed a warning from recent history.

Currently, for the 1994–99 period, CBO and OMB have projected interest rates ranging from 3.6 percent to 4.7 percent on 3-month Treasury bills, and ranging from 5.8 percent to 6.2 percent on 10-year Treasury notes.

But as recently as 1980, interest rates were above 11.5 percent on 3-month T-bills and were 11.46 percent on 10-year T-notes.

I remember all too well the ruinous effects that 1980 interest rates had on home buyers and business owners—and on Federal budget deficits. Like a number of my colleagues and many persons outside this body, I am struck by how optimistic our current interest rate projections really are.

At it does every year, in its January Economic and Budget Outlook volume, CBO estimated how a 1 percent increase in interest rates would increase the deficit. We called a CBO, discussed their methodology, applied some of their rules of thumb, and produced this graph, which I ask unanimous consent to include in the RECORD.

This graph shows approximately what would happen to Bill Clinton's deficits if interest rates returned to 1980 levels—Jimmy Carter interest rates.

I will note that we produced our computations before the Budget Committee marked up its resolution; therefore, the President's budget was used as a point of reference. However, Senate Concurrent Resolution 63 essentially is the President's budget and any differences are slight. Therefore, these alternative estimates, showing Clinton deficits adjusted for 1980 interest rates, are reasonable approximations and valuable for illustrative purposes.

The year-by-year result are as follows:

	Fiscal year—					5-year totals
	1995	1996	1997	1998	1999	
Clinton deficits (CBO re-estimate)	168	175	209	224	230	1,006
Clinton deficits adjusted for Carter interest rates	268	315	383	434	482	1,882
Differnce (Increased interest costs)	100	140	174	210	252	876
Clinton net interest (CBO re-estimate)	213	229	240	251	262	1,195
Total Clinton net interest	313	369	414	461	514	2071

Let's try to put these alternative estimates into perspective. If 1980 interest rates returned this year and replaced currently projected interest rates on Treasury securities, that one change alone would:

More than double the fiscal year 1999 deficit; almost double total deficit spending over the next 5 years; and almost double net interest spending in fiscal year 1999.

None of this new deficit spending would be for programs or services or benefits; virtually all the increase would be in interest payments on the national debt. We know what those interest payments buy: Absolutely nothing. They are regressive transfers of wealth from middle- and working-class taxpayers to large institutions and wealthy foreigners.

How large would these increases in interest costs really be? By FY 1999, just the increase above baseline interest payments would be equal to: 46 percent of all discretionary spending in the budget resolution; 62 percent of Social Security; 91 percent of all means-tested entitlements; 95 percent of Medicare; 98 percent of defense spending in the budget resolution; 167 percent of Medicaid; 280 percent of total federal civilian and military retirement; and 525 percent of the Education and Training function in the budget resolution.

My friends on the other side of the aisle would say, this is a worst-case scenario of what might happen if President Clinton is as unlucky as President Carter.

I would say, it is a cautionary note. This is what could happen if Bill Clinton's policies prove to be as negative for the country's economy as Jimmy Carter's, and if the rest of the world starts to clamp down on Uncle Sam's unlimited line of credit.

These alternative estimates are just an illustration, but they show what's possible—based on interest rates that we have experienced in the past.

The analysis I have just outlined shows why: We should be passing a budget resolution with more deficit reduction than Senate Concurrent Resolution 63; current deficit projections may be more fragile and more optimistic than we realize; and passing the President's stand-pat, status quo budget is whistling in the dark.

REAL DEFICIT REDUCTION: WHO'S ON FIRST

The foregoing analysis also shows why the Senate should have passed the Domenici substitute, the 99-in-'99 plan. That plan would have produced a deficit of $99 billion in fiscal year 1999, less than half the baseline, Clinton, or committee levels; it would have reduced deficits by $318 billion over 5 years, more than 8 times as much as Senate Concurrent Resolution 63. The budget resolution assumes only $38 billion in deficit reduction, and $26 billion of that is because of the Exon-Grassley amendment.

The Domenici budget was pro-family and pro-growth. Several of its core provisions were based on S. 1576, introduced last year by Senators COATS, HUTCHISON, LOTT, and myself, and also known as the FIRST bill, because it puts first things first. The name stands for the Family, Investment, Retirement, Savings, and Tax Fairness Act.

I congratulate Senator COATS for bringing together the group of us who wrote the FIRST bill, and commend Senator DOMENICI, our leader, Senator DOLE, and Budget Committee members on our side for including much of the FIRST bill in the Domenici substitute.

A few weeks ago a minority of 37 Senators blocked the balanced budget amendment to the Constitution from going to the House and then to the States for ratification. Opponents kept asking supporters where our plan was to balance the budget by fiscal year 2001. Several of us did, and still do, have a plan: The FIRST bill. Just as our constitutional amendment will not go away until we pass it, neither will our FIRST bill.

As the Senate began considering the balanced budget amendment, the Wash-

ington Times carried an op-ed by Senator COATS and this Senator. I ask unanimous consent to include the text of that article in the RECORD.

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

[From the Washington Times, Feb. 22, 1994]

BALANCED BUDGET AMENDMENT, YES; TAX INCREASE, NO

(By Dan Coats and Larry Craig)

This week, the Senate will have before it a simple but profound question: "Should the Congress be required by the Constitution to balance its budget?" The issue is straightforward and the American people have a vital interest in the outcome.

While there are arguments on both sides, there can be no arguments about the urgency of our circumstances. Every child born in America now inherits $17,000 in public debt. This is the destructive legacy of a Congress without courage. It is a failure of political will. It is a betrayal of moral commitments.

For decades the Congress has enjoyed the luxury of making unlimited promises and financing them with unlimited debt. Some have discovered the popularity of criticizing this debt, secure in the knowledge that the budget process was rigged politically to prevent real accountability. But now—with one vote—Congress holds its credibility in its hands. In one moment, we can prove our seriousness before a nation suspicious of its government.

Amending the Constitution is admittedly serious business—the most serious legislative act of which the Congress is capable. The Constitution is the most basic social contract between government and citizens. But the continued accumulation of debt threatens the endurance of that contract—an agreement not only with each other, but with our children. A balanced budget amendment is a Constitution-class solution for a Constitution-class crisis.

The spending habits of Congress are simply too entrenched. Deficit spending has always made political sense. It allows Congress to please people in the present by placing burdens on the future. The next generation, significantly, has no vote in the next election.

Critics of a balanced budget amendment have begun to issue ominous warnings. As President Clinton's point man on economic issues, Robert Rubin, recently said, "We need to save the country from this disaster." The possibility of passage in the Senate has so alarmed Mr. Clinton that he dispatched five Cabinet-level appointees to testify against the amendment last week.

The White House claims that the only way to get a balanced budget by the turn of the century is by dramatic tax increases or Draconian spending cuts. Their analysts say the amendment will lead to new taxes or to the slashing of many programs, including defense, and that drastic tax hikes would throw America into recession. They claim that balancing the budget would cost every American $700 in the year 2000, while ignoring the fact that the average American today pays more than $1,000 in taxes just to make interest payments on the nation's debt.

When it comes to raising taxes or gutting the Pentagon's budget, we do not question that this president speaks with authority. And we are glad the president acknowledges—belatedly—that raising taxes is akin to recession roulette. However, the truth is we don't have to raise taxes or eliminate every discretionary spending program to balance the books.

We have a plan that would balance the budget in eight years. In addition, our plan provides and pays for a $500 tax credit per child, a cut in the capital gains tax and several other incentives for families to save and businesses to invest.

As Ronald Reagan once commented, "for too long, government has stood in the way of people taking home more of what they earn, no matter how hard they try. It is economics without a soul."

Our bill, which is called the Family, Investment, Retirement, Savings and Tax Fairness Act (or "FIRST") offers a blueprint for budget reform. It caps the growth of federal spending at 2 percent (spending is currently growing at an average of 4.5 percent a year). It creates a commission, modeled after the base-closure commission, to identify cuts needed to meet the cap.

If Congress fails to approve the commission's plan by a certain date, then across-the-board cuts would take place to meet the cap (Social Security would not be affected, however).

Further, since American families are overtaxed, and because high taxes rob families of the resources they need to care for their children, the bill provides a $500 per child tax credit. A $500 child tax credit will give a family of four over $80 a month extra for groceries, school clothes for the kids, or savings for education. It will empower families to make more of their own choices and rely less on the government. Fifty-one million children are eligible for this credit. A $500 tax credit per child is real relief in tight times.

Our bill also recognizes that the private sector, not government, creates jobs. We must reduce the cost of capital and encourage productive investment by reducing the tax on growth. We will find new jobs in a growing economy, not in a growing government. FIRST provides incentives for businesses to create jobs, including a reduced capital gains tax rate, a neutral cost recovery plan for investments and expanded IRAs.

So, yes, Mr. President, there is a plan—a plan that reorders priorities to balance the budget and, at the same time, allows families to keep more of their hard-earned dollars and unleashes the productive power of the American people. It is a plan that offers economics with a soul.

Mr. WARNER. Mr. President, I join with those who have spoken during consideration of this budget resolution and the impact that cuts in discretionary spending, as indicated in the Exon-Grassley provision, would have on the defense budget and our national security. I support the amendment of the Senator from New Mexico [Mr. DOMENICI], the ranking Republican on the Budget Committee and a highly respected and learned colleague on budgetary matters.

In the Armed Services Committee over the past several weeks, we have heard from a number of our combatant commanders—the CINC's, who are responsible for going to war in their assigned parts of the world if war should come. We have also heard from the Secretaries of our military services and the Chiefs of each service.

As I have listened to their testimony, it is clear that virtually without exception, the leaders of our military establishment are uneasy with the current level of funding for the Defense budget. While this administration has put a high priority on readiness and moved additional funds into some categories of readiness accounts, we are beginning to see, I believe, some of the first, early indicators that readiness problems are beginning to develop.

General Joulwan, commander of the U.S. European Command expressed his concern about his command:

> They are meeting the challenge, but we are stretching our people and our resources to the limit. I am particularly concerned about the impact of unplanned and unbudgeted contingency operations on operating accounts, training and the quality of life for our troops and their families.

Mr. President, virtually all of our combatant commanders and service Chiefs expressed their concern about taking funds from the defense budget to pay for the unplanned contingencies that continue to occur in this world of regional instability and continuing crises. Invariably, the military services end up taking funds for these contingencies out of their hide.

In recent testimony before the Armed Services Committee, the Commandant of the Marine Corps stated:

> Our ability to maintain, in the longer term, readiness is on the margin and, as I reported to you last year, is trending downward.

General Mundy continued:

> We are not able to maintain fully the programs that support our people or that maintain our equipment and our facilities commensurate with the hard use to which we are putting them. We cannot continue these trends, or the corps that your forebears in these halls once referred to as the force in readiness will be anything but that.

Mr. President, the funding provided for modernization of our military services has been reduced drastically. The Army's research, development, and acquisition accounts have been reduced by 45 percent since fiscal year 1989—from $20.5 billion in fiscal year 1989 to $11.3 billion in fiscal year 1995. The Chief of Naval Operations, Admiral Kelso pointed out in his testimony before the Armed Services Committee:

> We are asking to buy only 4 ships and 24 tactical aircraft this year. Those numbers will not sustain the Navy at the level our Nation will require in the future.

General McPeak noted that the Air Force will buy only 4 combat aircraft this year.

Mr. President, we all read the same newspapers and watch the same newscasts. Everyone here is aware of the peril that exists throughout the world. As we speak, we are facing real danger from an unpredictable and increasingly threatening North Korea. Are they developing nuclear weapons and a means to deliver them? North Korea is refusing access to the facts for the world to reach its own conclusions. The North Koreans have a large, well-equipped army that is poised for action on the

demilitarized zone between North and South Korea. We have U.S. troops serving along the DMZ now. If the North Koreans launch an attack, American soldiers there will be immediately involved and we are committed to reinforcing the South Korean peninsula with a force similar in size to that we employed in Operation Desert Storm.

Our military services are involved now throughout the world in a number of operations with great demands on our people, equipment, and operating funds. We are continuing extensive air and sea operations in Bosnia-Herzegovina to prevent air operations by belligerents in the area and to enforce the arms embargo. We are now in the process of completing our withdrawal from Somalia. We continue to provide support to the Kurds in northern Iraq and are flying extensive air missions in Operation Southern Watch to enforce the "no-fly zone" in southern Iraq. The Chief of Staff of the Air Force, General McPeak, appearing this month before our committee, stated, "In Iraq, we have flown more than twice as many sorties since Desert Storm as we flew in Desert Storm."

The United States may be called upon any day to provide large numbers of our military to serve as peacekeepers in Bosnia. Congress must have a debate on this issue before the commitment is agreed to. Such a commitment would strain our personnel levels.

Mr. President, virtually every senior military officer who has appeared before our committee this year has expressed concern about our ability to execute two near-simultaneous major regional contingencies as called for in the Bottom-Up Review. The state of our military airlift and sealift has been identified as inadequate and a major concern of our military leadership.

The last point I would make is that the President of the United States, in his State of the Union Address this year, appealed to the Congress to make no further cuts in the Defense budget. He understands, as our Commander-in-Chief, how essential it is to have combat-ready military forces with the finest equipment and support we can provide them, prepared to respond to threats to our security and vital national interests. I urge all my colleagues to support the Domenici amendment to support our Commander-in-Chief, the men and women in our Armed Forces and our national security.

Mr. KOHL. Mr. President, I rise in opposition to the Domenici amendment. I do so for one simple reason. Senator DOMENICI's amendment would eliminate a $26-billion spending cut.

Because of the Exon-Grassley amendment offered in Budget Committee, the budget before us today cuts substantially more than recommended by the President and cuts substantially more than a freeze would require. Last year, we appropriated $550 billion in nonentitlement funds. If this resolution passes, we will appropriate $540 billion—and stick at that level for the next 5 years.

Senator DOMENICI's amendment would return appropriated spending in the budget to approximately the level suggested by the President. The Domenici amendment would add $26 billion to the amount the budget allows the Appropriations Committee to spend.

I am surprised to find my friends on the other side of the aisle working so hard to defend the spending proposed by a Democratic President. I am surprised to see them working so hard to eliminate billions of dollars of spending cuts.

The Domenici amendment is a clear demonstration that it is easier to talk about cutting spending than it is to actually do it. It is said that talk is cheap, but today talk is costing taxpayers billions of dollars. If the Domenici amendment passes, we will have talked ourselves out of one of the bravest spending cuts this body has ever seen.

My colleagues know the statistics that argue for cutting spending: deficits of almost $200 billion "as far as the eye can see;" Government debt of $4.6 trillion; interest payments on the Federal debt that have become the Government's second largest expenditure.

And the economy will respond to spending cuts. In today's Washington Post, Barry Bosworth, a renowned economist from the Brookings Institution, is quoted as saying that the economy could absorb an additional deficit reduction of $60 billion a year.

We are not going to regain control of our budget with words. We ought to cut the deficit, and we ought to cut out empty speeches on the deficit. If you are in favor of retaining $26 billion in real spending cuts, speak with your vote, and join me in defeating the Domenici amendment.

The PRESIDING OFFICER (Mr. KOHL). The managers' time has expired.

The Chair recognizes the Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that the time consumed by the Senator from Idaho be charged against the time under the control of the minority on the resolution.

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

Mr. DOMENICI. I agree with that.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that it be in order at this point to ask for the yeas and nays on the Domenici amendment No. 1567.

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

Mr. SASSER. I ask for the yeas and nays on the Domenici amendment No. 1567.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. SASSER. Mr. President, for the information of Senators, the Senate is about to conduct at least four back-to-back rollcall votes beginning at 3:15. The first vote is going to be on or in relation to the Domenici amendment on appropriations and Medicare and direct spending cuts. The second vote will be on or in relation to the Mack amendment proposing a sense of the Senate regarding a spending commission. The third amendment will be on or in relation to the Hutchison amendment cutting the appropriations caps and making the assumption that savings will come out of the legislative branch. Fourth, the Senate will vote on the motion to invoke cloture on the buyout bill.

Now if that fourth vote fails to invoke cloture, then there will be another cloture vote.

I disseminate this information, Mr. President, for the information of colleagues who might be watching us on the television sets in their offices.

FEDERAL WORKFORCE RESTRUCTURING ACT OF 1994—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report on H.R. 3345.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3345) to amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 16, 1994.)

The PRESIDING OFFICER. Who yields time on the conference report?

The Chair recognizes the Senator from Ohio [Mr. GLENN].

Mr. GLENN. Mr. President, what is the time limit we have on each side on this, on the buyout bill?

The PRESIDING OFFICER. There are 5 minutes on each side.

Mr. GLENN. Mr. President, could we doublecheck that, please? It was my

understanding it was to be 10 minutes on each side.

The PRESIDING OFFICER. It is 10 minutes equally divided; 5 minutes a side.

Mr. GLENN. Fine, Mr. President. We will do this as rapidly as we possibly can.

What we have is the buyout bill that has been back and forth between the House and Senate a number of times. I could go back and recount the dates and when we passed it and by what margins, and so on, but we are back on the floor filibustering the conference report and losing precious time. Because the longer we wait, the more difficult it is going to be for agencies to really slim down Government, and that is what we are talking about.

We are talking about the 252,000 people who are going to be cut out by the administration over the next 5 years, slimming down the civil service rolls. We are talking about doing this not just in taking those people out by the usual attrition of the 12 percent or so of Federal employees who leave the Government every year; we are talking about doing it in a way that will let us address the structure of the civil service force. That is the importance of this, because in the Federal Government we have about one supervisor for every seven employees they manage. In private business and industry, the ratio usually is around 12 or 15 to 1 on that employee-to-manager ratio. And in labor-intensive businesses, it runs up as high as 20 to 1. We are 7 to 1, the Federal Government. It is wasteful.

What we need is to have a program that can give some incentives to get the GS-13's, 14's, and 15's to take some early outs. That is what the buyout title comes from, is that effort to enable us to give some incentives. It has already been tried once in the Defense Department and worked very well there in helping slim down the civil service rolls. That is what we are after with this amendment—with this buyout legislation.

The Senate did pass the Gramm amendment twice. That is what is at issue here. I voted for that amendment on both occasions when it was offered. However, that vote was nonbinding. It went to conference. The House conferees to the buyout bill adamantly opposed the amendment. They do not even have a crime bill passed over there, so there was not really anything to apply it to was their logic, and I agreed with that. I remind my colleagues the administration backed the House conferees on this issue.

On March 11, I received a letter from the Vice President regarding H.R. 3345, in which he stated they supported placing the savings achieved through downsizing to the financing of the crime bill, but not the way it was being done through the Gramm amendment. It would be more appropriate to consider the violent crime reduction trust fund in the context of the crime legislation.

The House expects to come up with a crime bill shortly. They do not have it yet, so we receded to the House, since it seemed to me it was logical we address that when the time arrived.

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

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me clarify the issue here. No one I am aware of is against the buyout bill. The buyout bill is good public policy. It tries to get people to retire early, so we do not have to RIF people who work for the Federal Government.

The action we are taking to reduce the number of people working for the Federal Government by 252,000 personnel slots, was first offered as an amendment by me earlier in this session. It will save $22 billion. The buyout provision is part of generating that savings.

There is one and only one issue here. We have a small number of people in the House who want to spend this $22 billion basically on social programs. What I have done is offer an amendment that dedicates that $22 billion to funding the violent crime reduction trust fund that will allow us to put 100,000 more police officers on the streets, and that will enable us to build prisons so we can imprison people who commit violent crimes and keep them there. And, under my amendment, if Congress does not spend this money on violent crime reduction, every penny of it goes to deficit reduction.

I offered this amendment. It has been voted on successfully and adopted in the Senate not once or twice, but three times.

The House has voted on this provision not once or twice, but four times. They have instructed conferees to accept my amendment, and the conferees have gone to conference and thrown it out. They have passed resolutions with instructions urging that my amendment be adopted. They have recommitted the bill with instructions. And yet a small number of people in the House who want to squander this money instead of using it for deficit reduction or to fight violent crime are trying to hold up the Senate and say if we do not pass this bill their way, if we do not let them spend this $22 billion, then they are going to let this good bill die.

I do not want this good bill to die. But I am tired of the will of both Houses of Congress being delayed and denied by a small group of people. So, Mr. President, I resist that effort.

I urge my colleagues to vote down this cloture motion and send a clear message to the House: A majority of the Members of the House on four occasions have voted for my amendment which says apply these savings to deficit reduction or use them to fight violent crime. Do not squander this money. This is an important issue. It is not very often around here we get to save $22 billion, and it is not very often around here we do something about the violent crime crisis that our bleeding Nation faces.

If we deny cloture on this bill, I believe the House will awaken and do what the majority of its Members have voted to do on four different occasions.

I reserve the remainder of my time.

Mr. GLENN. Mr. President, I yield 1 minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, I urge my colleagues to vote for cloture on this legislation. We have enough of a crime problem without adding to it, holding the Federal employees hostage. Those who could leave in a voluntary way are going to be RIF'd out. That in itself is a form of criminal punishment. I very much hope my colleagues will not do that.

Let me quote from Chairman BROOKS in the debate on the House floor yesterday with respect to this matter. He said:

> As a conferee on H.R. 3345—
>
> This very legislation—
>
> I oppose the Senate's proposal to adopt a crime trust fund as part of legislation designed to facilitate the orderly reduction of the Federal work force over the next several years. Today I continue to believe that the issue of such a trust fund should be addressed in the context of comprehensive crime legislation, and not in this buyout bill.

Which is where we did it, in the crime bill. And Chairman BROOKS committed himself in that debate, saying that he believed a carefully crafted trust fund represents the most viable means of financing the crime bill, and that he would support the adoption of such a trust fund on the crime bill, which is where we put it and where the House Members ought to put it. And we ought not to hold this buyout hostage to the crime bill.

I support the trust fund on the crime bill, but we ought not to kill this buyout bill.

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

Mr. GRAMM. Mr. President, how much time do the two sides have?

The PRESIDING OFFICER. The time controlled by the Senator from Ohio has expired. The time controlled by the Senator from Texas is down to 1 minute.

Mr. GRAMM. Mr. President, if you do not lock money away when you save it, it ends up being spent. The issue here is that a small number of people in the House want to spend this $22 billion. It is obvious to a blind man. We have voted on this seven times. They have fought it because they desperately want to spend this money. I want it to go to either deficit reduction or to fight violent crime.

Second, listen to what Chairman BROOKS did not say. He did not say he was going to vote for a trust fund in the House. He did not say the trust fund was going to contain the $22 billion. He did not say this money was not going to be spent somewhere else.

We have an opportunity today. We are on the goal line. We have come very close to winning on this issue. Let us not squander this opportunity; $22 billion is a lot of money. Do not let it be wasted.

Ms. MIKULSKI. Mr. President, allowing Federal agencies to offer buyouts as incentives for Federal employees to retire is a matter of extreme urgency. It is imperative that we enact buyouts in order to avoid reductions in force [RIF's] or furloughs in the Federal Government.

We have made a commitment to downsize the Federal Government by 252,000 full-time positions over the next 5 years. In order to do this without putting younger, household heads and family providers out of work, we must pass legislation to encourage older workers to retire. Time is running out. If we wait any longer, buyouts will not be cost effective this fiscal year and layoffs will be inevitable. We must act now.

The buyout legislation gives us a chance to reduce the size of Government without laying people off. It would allow agencies to offer targeted buyouts, so that we can reduce staff where we can afford reduction—managers, supervisors, and more senior workers. Younger workers and those working key jobs in service to the public would be spared the disruption of RIF's.

The buyout legislation will not add to the deficit—it is deficit neutral over the next 6 years. Agencies will contribute 9 percent of a year's salary to the Civil Service Retirement Fund for every employee who takes the buyout in fiscal year 1994 and 1995. In fiscal years 1995 through 1998, agencies will also contribute $80 per employee on the payroll as of March 31 of each year to the Civil Service Retirement Fund. The Congressional Budget Office has scored this legislation as deficit neutral over the next 5 years.

Reductions in force would be a terrible blow to men and women in service to our Government and to our economy. Recently hired employees, which include a large percentage of women and minorities, would be the first to go. Many are household heads, providing for families. Many are single parents. Some make just enough to get by. They are hard-working, caring people committed to serving others. We have an opportunity to downsize the Federal Government without putting them on the street. We owe it to them to act on this opportunity.

I strongly support the buyout incentive legislation, and I urge my colleagues to join me in getting this important legislation passed.

The PRESIDING OFFICER. All time has expired.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. The Senate will resume consideration of Senate Concurrent Resolution 63, the concurrent resolution on the budget.

VOTE ON AMENDMENT NO. 1567

The PRESIDING OFFICER. The question is on agreeing to the Domenici amendment No. 1567. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of a death in the family.

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—35

Bennett	Domenici	McConnell
Bingaman	Glenn	Murkowski
Bond	Hatch	Nunn
Boren	Hatfield	Packwood
Burns	Helms	Pressler
Byrd	Hollings	Robb
Coats	Johnston	Simpson
Cochran	Kassebaum	Specter
Cohen	Kempthorne	Stevens
Craig	Lieberman	Thurmond
Danforth	Lugar	Warner
Dole	McCain	

NAYS—63

Akaka	Feinstein	Mathews
Baucus	Ford	Metzenbaum
Boxer	Gorton	Mikulski
Bradley	Graham	Mitchell
Breaux	Gramm	Moseley-Braun
Brown	Grassley	Moynihan
Bryan	Gregg	Murray
Bumpers	Harkin	Nickles
Campbell	Heflin	Pell
Chafee	Hutchison	Pryor
Conrad	Inouye	Reid
Coverdell	Jeffords	Riegle
D'Amato	Kennedy	Rockefeller
Daschle	Kerrey	Roth
DeConcini	Kerry	Sarbanes
Dodd	Kohl	Sasser
Dorgan	Lautenberg	Simon
Durenberger	Leahy	Smith
Exon	Levin	Wallop
Faircloth	Lott	Wellstone
Feingold	Mack	Wofford

NOT VOTING—2

Biden	Shelby

So the amendment (No. 1567) was rejected.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1571

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Florida. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is absent because of a death in the family.

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—57

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Breaux	Gramm	Moseley-Braun
Brown	Grassley	Nickles
Bryan	Gregg	Nunn
Burns	Hatch	Packwood
Campbell	Heflin	Pell
Chafee	Helms	Pressler
Coats	Hutchison	Robb
Cochran	Kassebaum	Roth
Cohen	Kempthorne	Shelby
Coverdell	Kerrey	Simon
Craig	Kerry	Simpson
D'Amato	Kohl	Smith
Danforth	Lautenberg	Specter
DeConcini	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wofford

NAYS—42

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Bingaman	Glenn	Mitchell
Boren	Graham	Moynihan
Boxer	Harkin	Murkowski
Bradley	Hatfield	Murray
Bumpers	Hollings	Pryor
Byrd	Inouye	Reid
Conrad	Jeffords	Riegle
Daschle	Johnston	Rockefeller
Dodd	Kennedy	Sarbanes
Dorgan	Leahy	Sasser
Exon	Levin	Stevens
Feingold	Mathews	Wellstone

NOT VOTING—1

Biden

So the amendment (No. 1571) was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1572

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1572) of the Senator from Texas [Mrs. HUTCHISON]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is absent because of a death in the family.

Mr. SIMPSON. I announce that the Senator from Montana [Mr. BURNS] is necessarily absent.

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

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—48

Bennett	Chafee	Danforth
Bingaman	Coats	Dole
Bond	Coverdell	Domenici
Breaux	Craig	Durenberger
Brown	D'Amato	Faircloth

Feingold	Kempthorne	Nunn
Graham	Kerrey	Pressler
Gramm	Kohl	Robb
Grassley	Lautenberg	Roth
Gregg	Lott	Shelby
Hatch	Lugar	Simpson
Heflin	Mack	Smith
Helms	McCain	Specter
Hutchison	McConnell	Thurmond
Jeffords	Murkowski	Wallop
Kassebaum	Nickles	Warner

NAYS—50

Akaka	Feinstein	Mitchell
Baucus	Ford	Moseley-Braun
Boren	Glenn	Moynihan
Boxer	Gorton	Murray
Bradley	Harkin	Packwood
Bryan	Hatfield	Pell
Bumpers	Hollings	Pryor
Byrd	Inouye	Reid
Campbell	Johnston	Riegle
Cochran	Kennedy	Rockefeller
Cohen	Kerry	Sarbanes
Conrad	Leahy	Sasser
Daschle	Levin	Simon
DeConcini	Lieberman	Stevens
Dodd	Mathews	Wellstone
Dorgan	Metzenbaum	Wofford
Exon	Mikulski	

NOT VOTING—2

Biden	Burns

So the amendment (No. 1572) was rejected.

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

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

The motion to lay on the table was agreed to.

POSITION ON VOTE

Mr. BURNS. Mr. President, I was called off the floor during the vote on Senator HUTCHISON's amendment and, unfortunately, missed casting my vote by only a few seconds.

With unanimous consent, I would like the RECORD to reflect that, had I been present, I would have voted "aye."

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION NO. 1

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Conference Report accompanying H.R. 3345, the Federal Workforce Restructuring Act of 1994.

George Mitchell, Barbara Mikulski, David Pryor, Carl Levin, Edward M. Kennedy, Dennis DeConcini, Jeff Bingaman, Patrick Leahy, Paul Wellstone, Daniel K. Akaka, Wendell Ford, Harris Wofford, Paul Simon, Christopher Dodd, J. Lieberman, John F. Kerry, Dianne Feinstein, John Glenn.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 3345, an act to provide temporary authority to Government agencies relating to voluntary separation incentive payments, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is absent because of a death in the family.

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

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—58

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Bingaman	Harkin	Murray
Boren	Hatfield	Nunn
Boxer	Heflin	Pell
Bradley	Hollings	Pryor
Breaux	Inouye	Reid
Bryan	Johnston	Riegle
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Campbell	Kerry	Sarbanes
Conrad	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dodd	Levin	Stevens
Dorgan	Lieberman	Warner
Exon	Mathews	Wellstone
Feingold	Metzenbaum	Wofford
Feinstein	Mikulski	
Ford	Mitchell	

NAYS—41

Bennett	Durenberger	Mack
Bond	Faircloth	McCain
Brown	Gorton	McConnell
Burns	Gramm	Murkowski
Chafee	Grassley	Nickles
Coats	Gregg	Packwood
Cochran	Hatch	Pressler
Cohen	Helms	Roth
Coverdell	Hutchison	Simpson
Craig	Jeffords	Smith
D'Amato	Kassebaum	Specter
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	

NOT VOTING—1

Biden

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 41. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the motion to invoke cloture on the conference report accompanying H.R. 3345 is again in order.

The clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION NO. 2

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Conference Report accompanying H.R. 3345, the Federal Workforce Restructuring Act of 1994.

George Mitchell, Barbara Mikulski, David Pryor, Carl Levin, Edward M. Kennedy, Dennis DeConcini, Jeff Bingaman, Patrick Leahy, Paul Wellstone, Daniel K. Akaka, Wendell Ford, Harris Wofford, Paul Simon, J. Lieberman, John F. Kerry, Dianne Feinstein, John Glenn.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the call of the roll is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 3345, an act to provide temporary authority to Government agencies relating to voluntary separation incentive payments, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is absent because of a death in the family.

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

The yeas and nays resulted—yeas 63, nays 36, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—63

Akaka	Feinstein	Mikulski
Baucus	Ford	Mitchell
Bingaman	Glenn	Moseley-Braun
Boren	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Riegle
Campbell	Kassebaum	Robb
Cochran	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dodd	Leahy	Stevens
Domenici	Levin	Thurmond
Dorgan	Lieberman	Warner
Exon	Mathews	Wellstone
Feingold	Metzenbaum	Wofford

NAYS—36

Bennett	Faircloth	Mack
Bond	Gorton	McCain
Brown	Gramm	McConnell
Burns	Grassley	Murkowski
Chafee	Gregg	Nickles
Coats	Hatch	Packwood
Coverdell	Helms	Pressler
Craig	Hutchison	Roth
D'Amato	Jeffords	Simpson
Danforth	Kempthorne	Smith
Dole	Lott	Specter
Durenberger	Lugar	Wallop

NOT VOTING—1

Biden

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 36. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL WORKFORCE RESTRUCTURING ACT OF 1994—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will state the conference report by title.

The legislative clerk read as follows:

A conference report to accompany H.R. 3345 a bill to amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments, and for other purposes.

The Senate continued with the consideration of the conference report.

Mr. GRAMM. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The pending business is now the conference report.

Mr. GRAMM. Mr. President, could we check the unanimous consent request? It was my understanding that we went back to the budget.

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.

Is there further debate on the conference report?

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

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DODD be recognized to address the Senate as if in morning business for up to 5 minutes.

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

The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, I thank the majority leader and the minority leader.

LUIS DONALDO COLOSIO

Mr. President, today the people of Mexico are mourning the tragic and untimely death of Luis Donaldo Colosio, the presidential candidate who was shot and killed last evening while at a campaign stop in northern Mexico. Mr. Colosio had been widely expected to succeed President Carlos Salinas de Gortari in the election scheduled for this August.

I am sure I speak for all of my colleagues when I say our thoughts and prayers are with the Colosio family and with the people of Mexico who have endured a devastating and terrible loss over this past 24 hours. As a nation that has experienced its own share of political tragedies, I think we have some understanding in this country of what it is like when a young and promising leader is suddenly and unexpectedly taken away. Surely, this is what has happened to the people of Mexico over the course of the past day.

Mr. President, Mr. Colosio was a truly bright star, one of that nation's most gifted and intelligent leaders. As the secretary of social development in the Salinas cabinet, he had demonstrated a compassion for the underprivileged and an understanding of the need for change, meeting on an almost daily basis with peasant farmers and impoverished Mexicans in need of help. In fact, when he was shot last evening, Mr. Colosio had just finished giving a speech to several thousand people in Lomas Taurinas, an impoverished neighborhood on the outskirts of Tijuana.

This morning President Clinton issued a statement offering his condolences to the Mexican people and to the family of Mr. Colosio, and I commend him for doing so. The death of Mr. Colosio comes at a crucial moment in Mexico's history, one which has seen a wide range of reforms, both political and economic, as a result of the initiatives of the Salinas government. I am confident, Mr. President, that the pace of reform and change in Mexico, as well as the rapidly strengthening ties between our two nations, will outlive this terrible tragedy.

Mr. President, we do not yet know all of the circumstances surrounding this tragedy in Mexico. What we do know is that last evening Mexico lost one of its most promising leaders, a man who understood the past but also embraced with enthusiasm the future. In Mexico and in the United States and indeed throughout the entire hemisphere, he will be sorely missed, and our prayers and thoughts go to his family and to the people of Mexico.

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

The PRESIDING OFFICER (Mr. KERREY). 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.

FEDERAL WORKFORCE RESTRUCTURING ACT OF 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Is there further debate?

The question occurs on the conference report on H.R. 3345.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—99

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	Nickles
Bryan	Hatch	Nunn
Bumpers	Hatfield	Packwood
Burns	Heflin	Pell
Byrd	Helms	Pressler
Campbell	Hollings	Pryor
Chafee	Hutchison	Reid
Coats	Inouye	Riegle
Cochran	Jeffords	Robb
Cohen	Johnston	Rockefeller
Conrad	Kassebaum	Roth
Coverdell	Kempthorne	Sarbanes
Craig	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Smith
Dodd	Leahy	Specter
Dole	Levin	Stevens
Domenici	Lieberman	Thurmond
Dorgan	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wellstone
Faircloth	Mathews	Wofford

NAYS—1

Brown

So the conference report was agreed to.

Mr. DURENBERGER. Mr. President, I rise to briefly explain my reasons for voting against cloture on the Workforce Restructuring Act of 1994 conference report.

Let me say at the outset that there is strong sentiment in favor of Federal employee work force restructuring on both sides of the aisle. The disagreement is over where the savings realized from the restructuring will be dedicated.

Many of my Republican colleagues favor dedicating the savings to the violent crime reduction trust fund that was first proposed in the Senate crime bill. Because this conference report does not dedicate its savings to the trust fund and there had been attempts to use this savings for other purposes, I did not vote to close off debate.

At the time we were considering the crime bill, I expressed reservations about the method we used to create the violent crime reduction trust fund—late at night, in an emotionally charged atmosphere, with little thought or debate.

Since that time, President Clinton and a growing number of bipartisan members in both Chambers of Congress have announced their support for the trust fund. Because it is now a near certainty that Congress will eventually adopt this trust fund, I feel that it is important that we find a way to pay for it. That is why I believed voting against closure was fiscally responsible.

Once cloture was invoked, I did vote in favor of the buyout conference report, since I have strongly supported this important program to facilitate the very difficult task of restructuring the Government.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agree to.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1636), the Marine Mammal Protection Act Amendments of 1994.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1636) entitled "An Act to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, 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 "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence by inserting immediately before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property, so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.";

(5) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to three consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endan-

gered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and an incidental take reduction plan has been developed or its being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

"(vi) This paragraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).'"; and

"(6) by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel.

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.'".

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) is amended by adding at the end the following new sentence: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) of this Act that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.".

(c) Section 101(c) (16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of the carcass.".

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by inserting "except for the incidental taking of marine mammals in the course of commercial fishing operations" before the period at the end;

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the right and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(i) or (iii) is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for the seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required by the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research pur-

poses to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in harm to a species, population, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) Geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall notify the applicant if the proposed research is likely to result in the taking, including Level A harassment, of a marine mammal, and that subparagraph (A) applies, or shall issue a letter confirming that the general authorization applies. If no such notification is received, the proposed research shall be covered under the general authorization."; and

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

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of a sustainable population;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A):

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3), or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation of the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

(A) striking "or" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear populations are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear populations throughout their range.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section as amended by this Act.

SEC. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d) as amended by this Act is further amended—

(1)(A) in subsection (b)(1)(A) by striking "and" at the end of clause (ii); and

(B) by inserting a new clause (iii) as follows: "(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(C); and"; and

(2) in subsection (d) by striking "For purposes of carrying out this title, the" and inserting "The".

SEC. 7. APPLICATION TO OTHER TREATIES AND CONVENTIONS.

Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of the United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the

Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.".

SEC. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(b)(1), any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 118 for such species or stock.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—Title I is amended by inserting after section 115 the following:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I and title IV, of the Marine Mammal Protection Act of 1972 (other than sections 117 and 118 of that Act), $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118 of the Marine Mammal Protection Act of 1972, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 115 the following:

"Sec. 116. Authorization of appropriations.".

(c) AUTHORIZATION.—Title II (16 U.S.C. 1401 et seq.) is amended by adding at the end the following:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission for carrying out this title $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.".

(d) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 206 the following:

"Sec. 207. Authorization of appropriations.".

SEC. 10. STOCK ASSESSMENTS.

Title I is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.—Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—

"(1) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks;

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish at least 3 independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico) consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

"(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

"(E) the potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks; and

"(F) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

"(e) EFFECT ON SECTION 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I, as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3),

and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within seven years of the date of enactment of this section.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within seven years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

"(c) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery) that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A)(i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A)(i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such registration is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (e); and

"(iv) comply with a take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A)(i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A)(i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew member of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

"(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of section 105 and 107, and may be subject to section 106.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses in-

curred in the granting and administration of authorizations under this section.

"(d) MONITORING OF INCIDENTAL TAKES.—

"(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality and injury, or bycatch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A) (i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established in this section. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(3) If there is insufficient funding available to develop and implement take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under subsection (c) and any substantial new information;

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;

"(D) recommended dates for achieving the specific objection of the plan:

"(5)(a) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months after of the plan's implementation such mortality and serious injury to a level below the potential biological removal level.

"(b) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(6)(a) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(b) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(c) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the incidental take plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, con-

sist of an equitable balance among representatives of resource user interests and nonuser interests.

"(d) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(e) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor, in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

"(10)(A) Notwithstanding paragraph (5), in the case of any stock to which paragraph (5) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact on a species listed as a threatened species or endangered species under the Endangered Species Act of 1973, (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1)(A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(h) PENALTIES.—Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of section 105 and 107, and may be subject to section 106 as the Secretary establishes by regulations.

"(i) ASSISTANCE.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests."

"(k) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(l) DEFINITIONS.—As used in this section, each of the terms 'fishery' and 'vessel of the United States' has the same meaning as it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended—

(1) in paragraph (13) by inserting "harm," before "harass" each place it appears; and

(2) by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'harm' means an act or series of acts, which is likely to result in significant habitat modification or degradation that is likely to threaten the survival or recovery of a stock.

"(20) The term 'strategic stock' means a marine mammal population or stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future; or

"(C) is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under the Act.

"(21) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The minimum population estimate of the stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(22) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(23) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(24) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts or Eskimos residing in Alaska.

"(25) The term 'take reduction plan' means a plan established under section 118.

"(26) The term 'take reduction team' means a team established under section 118.

"(27) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(28) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 13. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," immediately after "thereunder" and by inserting ", harassment," immediately after "taking".

(b) CRIMINAL PENALTIES.—Section 105(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" immediately after "thereunder".

(c) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting in lieu thereof "114, and 118 of this title and title IV".

SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(h) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until September 1, 1995, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b)MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421d(a)), as so redesignated by subsection (b)(2) of this section, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale or any other whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 18. SCRIMSHAW EXEMPTIONS.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by

the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end following new section:

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals of subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status of Alaska Natives or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384).".

SEC. 20. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following:

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report containing the results of the work-shop under this subsection, proposed regulatory or research actions, and recommended legislative action.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Maine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to subsection (d)(1) shall be conducted in Alaska. The Secretary shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 22. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as RTC-1 and 200. Such property shall include Pier R, the buildings known as RTC-1 and RTC-4 and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY; EFFECT ON LIABILITY OF SECRETARY OF NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 120. PACIFIC COAST TASK FORCE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the lethal removal of pinnipeds in accordance with this section.

"(b) APPLICATION.—(1) Any State may apply to the Secretary to authorize the lethal removal of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973;

"(B) the Secretary finds are approaching endangered species or threatened species status (as those terms are defined in the Act); or

"(C) migrate through Ballard Locks at Seattle, Washington.

"(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the removal.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines that such sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed lethal removal of the pinniped or pinnipeds, including along with

the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of removal, criteria for evaluating the success of the action, and the duration of the authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the lethal removal, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted lethal removal or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue harm, impact, or imbalance with other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve lethal removal for any pinniped from a species or stock that is—

"(1) listed as threatened or endangered under the Endangered Species Act of 1973;

"(2) designated as depleted under this Act; or

"(3) specified under section 117(a)(7) of this Act.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—

"(1) The Secretary of Commerce shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or which the Secretary finds are approaching endangered or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission on behalf of the States of Washington, Oregon, and California for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the United States House of Representatives and the Committee on Commerce, Science, and Transportation of the United States Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The Pacific States Marine Fisheries Commission is authorized to use funds appropriated under section 308(c) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(c)) to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—

"(1)(A) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(i) fish behavior in the presence of predators generally;

"(ii) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(iii) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(iv) other issues the Secretary considers relevant.

"(B) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(2) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination under subsection (c)."

"(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding seals interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

"(i) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take and reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period for compliance with section 118(f)(5)(A), to be no later than April 1, 1997.".

SEC 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in the title III" and inserting "In section 118 and title IV".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

(c) FURTHER AMENDMENTS TO TITLE IV. The Act is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by paragraph (2) of this section and the sections that are redesignated by paragraph (3) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination, data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Definitions."

SEC. 25. TRANSFER.

Of amounts appropriated by Public Law 103–139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Secretary of the Navy shall transfer $8,000,000 not later than April 15, 1994, to the Administrator of the Maritime Administration for the conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

AMENDMENT NO. 1576

Mr. FORD. Mr. President, I move that the Senate concur in the amend-

ment of the House with a further amendment, which I now send to the desk on behalf of Senator KERRY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. KERRY, proposes an amendment numbered 1576.

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

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Mr. President, again I am joined by my good friend from Alaska, Senator TED STEVENS, in offering legislation to reauthorize the Marine Mammal Protection Act, S. 1636. I am pleased with the progress we have made in our discussion with the House and believe that, all things considered, the bill before us today is a strong environmental package that treats fairly all those who interact with marine mammals. I would like to especially thank Congressman GERRY STUDDS, chairman of the Merchant Marine and Fisheries Committee, who has championed marine mammal protection for over two decades.

Today the Senate is considering the Marine Mammal Protection Act Amendments of 1994. Before us is a bill which concurs with the House amendment to S. 1636 with an amendment. Our bill is nearly identical to the House-passed version sent to the Senate on Tuesday night. With the exception of the provision on the importation of polar bear trophies into the United States, the House-passed reauthorization of the Marine Mammal Protection Act is a very strong environmental bill that I believe balances the concern for marine mammal in both the wild and captivity with the needs of the commercial fishing industry and others who interact with marine mammals.

The House product incorporates many key provisions of the Senate bill which were drawn from lengthy discussions between House and Senate staff. Unfortunately, the House included a provision not found in the Senate bill, and which I oppose, to allow the importation of polar bear trophies from Canada. While I would have preferred this language to be stricken from the bill, that was not an option and I will explain why later in my statement. However, I was successful in added language which I worked out with my colleagues to this package to monitor the effects on the Canada polar bear stock and to guarantee the immediate cessation of imports should there be an adverse impact on the sustainability of the Canadian polar bear stock.

The driving force in moving the Marine Mammal Protection Act Amendments of 1994 was the need to establish a new regime to govern the interactions between marine mammals and commercial fisheries. The regime developed in S. 1636 is designed to ensure the safety of marine mammals and guarantee that marine mammal populations will recover because of the following elements:

First, stock assessments: For the first time, the agency is required to determine the status of every single marine mammal stock including whether the stock is healthy or is in any danger of declining, whether it is in need of some assistance because it is depleted, threatened, or endangered, or whether the level of human—caused mortality is greater than the annual population growth rate. The stock assessment is to be based upon data the National Marine Fisheries Service [NMFS] has gathered during the past 5 years.

Second, vessel registration: This bill would continue the current vessel registration system requiring all vessels with frequent or occasional interaction with marine mammals to register in order to be authorized to take marine mammals. With this registration, for the first time ever, the Secretary of Commerce has the authority to revoke an individual fisherman's authorization to take marine mammals if that fisherman does not comply with a take reduction plan. For the first time every individual fisherman may be fined for not complying with regulations designed to protect the marine mammal stock.

Third observer coverage: This bill would require observers on board all vessels fishing in category 1 and category 2 fisheries, those fisheries that have frequent or occasional interaction with marine mammals. For the first time, the Secretary of Commerce could require observers to be placed on category 3 vessels—vessels which have a remote likelihood of interaction with marine mammals—if the stock is a threatened or endangered species.

Fourth, emergency regulatory authority: The bill provides the Secretary of Commerce, for the first time, with mandatory emergency authority to address any situation in which there is an immediate adverse impact on a strategic stock or a stock that is considered healthy but for some reason is declining.

Fifth, zero mortality rate goal: The bill has a zero mortality rate goal to be reached within 7 years of enactment. For the first time, the Secretary of Commerce is given regulatory authority to work toward achieving that goal, whereas the act currently only states the goal but specifies no deadline for compliance.

Sixth, take reduction teams and take reduction plans: The bill provides for creation of take-reduction teams to develop plans to reduce the incidental taking of marine mammals. These plans are designed to actively reduce takes of stocks that are not healthy to a point where the stock will recover over a period of time.

Seventh, intentional taking of marine mammals: For the first time, this bill explicitly prohibits the intentional killing of marine mammals.

Overall this is a strong environmental package. I have only one significant problem with it. I am personally opposed to the House provision that was incorporated at the insistence of Congressman JACK FIELDS which allows the Secretary of Interior to grant permits to individuals to import polar bear trophies from Canada into the United States.

With the likelihood of the Senate adjourning for recess within the next 24 hours, the time constraints are very tight for Congress to act on this matter before the current law expires on April 1. To me it is unthinkable that we would extend the existing MMPA regime for another 5 years—a proposal from the House that less conservation-minded Members would happily support. This is the worst case scenario, for it would mean the killing of tens of thousands of additional marine mammals without the new, tighter regime contained in this package.

Therefore, I am in the frustrating position of making a choice between several unpleasant alternatives to save what otherwise is a very strong environmental bill. The first choice is to accept the polar bear provision as is. Another is to fight to eliminate the provision in the Senate. This is an option that I believe would allow us to win the battle but not the war for Congressman JACK FIELDS has indicated that he will oppose any bill that does not contain the polar bear provision, and given the time constraint under which we are working, the House must pass the MMPA by unanimous consent and thus one Member could prohibit its passage. Finally, I could work to strengthen the protection to polar bear populations contained in the House language. It is this last course which I believe is the only feasible, responsible course under the circumstances.

While the MMPA currently prohibits the importation of any marine mammal product, the House incorporated language that would authorize the Interior Department to issue permits for the import into the United States of polar bear trophies, but not the internal organs of bears, killed in sport hunts in Canada. In addition, the House provision authorizes the import permit to be granted only if the bear were killed under a legal hunting permit issued by the Canadian Government; the House provision also provides that the Canadian bear hunting program be based on scientifically sound quotas to ensure a sustainable population that is consistent with the 1973 international agreement on the

conservation of polar bears. Also, the import must be consistent with the convention on international trade in endangered species. Finally, the House provision requires the Interior Department to charge a fee for issuing such import permits with the proceeds to be used for polar bear conservation programs being conducted in Alaska and Russia.

I insisted that we tighten the House provision by requiring that Secretary of Interior Bruce Babbitt conduct a 2-year scientific review assessing the effect of United States import permits on the health of the Canadian polar bear herd. If the scientific review, which includes public comment, determines that the stock has been adversely impacted in any way, the Secretary can put an immediate stop to the permit process.

With this additional polar bear protection language, I believe that the benefits of the overall MMPA package vastly outweigh the potential problems associated with the polar bear provision. If we fail to take action now, we sentence thousands of marine mammals to death and injury that could be avoided by our new regime.

The Federal Government has spent 5 years operating under an interim exemption for commercial fisheries. The National Marine Fisheries Service has spent that time collecting data on marine mammal stocks and developing a new management regime to protect those stocks. The Congress has spent this session developing legislation to reauthorize the MMPA.

This latest amendment to S. 1636 is a bipartisan and bicameral effort that is the product of many months of hard work. The package is the result of extensive discussions with and comments from the National Marine Fisheries Service, the Marine Mammal Commission, conservation and animal protection groups and the fishing industry. All have worked tirelessly to meet the April 1, 1994, statutory deadline. While we are fast approaching that date, I believe we will achieve that goal.

The original MMPA has far exceeded expectations in its protection of dolphins, whales, seals, and sea lions among other marine mammal stocks. Prior to 1972 when the original MMPA was enacted, hundreds of thousands of marine mammals were killed each year, intentionally from hunting and accidentally due to their interactions with commercial fishermen.

I believe this reauthorization will strengthen our efforts and further reduce the mortality and serious injury to our marine mammal stocks. I hope my colleagues in both Houses will pass this important initiative.

Mr. STEVENS. On Monday, March 21, 1994, we passed the Senate version of the Marine Mammal Protection Act reauthorization bill. The House passed a similar version of the legislation, H.R. 2760, that same day.

Senator KERRY's staff and my staff worked with the House staff Monday night to bring the bills even closer together, and Tuesday the House took up our bill, S. 1636, inserted the product of the meeting between our staffs, and passed S. 1636 under suspension.

Over the past 2 days, Senator KERRY and I have reviewed the revised S. 1636. With two exceptions, the bill we are sending back to the House today contains only technical changes.

We learned yesterday that there were serious concerns about the new definition of "harm" included by the House in the revised version of S. 1636.

We have removed the definition of "harm" from the bill because the term "harm" has been the subject of a recent U.S. Court of Appeals decision involving the Endangered Species Act, because the Committee has not adequately addressed the implications of defining "harm," and because the definition is not an integral part of the new marine mammal/commercial fisheries regime.

We have also removed the provision which would have inserted "harm" in the definition of "take" under the existing Marine Mammal Protection Act.

We have also made a change to require the Secretary to conduct a scientific review within 2 years of the enactment of a provision in the bill that would allow United States sport hunters to import polar bear parts taken in hunts in Canada.

If the Secretary determines, based on the scientific review, that the issuance of permits to import polar bear hides or other parts is adversely impacting polar bears in Canada, the Secretary shall not issue permits after September 30, 1996, but may review this determination on an annual basis.

As I said in my statement on Monday, I am pleased with the centerpiece of this legislation, which is the new regime to govern commercial fisheries/marine mammal interactions.

I believe the fishing industry can work within the program, and that the new system will also provide additional protection for marine mammals, with the goal of getting our fisheries to levels approaching a zero mortality and serious injury rate within 7 years.

The fishing industry has incentives under this program to meet the goals, including the incentive that once a fishery reaches an insignificant serious injury and mortality level approaching a zero rate, it will have met its responsibility under the Act and not be required to further reduce its mortality and serious injury rate.

Commercial fishing, by its nature, involves interactions with marine mammals, and under this new program, once fisheries have gotten down to insignificant levels approaching a zero rate, they will no longer face the burdens of the fisheries with higher rates of mortality and serious injury of marine mammals.

The new program also reduces administrative burdens, including the elimination of the logbooks required under the current interim program, and by requiring the Secretary to provide simple, computer-readable, postage paid forms to be used by fisherman to report the incidental mortality or injury of marine mammals.

As I stated on Monday, this legislation does not reduce or expand the Secretary's authority to regulate the taking of marine mammals by Alaska Natives for subsistence purposes.

Mr. President, I would like to thank my colleagues for their support of this legislation.

Mr. MURKOWSKI. Mr. President, I want to extend my congratulations and thanks to the members and staff of the Senate Commerce Committee who have worked very hard and for a very long time to bring us to this point, and especially to those members of the fishing industry and the environmental community who participated in negotiations making today's success possible.

This is a landmark reauthorization bill, in my opinion, and should be viewed as a model for subsequent efforts on this and other issues. Its driving forces are conservation and science, instead of superstition and emotion.

The Marine Mammal Act is extremely important to all those who care about the welfare of marine mammals, but especially so for those of us from coastal states with strong fishing communities and Native subsistence harvesters.

This measure will both keep our fishermen fishing, and will give more protection to marine mammal species that interact with fishing than they have ever had before. In focusing attention on marine mammal stocks before they are dangerously affected, it should help prevent any additional listings of marine mammal species as endangered, threatened, or depleted.

I am also very pleased that the bill addresses certain other issues, which I raised both in a December, 1993, letter to the Commerce Committee, and in legislation I offered during the previous Congress. Among these are the importation by Alaska Natives of marine mammal items given as gifts and in cultural exchanges with Native residents of other northern countries, as well as non-commercial importation by Natives of Russia, Canada or Greenland. Another such change is language that accepts importation of wearing apparel and jewelry that is taken out of the country by any legal owner, but becomes contraband under existing law when the owner returns. That element of the present law was absurd from the beginning, and is long overdue for change.

The bill before us also contains an important compromise allowing the importation of polar bear parts taken

by U.S. citizens in legal sport hunts in Canada, so long as Canada's polar bear management program continues to provide adequately for the health of that country's bear population. Canada's polar bear management system is considered a model the rest of the world would do well to follow. Under the program, and consistent with international agreements to which the United States is also signatory, Canadian Eskimo and Indian people are allowed to harvest polar bears under a quota system designed to ensure sustainable bear populations will continue to exist forever.

Because the number of animals taken is controlled, they are also allowed to choose to sell opportunities to hunt to non-Natives who wish to buy them. There is no guarantee that a non-Native hunter will be successful, and he or she is required to have a Canadian Native guide and is restricted to nonmechanical transportation while on the hunt. However, there is strong interest in these hunts, and they have become a significant source of income for many villages where other avenues are few and far between.

Present U.S. law prohibits U.S. hunters who have taken a Canadian bear to bring the hide and other parts back home with them. This makes no sense, except as an anti-hunting, anti-Native-decision-making attempt to force the views of a minority of animal rights activists on people who have never deserved such patronizing treatment.

The bill before us also requires the Secretary of the Interior to undertake a scientific review of the effect of this change within 2 years of enactment. He is also asked to allow an opportunity for public comment on the change, and to respond to public comments in a final report. To ensure the change does not create problems, he would be required to stop issuing import permits if—based on the scientific information he collects during the review—he finds that issuing permits has a significant adverse impact on the polar bears of Canada. If that occurs, he thereafter may conduct an annual review of the best scientific information available on the subject.

Here again, Mr. President, is an example of that spirit of reason and adherence to science that has exemplified this reauthorization process. It is crucial that important decisions involving natural resources are made on the basis of science, not emotion, and I sincerely commend all those who have put aside their differences and cooperated to bring this bill to the floor.

Mr. CHAFEE. Mr. President, I would like to direct a question on S. 1636, as amended by the House, to my distinguished colleague, Senator STEVENS. Section 4(a) of S. 1636 provides for the granting of permits under the Marine Mammal Protection Act for the incidental take of marine mammals that are designated as depleted because they are listed as endangered or threatened under the Endangered Species Act. My understanding is that this provision does not affect any requirements of the Endangered Species Act, including the requirements of section 7 of the Endangered Species Act. Is that correct?

Mr. STEVENS. The requirements of the Endangered Species Act, including section 7 requirements, are not affected by this bill.

Mr. BAUCUS. Mr. President, I share the concerns of Senator CHAFEE regarding the Endangered Species Act, which is within the jurisdiction of the Environment and Public Works Committee. I would like to ask the distinguished chairman of the Commerce Committee whether he agrees that nothing in S. 1636 alters or amends the Endangered Species Act.

Mr. HOLLINGS. That is correct.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, what is the pending business?

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The PRESIDING OFFICER. The Senate will now resume consideration of Senate Concurrent Resolution 63, which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 63) setting forth the congressional budget for the U.S. Government for the fiscal years 1995, 1996, 1997, 1998, and 1999.

The Senate continued consideration of the concurrent resolution.

AMENDMENT NO. 1574

The PRESIDING OFFICER. The pending question now is the Gramm amendment numbered 1574.

Mr. SASSER. How much time is remaining to the proponents?

The PRESIDING OFFICER. The proponents have 41 minutes and 3 seconds, and the opponents have 55 minutes 5 seconds.

Mr. ROBB. Mr. President, I ask unanimous consent that the pending Gramm amendment be temporarily laid aside for the purpose of making a motion.

Mr. SASSER. Mr. President, reserving the right to object.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. I have no objection.

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

Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 1574

Mr. SASSER. The pending business is the Gramm amendment, is that correct?

The PRESIDING OFFICER. The pending business is the Gramm amendment numbered 1574.

Mr. SASSER. Mr. President, does the Senator wish to be recognized?

Mr. CHAFEE. Mr. President, I was just going to make a brief statement during this gap. If you want to proceed with your matters, go ahead.

Mr. SASSER. If the Senator would be kind enough to let us dispose of this amendment.

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, the Senator from Texas, in the amendment that he offered here this afternoon, beginning at about 2:30 in the afternoon, seeks to eliminate every one of the President's initiatives, every single one of them, and he adds an $87 billion cut in discretionary accounts on top of that; $187 billion in total discretionary cuts which are essentially unspecified.

Now, in particular, he thus advocates eliminating the President's proposal to fund the Intermodal Surface Transportation Act, education funding, Head Start, the National Institutes of Health, the National Science Foundation, and, Mr. President, the list goes on and on.

He claims that his cuts are totally out of nondefense accounts, but there is no enforcement mechanism here at all.

And I say to my friend from Virginia [Mr. WARNER], who I know has a profound interest in protecting the defense discretionary accounts, should this amendment pass, defense would have to take its chances along with domestic spending on this 187 billion dollars' worth of cuts in discretionary spending that the Senator from Texas is urging upon us.

The Senator from Texas is making these very substantial cuts in discretionary spending to pay for tax cuts. He is paying for tax cuts that go up and down the income scale. He is giving each family a $500 tax credit.

Now, that sounds grand, and everyone is for that in the abstract. But, Mr. President, he is giving a $500 tax credit to the family that makes $1 million a year and if you make less than $16,000 a year under his proposal the family gets nothing.

So this is essentially a tax credit that works an inequity. If the Senator

from Texas wanted to make this an equitable tax credit, he would have kept the credit at a certain income level, saying people who are making over so much—perhaps a $500 child tax credit to them is meaningless—and he would have made it at the refundable at the bottom, because that is where the $500 tax credit would do the most good down there where people are just at the poverty line or slightly above it.

But that is not the case. But what our friend from Texas is asking us to do is cut $187 billion off of discretionary spending to run the risk of not being able to fully fund the Intermodal Surface Transportation Act, cutting education funding, Head Start, the National Institutes of Health, and, yes, making very substantial cuts, I would gather, in defense spending. I would say to the Senator from Virginia, if this passes, I think we can forget about a new aircraft carrier. I think that is just something that will be by the boards.

The amendment also fails on a technical provision. In 1990, when we had the summit agreement that culminated from weeks and weeks of negotiations between the leadership here and the Bush administration, the Republican participants in those summit negotiations adamantly fought for placing a line of demarcation between discretionary spending and tax law. Their view prevailed. Their view prevailed. And the law now does not allow using taxes to pay for discretionary spending, or using discretionary spending cuts to pay for taxes.

The Senator says we can change the law. But he knows very well how unlikely that is under current law. If tax cuts are not offset with entitlement cuts or tax increases, they cause a sequester in the entitlement programs. If the Congress were to enact the tax cuts proposed in the Senator's amendment, the 1990 budget law could call for draconian sequesters in Medicare, veterans' burial benefits, the commodity credit agriculture programs, the crime victims fund, the unemployment trust fund, and the list goes on and on. Also hit would be social services, block grants, family support payments to States, veteran education readjustment benefits, the Agricultural Marketing Service, rehabilitation services, handicapped research, and on and on and on.

I know the Senator from Texas would say that is not his intent, but these sequesters would be the foreseeable consequence, in fact, would be almost the inevitable consequence of enactment of his proposals under existing law.

This is not, I think, a responsible amendment. It is not seriously crafted to comply with the current Budget Act. It is a meat-ax approach to cutting discretionary spending. It does not protect the defense accounts from these cuts. And being misconstructed, it results in additional cuts of massive proportions in sensitive mandatory programs like Medicare.

Mr. President, how much time is remaining to the opponents?

The PRESIDING OFFICER. The opponents have 44 minutes 51 seconds. The proponents have 41 minutes 3 seconds.

Mr. SASSER. Mr. President, I ask unanimous consent we set aside the Gramm amendment, reserving 5 minutes from the time allocated to the proponents for Senator GRAMM and reserving 5 minutes to the opponents for myself or my designee.

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

Mr. SASSER. Mr. President, we have been following a regimen here of trying to recognize one side and then the other side. The Senator from Iowa [Mr. HARKIN] has been on the floor seeking recognition.

I ask my friend from Iowa, would it be possible to agree on a 20-minute time agreement here, equally divided?

Mr. HARKIN. That will be acceptable to me.

Mr. SASSER. May I inquire of my friend from Iowa, this is a sense-of-the-Senate amendment which cuts funding for the strategic defense initiative or ballistic missile defense? Is that an accurate assessment?

Mr. HARKIN. The Senator is correct. It is a sense-of-the-Senate resolution.

Mr. SASSER. The Senator from Iowa describes his amendment as one that reduces funding for the strategic defense initiative, and that is it.

Mr. DOMENICI. It is a sense-of-the-Senate resolution, is it?

Mr. SASSER. That is what he said.

Mr. DOMENICI. All right.

Mr. SASSER. Does it lower the caps or transfer the funding to some other function?

Mr. HARKIN. The amendment is simply a sense-of-the-Senate resolution that the spending for the star wars ballistic missile defense program, as it is called, should be no more than last year's level.

Mr. SASSER. I thank the Senator.

Mr. President, I ask unanimous consent there be a 20-minute time agreement on the Harkin amendment evenly divided between the proponents and opponents.

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

AMENDMENT NO. 1578

Mr. HARKIN. Mr. President, I rise again to restore some greater sensibility to the budget resolution before us. As I said on the floor earlier this week, the resolution before us is generally good. I have complimented the Senator from Tennessee and the Senator from New Mexico for bringing us a tough budget that keeps within the deficit reduction package we passed last year. It is very tight and imposes some caps that will be difficult to operate under, but such is life. That is what we have to do here.

Again, as I pointed out yesterday, within this budget there is a $513 million increase for star wars. Last year—and I want to make this very clear—last year we had a vote on the Senate floor to cut star wars funding by about $400 million, and it passed 50 to 48. What I am trying to do is keep the star wars funding at last year's level and not increase it another $500 million.

So I say to those Senators, if you voted last year to cut the star wars funding by $400 million, let us keep it at that level for next year. My amendment still leaves within the ballistic missile defense structure $2 billion—actually more than $2 billion—for theater missile defense programs. We do not need to put $513 million, $½ billion, into x-ray lasers and other exotic space-based weapons because we have other programs which I think have a higher priority.

We have spent $33 billion on star wars, and what do we have to show for it? Not a thing. The Soviet Union is gone but the star wars budget lives on.

This year, the administration has requested a shocking—and I can think that word is appropriate—a shocking 18.9 percent increase in star wars. For what reason? I do not know because there is no significant threat out there for this type of long-range defense system at this time.

Again, we have well over $2 billion, as I said, for theater missile defense if my amendment is accepted. But remember what we were going to get out of star wars? Remember the kinetic-kill vehicles? They thought that word was too bad, so they changed it to space based interceptors or SBI's. We spent billions on that and little to show for it.

How about particle beam weapons? Or Edward Teller's favorite: The desk sized x-ray laser that would single-handedly shoot down the entire Soviet ICBM fleet? It is gone. But hundreds of millions of dollars wasted on the x-ray laser and $33 billion total. Just think what we could have in this country if we spent $33 billion on high-speed rail or renewable energy systems or on better education. How about fixing up some of our vocational schools to give them better equipment on which to learn and new computers? That would have done something for our country.

We cannot roll back the clock, we cannot turn it back and recapture that money, but at least now we can say let us at least not increase the funding level. Let us not increase it by $513 million this year. And that is really what my sense-of-the-Senate resolution says. It says that it is the sense of the Senate that funding for star wars should not go over last year's level.

It is as simple and straightforward as that. That is why I did not need any more time than the 10 minutes allotted to me to describe the amendment.

Mr. President, I send the 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 Iowa [Mr. HARKIN] proposes an amendment numbered 1578.

The amendment follows:

At the appropriate place, insert the following:

"It is the Sense of the Congress that given the federal budget deficit, the real reductions in discretionary spending in this resolution, and the existence of many more worthy programs competing for this funding, spending for the Star Wars (Ballistic Missile Defense) must not exceed the fiscal year 1994 appropriated level."

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. HARKIN. Mr. President, when our troops and our allies came under attack from Saddam's Scud missiles, where was star wars? Star wars was so focused on the impossible dream of stopping a massive nuclear attack by long-range Soviet missiles, it neglected the very real threat of short-range missiles launched by a tyrant like Saddam Hussein.

In fact, the only defense we had against Scuds in 1990 was the Patriot missile. But the Patriot missile was not even developed by SDI. No, it was too mundane, too down to Earth. In fact, it was too useful. Prior to 1990, the star wars program spent virtually nothing on developing theater missile defenses except for some architecture studies. The Patriot was originally designed and built by the Army to stop aircraft and Cruise missiles and they modified it before the gulf war to have limited capability against ballistic missiles.

But the Army had only a small fraction of the funding lavished on star wars throughout the 1980's. In fact, star wars funds effectively diverted resources from theater missile defense based in the Army.

Things changed dramatically after the gulf war. The star wars program suddenly adopted this long-neglected theater defense orphan. The program grew from $130 million in 1990 to $1.64 billion this year, a 12-to-1 increase in just 4 years.

Again, as I said yesterday, the amendment that I offer in this sense-of-the-Senate resolution would still leave enough money, all of what the Pentagon requested for their Theater Missile Defense Program for next year. But not a penny more for Edward Teller's desk sized x-ray laser beams and particle beams and kinetic kill vehicles in an attempt to stop a massive attack by long-range ballistic missiles.

Let us get our priorities in order. What this sense-of-the-Senate resolution would say to the Appropriations Committee is that this body wants to keep the funding for star wars at last year's level and not increase it by $513 million.

Mr. President, I reserve whatever time I have left.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 1 minute on this amendment in opposition to it.

Mr. President, this is what happens when Senators decide to come to the floor and act like appropriators. Every Senator could now line up, come to the floor and say it is the sense of the Senate that something they do not want funded in appropriations ought to be somehow or another eliminated from a budget resolution where it does not appear.

Frankly, a sense of the Senate that says a program will be terminated, in this Senator's humble opinion, should not be offered on a budget resolution. But I am not saying the Senator is out of order because we do this every now and then. But I hope the Senate understands it for what it is. If they choose to adopt it, when the time comes, it is not going to make any difference. If they choose not to adopt it, it is not going to make any difference. The Appropriations Committee and Armed Services Committee are going to decide, not this committee, not this Senate at this time, whether we fund star wars at the President's level or not.

I yield back any time I might have on the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time do I have?

The PRESIDING OFFICER. Three minutes thirty seconds.

Mr. HARKIN. Mr. President, I understand what the Senator from New Mexico said. He is right. But this amendment is intended to give some guidance and direction. Again, this is not taking money out of this bill. I did not do that. I would like to reduce funding, but because of the time constraints, it is obviously impossible to do that.

But I do think it is important for appropriators—and I sit on the Appropriations Committee along with the Senator from Tennessee and the Senator from New Mexico—to give guidance. I think this would give some guidance and direction to let the Appropriations Committee know what the Senate feels. Do we believe there ought to be a $513 million increase in star wars or do we not? Again, I think we have to make some tough choices around here. Do we want some money to go into education and job training, LIHEAP, things that were cut, or do we want to say, no, we are going to put $513 million more into star wars?

Those are the kind of choices we face. I think we, as Senators, owe our constituents the right to know how we feel and where our priorities are. That is why I offer this amendment. I believe it will send a distinct signal to the Appropriations Committee on what they ought to do.

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

The PRESIDING OFFICER. The question now occurs on the amendment.

Mr. SASSER. Mr. President, may I inquire of my friend from Iowa, does he wish a rollcall vote on this amendment?

Mr. HARKIN. Yes, I suppose we probably should have a rollcall.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Has the Senator yielded back all his time?

The PRESIDING OFFICER. Yes.

Mr. SASSER. And all time in opposition has been yielded back?

Mr. DOMENICI. Yes.

Mr. SASSER. Mr. President, I ask that the amendment of the Senator from Iowa be temporarily laid aside, and we are anticipating, I am told, an amendment to be offered shortly by Senator MCCAIN.

Mr. DOMENICI. Mr. President, while we are waiting, I will take a minute off my time. I want to say to the Senator from Iowa [Mr. HARKIN], the Senator from New Mexico understands how strongly he feels about this issue. He has expressed himself on the floor extremely well today. Obviously, the Senate will vote on it. I just feel compelled to state it as I understand sense of the Senates. That is the reason for my explanation of his amendment. Nothing is intended to diminish his enthusiasm for his position and his willingness to fight for it.

AMENDMENT NO. 1579

Offered by Mr. SASSER for Mr. GRAHAM, for himself, Mr. WARNER, Mrs. BOXER, Mr. LEVIN, Mr. MACK, Mr. FAIRCLOTH, Mr. GLENN, Mr. THURMOND, Mr. COATS, Mr. KOHL, Mr. FEINGOLD, Mrs. HUTCHISON, Mr. NICKLES, Mr. BOND, Mr. LOTT, Mr. HELMS, Mr. FORD, Mr. COCHRAN, Mr. GRAMM, and Mr. LUGAR.

(Purpose: To express the sense of the Congress concerning the minimum allocation program under section 157 of Title 23, United States Code)

AMENDMENT NO. 1580

(Purpose: To express the sense of the Congress regarding Federal law enforcement personnel)

Mr. SASSER. Mr. President, on behalf of Senators GRAHAM of Florida and HATCH of Utah, respectively, I send two amendments to the desk and ask unanimous consent that they be immediately considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows.

The Senator from Tennessee [Mr. SASSER], proposes amendments en bloc numbered 1579 and 1580.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1579

Mr. GRAHAM. Mr. President, today I am offering an amendment for myself and 19 other Senators. I am pleased that this measure has been cleared by the distinguished chairman and ranking member and will be accepted as part of the underlying measure.

The amendment expresses the sense of the Congress on two points:

First, that the minimum allocation program would remain exempt from the obligation limitation on the Federal-Aid Highway Program.

Second, that the flexibility of the Minimum Allocation Program is an enduring and critical component of the Federal responsibility to the States receiving those funds.

In other words, Mr. President, leave current law as it stands.

Do not adopt the proposals in the administration's budget which would pay for a part of the highway program by cutting available spending authority from the 23 States who get the least from the Federal Highway Program.

The administration proposes two things, Mr. President, which are onerous to so-called minimum allocation States—those that receive minimum allocation apportionments.

First, minimum allocation would be placed under the obligation ceiling which governs budget authority for the core highway program.

Second, States would only be able to spend 67 percent of their available minimum allocation apportionments in fiscal year 1995.

Why are these proposals bad?

The answers fall into three categories:

First, the faulty logic used to develop the proposals,

Second, the principle which is violated by their adoption, and

Third, the precedent their adoption would set.

The first reason the logic is faulty is that by fully funding the highway program in this manner, we will leave many minimum allocation States with less money to spend next year than they have in this one. I will explain why that is true later in my statement.

Furthermore, the decision to cap minimum allocation obligations at 67 percent was based on the national average rate of obligation. Some Sates obligate all or nearly all of their apportionments each year; others obligate much less, and the average is 67 percent.

The fact is that the national average has absolutely nothing to do with how minimum allocation is administered. Once States receive their minimum allocation apportionments in October, it is up to them to decide how and when to spend those funds.

Under the law, minimum allocation can be spent all in 1 year or retained for up to 4 years before its obligation. In Florida, for instance, the Department of Transportation had accumulated a balance of over $200 million in unspent minimum allocation funds by late 1992. Then the State obligated almost all of that money last year and will spend its entire apportionment this fiscal year.

The administration proposal would not allow Florida or other minimum States to continue to spend their whole minimum allocation, even if they had projects lined up and ready to go, with sufficient apportionments to put people to work completing those projects.

It is very difficult for me to see how this proposal could enhance the efficiency of the Highway Program when it will halt release of upwards of $200 million for such ready-to-go projects.

And the only reason the average is 67 percent is that some States, well within their rights under the law, have planned to save their minimum allocation apportionments for the projects on which that flexible pot of money will be most helpful.

Which brings me to the second reason we should oppose the administration proposals—the principle of fairness they violate.

We have to remember why minimum allocation was created in the first place—to recognize the fact that the highway formula shortchanges many States, and thus to offer them some recompense for the disproportionate contributions to the highway trust fund.

Since these States receive the least benefit from the overall Highway Program, the minimum allocation apportionment was designed to have broad flexibility: unlike most other highway funds, minimum allocation apportionments are exempt from the annual obligation ceiling and do not lapse until 4 years after they become available to the States. Thus those dollars can be used to fill program gaps that are less likely to exist in States which the formula fully funds.

The bottom line is, in the name of fully funding the Highway Program, the administration proposal would leave minimum allocation States with less money to spend in fiscal year 1995 than they have this year. Florida, a State which ranks at the bottom on return on its highway trust fund contributions, will lose over $40 million.

That result would be patently unfair and contrary to the goal of the MA Program. We cannot allow it to happen.

The exemption, the flexibility. These items were core components of the deal Members of Congress struck in 1982 when they created minimum allocation, and they have been reaffirmed in two subsequent reauthorizations of the Highway Program, in 1987 and 1991.

Which is why I am also gravely concerned about the precedent we would set if the administration proposals were adopted.

Mr. President, in this age of tighter budget caps and constant spending reductions, the instances are few when program restrictions that are enacted in one year are lifted in the following year.

For instance, the last time we discussed the minimum allocation issue on the Senate floor was during the appropriations process last fall. The transportation bill included a provision which limited first-quarter obligations of MA to 25 percent per State and 15 percent program-wide. We were told that the provision was intended merely to cover a one-time shortfall in available outlays.

The senior Senator from Virginia [Mr. WARNER], who joins me today in sponsoring this resolution, offered an amendment to strike that language from the appropriations bill. Why? Because if you let something like that be done once, it will be done forever.

Witness the results: The Warner amendment failed, the provision was enacted into law, and the President's fiscal year 1995 budget again proposes to limit minimum allocation obligations in the same fashion as they were constrained in fiscal year 1994. And then some.

What is especially worrisome to me is that the 67-percent average obligation rate is made up of States which are free to obligate anywhere from zero to 100 percent of their apportionments. If the cap is placed at 67 percent next year, then we know that the average obligation rate will be lower next year, and I expect we'll see the administration propose to lower the cap in fiscal year 1996. And so will continue this ratcheting-down process until all States spend up to their maximum allowable amount.

Meanwhile, the Highway Program will become ever more dependent on the growing contributions of donor States.

The same is true for including MA under the obligation ceiling at all. The administration says this will not make any difference for MA States, because the Highway Program will be fully funded.

Even if the highway portion of ISTEA is fully funded, which it never has been and probably will not be, the die will have been cast. MA will remain

under the obligation ceiling regardless of the funding level for the core program. And the lower the ceiling, the greater harm if MA is included under that ceiling.

With that explanation, Mr. President, I want to offer my sincere appreciation to the Senator from Tennessee [Mr. SASSER] and the Senator from New Mexico [Mr. BINGAMAN]. Both of their States are or have been minimum allocation States, and I know they understand the need for these equity programs to be preserved.

I also want to thank Senator WARNER for his assistance in getting this resolution cleared, and to express my gratitude to those Senators who cosponsored the measure.

Collectively, we come before the Senate today to urge the Congress to keep the Minimum Allocation Program exempt from the obligation ceiling and to preserve the flexibility which is at the core of the program's design.

I ask unanimous consent that my statement and others accompanying it appear in the RECORD immediately prior to the vote on the amendment.

AMENDMENT NO. 1579

Mr. WARNER. Mr. President, I rise to bring to the Senate's attention yet another attempt to tamper with the minimum allocation program.

I alert all my colleagues from donor States to pay careful attention to this debate and the importance of the amendment by Senator GRAHAM and myself.

The administration's fiscal year 1995 budget request includes two provisions which are onerous to minimum allocation [MA] States, by putting MA under the obligation ceiling for all highway funds, and limiting obligation authority for MA to 67 percent of a State's allocation. In addition to setting a dangerous precedent, these actions will cause many MA States to lose a portion of their highway funds. Even if the highway program is fully funded, many States stand to lose funds. The Commonwealth of Virginia may lose close to $25 million if the 67-percent cap were applied in fiscal year 1994.

If donor States do not defeat this attack on the minimum allocation program, the future of this program to guarantee that each State receives a 90-percent return of their highway dollars is in serious jeopardy.

Once again, this debate is concerned with providing fairness and equity to donor States.

After extensive debate during the consideration of the Intermodal Surface Transportation Efficiency Act in 1991 and again on the fiscal year 1993 Transportation appropriations bill, I regret that the Clinton administration proposes to make legislative changes to the minimum allocation program.

As a member of the Environment and Public Works Committee and as one who worked with a bipartisan group of my colleagues representing so-called donor States during ISTEA, I must object to any restrictions on the minimum allocation program or a donor State's ability to utilize these funds.

The amendment we offer today simply would express the sense of the Congress that the minimum allocation program should remain exempt from the obligation ceiling.

The amendment simply states that the flexibility of the minimum allocation program should be an enduring and critical component of the provision of Federal assistance to States for Federal-aid highways.

Senators representing donor States are concerned about any change that may be proposed concerning the minimum allocation program and we must ensure that the minimum allocation program remains an unrestricted program for our States.

To understand the reason for this amendment today, it is important to recall why the minimum allocation issue is so critical to donor States.

It is simply an issue of fairness and equity.

During the extensive Senate debate and a contentious conference on ISTEA in 1991, the Congress recognized that the percentage of highway funds returned to all States should be 90 percent.

The Congress also continued in ISTEA the statutory exemption for minimum allocation which provides that it will be outside of the obligation ceiling.

This exemption is necessary because of the specific purpose of the program to reduce the inequity in the apportionment formulas between donor and donee States.

To ensure that all States receive a minimum of 90 percent, the Federal Highway Administration must be allowed to provide whatever funding is needed to bring States up to the minimum level.

Minimum allocation has been the only guarantee since 1982 to give States a reasonable expectation to the percentage of return they will receive annually from the Highway Trust Fund.

This program is essential to enable States to plan effectively to meet their highway needs.

I am committed to the principle of giving all States a minimum of a 90-percent return on the taxes their highway users pay into the Highway Trust Fund.

Any effort—intentional or otherwise—to amend this program breaks a hard-fought promise this Congress gave to over 20 donor States.

It is a promise that I will work to keep and I ask my colleagues to consider the issue of fairness and support the Graham-Warner amendment.

AMENDMENT NO. 1579

Mrs. HUTCHISON. Mr. President, I rise in support of the amendment offered by Senator GRAHAM of Florida. This amendment is very important to Texas, and I am pleased to join the Senator from Florida—and all of the Senators from other similarly situated States—in support of this amendment.

Under President Clinton's proposed budget, Texas stands to lose $14 million in its minimum allocation program funds. These funds will be taken away from Texas, a State which in 1992 contributed $1.29 billion per year to the highway trust fund but which only received $1.07 billion in highway funding in return—this is a return of only 89 cents on the dollar. Since 1956, Texas has received only 85 cents on its investments in the highway trust fund, one of the three lowest rates of return in the Nation.

We understand the principle of supporting the national transportation infrastructure in other States. For this reason, Texas has accepted—for now—an inequitable funding formula system for highways. Despite the importance of these national concerns, however, donor States such as Texas should not be forced to sacrifice precious resources beyond their ability to meet their own vital transportation needs.

Donor States have historically worked to bring some semblance of equity to funding national highway needs. My predecessor, Lloyd Bentsen, worked especially hard to achieve this equity in the highway programs. He was instrumental in obtaining the provision which provides a minimum guaranteed 85 percent of contributions for all States, and in raising this floor to 90 percent of contributions in 1986. This provision was hard won and well deserved.

However, true equity for donor States will only come with changes in the funding formulas. The donor States made a valiant effort to achieve this during consideration of ISTEA, but unfortunately did not succeed. Instead, Congress approved the continuation of the minimum allocation program at 90 percent and its all important exemption from the obligation ceiling. This hard-fought compromise should not be forgotten or undone.

Minimum allocation States such as Texas carry some of the most significant highway infrastructure burdens in the Nation. In Texas, we are working to build and preserve a highway network that will support the flow of international trade through Texas to the United States-Mexico border and beyond. Eighty percent of the truck traffic from all over the United States bound for Mexico's growing market flow through Texas. We are counting on all of our available Federal highway funds, including all of our minimum allocation program funds, to assist us in this tremendous effort. As it is, we do not have enough funds to meet all of the transportation demands of our State and the Nation.

Texas is proud to serve as the gateway for our Nation's trade with Mexico. We should not be penalized, however, by limiting our use of our minimum allocation program funds when they are so desperately needed. These are dollars that Congress—through ISTEA—intended to put to work improving transportation in America. That's what we in Texas are doing.

In addition to placing the minimum allocation program under the obligation ceiling, the President's budget proposes to limit to 67 percent that amount of budget authority for the State's minimum allocation program authorizations in fiscal year 1995. By taking this action, the spending authority of States receiving minimum allocation program funds—as a portion of their total authorizations—will be significantly lower than that for States which do not receive minimum allocation funds. This proposal results in a $165 million reduction in obligation authority for donor States—that's a $14 million reduction for Texas alone. This proposal will have severe impact on the Nation's highway infrastructure since 22 States, including some of the Nation's largest and most populous, currently receiving minimum allocation funds.

We should not accept the President's proposal because it breaks with the ongoing commitment our Government made with us, the donor States. If Congress pursues such a radical departure from the agreement underpinning the minimum allocation program, then we must simultaneously revisit the equity of the highway formulas. Clearly, the budget process is not the appropriate place for this. Therefore, we must leave the minimum allocation program as it is until a more appropriate opportunity to review all of the highway funding issues presents itself.

Mr. President, I urge my colleagues to support Senator GRAHAM's sense-of-the-Senate resolution and maintain our commitment to fair transportation funding.

AMENDMENT NO. 1579

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the Graham sense-of-the-Congress resolution regarding the need to continue the exemption of the minimum allocation program from the obligation limitation on Federal-Aid Highway Program funding. This is merely a restatement of the deal made during passage of the most recent highway authorization bill, better known as ISTEA. The agreement on highway funds distribution that we reached during debate on ISTEA ensured a minimum allocation of 90 percent to States, like Michigan, that have been donating more to the Federal Treasury in gas taxes than they have been getting in highway funds in return.

This resolution is also a rebuttal to the administration's proposal, included in the fiscal year 1995 budget request, to alter the terms of that deal in a way that would hurt Michigan, and the other donor States. We are already disadvantaged by the existing highway funds distribution formula, and now, under the administration proposal, we would stand to lose a significant portion of the funds that were intended to address that inequity. If the administration's proposal had been applied to the fiscal year 1994 allocations, Michigan could have lost as much as $22 million.

Mr. President, my position is well-known. Michigan, and the donor States, still deserve a fairer return on contributions to the Federal Highway Trust Fund. But, with this resolution we send a strong message to the Appropriations Committees that those of us from the minimum allocation States are prepared to continue fighting to get a more equitable distribution of highway funds. And, the Senate's acceptance of this resolution is a clear direction to the Appropriations Committee not to change the ISTEA deal.

Mr. HATCH. Mr. President, at a recent speech before law enforcement officers in Ohio, President Clinton talked tough about crime saying, "I care a lot about this problem."

Alluding to his years as a State attorney general and Governor, the President went on to say:

> I know what it means to double the prison capacity of a State, and to sign laws toughening crimes, and to * * * add to the stock of police officers and to deal with all the problems that are facing them. I know this is a tough problem.
>
> I also know it is a complicated one.

President Clinton had earlier announced that "We will continue with strengthened efforts by Federal law enforcement agencies—in concert with their State and local counterparts—to disrupt, dismantle, and destroy" criminal organizations.

Within several days of these remarks, President Clinton delivered to Congress a budget that cuts Federal prison construction by nearly 30 percent—a $78 million reduction, cuts Federal law enforcement personnel, and cuts existing grants to State law enforcement.

The President's budget does not reflect the rhetoric of enthusiastic support for crime control and law enforcement he espouses.

The fiscal year 1995 budget cuts 1,523 Department of Justice law enforcement agency positions. According to the Justice Department budget summary, the Federal Bureau of Investigation loses 847 positions, the Drug Enforcement Agency loses 355, the Department's Criminal Division loses 28, the Organized Crime Drug Enforcement Task Forces lose 150, and Federal prosecutors lose 143 positions. Absent the fiscal year 1995 budget cuts, there are still 431 fewer FBI agents and 301 fewer DEA agents today than there were in 1992.

At a time when violent crime and drug control are said to be national priorities, these cuts will reduce the effectiveness of Federal law enforcement, and the President's budget acknowledges this. The administration's own budget figures reveal that Federal prosecutors will be filing 527 fewer criminal cases in fiscal year 1995. The Organized Crime Drug Enforcement Task Force Program, cut by over $12 million, will investigate, indict, and convict fewer criminals. Indeed, former Deputy Attorney General Philip Heymann confirmed this in a recent article he wrote:

> With fewer Federal investigators and fewer Federal prosecutors in the years ahead there will not be more Federal law enforcement but less. * * * [Washington Post, February 27, 1994].

These reductions will only add to an already lagging Federal anticrime effort under the Clinton administration. The Administrative Office of the U.S. Courts recently reported that in 1993, the number of criminal cases filed by Federal prosecutors decreased by over 3 percent. This was the first decrease in 10 years. The Administrative Office attributes this overall decrease in criminal filings to the Clinton Justice Department's significant reduction in drug prosecutions. Drug prosecutions in 1993 decreased by 7 percent—or 902 cases.

Existing State and local law enforcement block grants, which police have been counting on, are also cut by over $400 million in order to fund the crime bill's proposed police hiring program. The money to pay for the police hiring program was supposed to come from savings earned through personnel cuts not from existing law enforcement grants. Crime emergency assistance grants have been cut by $222 million, the missing children's program is cut by nearly $3 million, and regional intelligence sharing grants have been cut by $14.5 million.

Earlier in the week, the Senate overwhelmingly approved an amendment to restore budget authority for the Byrne grant program. I commend my colleague from Washington, Senator GORTON, for his work on this issue. I was pleased to work with him in this effort.

The Hatch amendment builds on the Gorton amendment by taking steps to ensure that Federal law enforcement resources will be restored as well. It expresses the sense of the Congress that the present level of Federal law enforcement personnel is inadequate. The Hatch amendment affirms that, at the very least, steps should be taken to insure that agent and prosecutor strength are restored to fiscal year 1992 levels, when President Bush was still in office.

Ironically, when it suits the administration's purpose, they will defend the preservation of Federal prosecutors and law enforcement strength. In testi-

fying against the balanced budget amendment, Attorney General Reno recently stated that preserving adequate funding for the FBI, DEA, and U.S. attorneys' office are what "our Nation so desperately needs to fight crime aggressively." She went on to state that the effect of cuts on Federal law enforcement could be catastrophic.

At this same hearing, Attorney General Reno discussed the importance of adequate staffing for the Justice Department. She said:

I try, when I travel to different districts, to visit with the U.S. attorney's offices. I ask one question when I go to these offices to begin a discussion. If you were Attorney General of the United States, what would you do to improve the operation of this office? And consistently they said we need more staff in the civil and criminal division.

The President's budget provides a substantial increase in overall funding for the Department of Justice. Yet, instead of spending this money on Federal criminal law enforcement agencies, a bulk of this money goes to fund the Department's assorted civil branches. For example, the Department plans to bring more civil suits—450 more cases—and more antitrust suits—33 new positions are created. The Department plans to bring more environmental and natural resource cases—nearly 900 more cases given an increase of 78 positions.

There is clearly a need for fiscal restraint. Recognizing the need to address the budget deficit, Attorney General Reno has expressed a willingness on behalf of Federal law enforcement agencies and prosecutors to do their part to regain control over our Nation's financial well-being. But, in a budget of $1.5 trillion, priorities can and must be met. We must ensure that the sacrifices we ask law enforcement to make do not impair the Government's ability to meet its obligations to our Nation's law-abiding citizens.

Cutting Federal criminal law enforcement positions is an unwise choice, especially in light of our Nation's crime problem. It is also certainly inconsistent with the President's stated drug strategy and the bravado we are hearing from the administration.

For these reasons, I urge my colleagues to support the Hatch amendment.

Mr. SASSER. Mr. President, we have previously asked unanimous consent that these amendments be considered en bloc. I now ask unanimous consent that reading of the amendments be dispensed with; that the Senate agree to both amendments, and that motions to reconsider be laid on the table with respect to both amendments.

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

So the amendments (Nos. 1579 and 1580) were agreed to, as follows:

AMENDMENT NO. 1579

At the end of title III, add the following new section:

SEC. 3. MINIMUM ALLOCATION PROGRAM.

(a) FINDINGS.—The Congress finds that—

* * * * *

* * * established in 1982 to address inequities in the funding formula for Federal-aid highways;

(2) the minimum allocation program was designed to provide the greatest degree of flexibility practicable to States that receive funding under the formula referred to in paragraph (1) and includes an exemption of the apportionments from the obligation ceiling;

(3) the minimum allocation program provides additional flexibility by allowing a State a 4-year period during which amounts apportioned to the State may be obligated;

(4) the budget of the United States Government for fiscal year 1995 submitted by the President to Congress proposes to include minimum allocation apportionments under the obligation ceiling and also proposes to limit the authority of States to obligate apportionments under the minimum allocation program to 67 percent of the amount of the apportionments; and

(5) States have planned transportation programs on the basis of the provisions of the Intermodal Surface Transportation Efficiency Act of 1991, and the amendments made by the Act, relating to minimum allocation that confirmed core commitments to exemption and flexibility.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the minimum allocation program should remain exempt from the obligation ceiling; and

(2) the flexibility of the minimum allocation program should be an enduring and critical component of the provision of Federal assistance to States for Federal-aid highways.

(c) DEFINITIONS.—As used in this section:

(1) FEDERAL-AID HIGHWAYS.—The term "Federal-aid highways" has the meaning provided the term in section 101 of title 23, United States Code.

(2) MINIMUM ALLOCATION PROGRAM.—The term "minimum allocation program" means the program of allocation of funding to States under section 157 of title 23, United States Code.

(3) OBLIGATION CEILING.—The term "obligation ceiling" means the obligation ceiling under section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991.

AMENDMENT NO. 1580

At the end of title III, add the following:

SEC. . SENSE OF THE CONGRESS REGARDING FEDERAL LAW ENFORCEMENT PERSONNEL.

(a) FINDINGS.—The Congress finds that—

(1) violent crimes reported to law enforcement continue to increase with over 1,900,000 offenses being reported to law enforcement each year;

(2) drug dealing and the violent crime that accompanies it are at the heart of the Nation's current crime crisis;

(3) the problem of international drug trafficking is increasing and foreign narcotics syndicates continue to make the United States their primary target;

(4) drug abuse among our Nation's young people, after years of decline, has recently increased;

(5) interstate criminal street gangs, which deal in illicit narcotics and which are responsible for much violent crime, are spreading into cities throughout the Nation;

(6) the Senate has passed a comprehensive anti-crime bill which increases authorizations for Federal and State law enforcement, increases penalties for violent crime, and enhances Federal law enforcement's role in combating violent street crime;

(7) the President's proposed budget for fiscal year 1995 cuts the number of Drug Enforcement Administration, Federal Bureau of Investigation, Organized Crime Drug Enforcement Task Force, and United States Attorney personnel;

(8) absent the President's proposed budget cuts to Federal law enforcement for fiscal year 1995, there are still 431 fewer FBI agents and 301 fewer DEA agents today than there were in 1992 and, according to the President's budget, there will not be a new FBI or DEA class until fiscal year 1996;

(9) an adequate Federal law enforcement and Federal prosecutor presence is critical to our Nation's effort to respond to the crime and drug problem; and

(10) President Clinton and Attorney General Reno have publicly stated their support for enhanced efforts to fight violent crime and drug trafficking.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that—

(1) current levels of agent strength within the DEA and FBI and the current number of assistant United States Attorneys are inadequate to meet the Federal Government's obligations to our Nation's law abiding citizens; and

(2) at a minimum, the agent strength for the FBI and DEA should be restored to end-of-fiscal year 1992 levels, and the number of Assistant United States Attorneys should not be reduced.

AMENDMENT NO. 1578

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I wonder if the Senator from Tennessee would yield me 1 minute for a point of clarification.

Mr. SASSER. I am pleased to yield to the Senator.

Mr. HARKIN. Mr. President, I just wanted to clarify a point on the sense-of-the-Senate resolution on which I just obtained the yeas and nays.

I wish to make it clear that it does not in any way imply that we should reduce function 050. It does not say that in the sense-of-the-Senate resolution. It just says that it is the sense of the Senate that we should not fund Star Wars at more than last year's level. It does not say it should be transferred outside 050. It may stay inside the Defense Department and be used for some other, what I would consider, legitimate purpose other than Star Wars.

I wish to make that point clear; that the sense-of-the-Senate resolution does not imply or does not say that this money should then be transferred from 050 for something else. It can all stay in defense. The increase should not be used for Star Wars. I wanted to make that clear.

I appreciate the Senator from Tennessee giving me a minute to make that point.

Mr. SASSER. Mr. President, I inquire of the Senator from Iowa, I am willing

to accept the amendment of the Senator from Iowa, and the distinguished ranking member has indicated to me that he is willing to accept it, also. If that is the case, it would not necessitate a rollcall, if the Senator would acquiesce in that acceptance.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1577

(Purpose: To ensure equitable distribution of reductions in discretionary spending among all budget functions)

Mr. McCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1577.

Mr. McCAIN. 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 III, add the following:

SEC. . SENSE OF THE SENATE REGARDING EQUITABLE DISTRIBUTION OF REDUCTIONS IN DISCRETIONARY SPENDING.

The Senate finds that since the President's Fiscal Year 1995 defense budget request represents the tenth straight year of real cuts in defense; and if the President's defense budget request is approved, since 1985 real defense spending will have been reduced by 45 percent by 1999; and President Clinton, during his State of the Union address on January 25, 1994, promised no further cuts in defense spending. Then it is the sense of the Senate that the annual levels of the 050 function should be reduced from the President's Fiscal Year 1995–1999 budget request only after other annual levels of non-defense discretionary spending in the budget resolution have been reduced, fairly and appropriately.

Mr. McCAIN. Mr. President, what the amendment is saying is that we should not cut defense spending any more than we intend to cut nondefense discretionary spending, in light of the fact that since 1985 we have cut defense spending in real terms by some 35 percent; by 1999 we will cut it by an additional 10 percent; that from now on, if we are going to cut the budget, we should cut it fairly and equitably and not have the burden of budget reductions, spending reductions be borne solely by defense, which has basically been the case.

Mr. President, I refer to the President of the United States' statement before the Congress of the United States just this year where he stated, to significant applause on both sides of the aisle, "The budget I send to Congress draws the line against further defense cuts. We must not cut defense further."

I echo the words of the President of the United States. I do not believe that just because we are going to cut spending, it has to come out of defense. I believe that that burden should be borne throughout the Federal budget, and I would suggest that that has not been the case.

Mr. President, as the President knows, we have gone from a very, very dangerous but predictable world to a much less dangerous but unpredictable world.

A glance at the globe today indicates that there are potential trouble spots which, unfortunately, may require the use of United States military power, from Korea where we are facing a major crisis, to China where there is clearly a situation of great tension, Bosnia that we all know about, to the situation in the former Soviet Republics, and the list goes on and on.

Mr. President, I am not asking that we not cut defense further, although that is a frightening prospect to me given the lack of readiness and the lack of capability that already exists in the military. What I am saying is, if we are going to cut spending, and indeed I believe we will because I believe that is the mandate that the American people are giving us, at least those cuts have to be fair, equitable, and divided up equally amongst discretionary nondefense spending as well as defense spending.

I would like to see this Senate on record as making sure that as we debate the appropriations bills that come to the floor, the sense of the Senate has been expressed that those cuts be equitably distributed.

I would like to thank my friend from New Mexico for his indulgence in helping me with this amendment. I also understand that it is the desire at this time not to have a rollcall vote on this particular amendment, although I do not doubt the judgment of the Senator from New Mexico. I know there are many other amendments that are pending. So I ask my friend from New Mexico what his desire is on this amendment, and then I will finish my remarks and yield the floor.

Mr. DOMENICI. I yield myself 2 minutes, Mr. President, out of the time of the Senator from Arizona.

Did Senator McCAIN say that the Senator from New Mexico did not think he ought to have a rollcall vote? I did not say that.

Mr. McCAIN. I must have been misinformed. I will request the yeas and nays.

Mr. DOMENICI. We are trying to work something out where two amendments like this would be accepted. We have not had the other one accepted. I think the Senator ought to withhold on that.

Mr. McCAIN. If it is agreeable with the Senator from New Mexico, I ask for the yeas and nays. We can always ask that they be vitiated if necessary.

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. DOMENICI. Might I ask a question? As the Senator from Arizona proposes this, if the Exon amendment is applied, is the Senator saying it would apply so that an equal amount would be taken off discretionary as off defense or would not be disproportionately defense?

Mr. McCAIN. That is the intent of the amendment. Yes.

Mr. President, I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily.

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

AMENDMENT NO. 1582

(Purpose: To provide for the expedited consideration of certain rescissions)

Mr. COHEN. 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 Maine [Mr. COHEN], for himself and Mr. KERREY, proposes an amendment numbered 1582.

Mr. COHEN. 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 II insert the following:

SEC. . EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriations Act.

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

(1) Not later than 3 days after the date of enactment of an appropriation Act, the President may transmit to Congress a special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill or joint resolution that, if enacted, would only rescind that budget authority.

(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill or joint resolution for accounts within the jurisdiction of each such subcommittee.

(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in para-

graphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974.

(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

(1)(A) Before the close of the second day of continuous session of the applicable House after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Congress in which the appropriation Act involved originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced as provided in the preceding sentence, then, on the third day of continuous session of that House after the date of receipt of that special message, any Member of that House may introduce the bill or joint resolution.

(B) The bill or joint resolution shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after the date of receipt of that special message. If the Committee on Appropriations fails to report the bill or joint resolution within that period, that committee shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(C) A vote on final passage of the bill or joint resolution shall be taken in that House on or before the close of the 10th calendar day of continuous session of that House after the date of the introduction of the bill or joint resolution in that House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of Congress on the same calendar day on which the bill or joint resolution is agreed to.

(2)(A) A bill or joint resolution transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after it receives the bill or joint resolution. A committee failing to report the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

(B) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of that House after the date on which the bill or joint resolution is transmitted. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on a bill or joint resolution under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives.

(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations; and

(2) continuity of a session of either House of Congress shall be considered as broken only by an adjournment of that House sine die, and the days on which that House is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of any period.

SEC. . EXPEDITED CONSIDERATION OF CERTAIN PROPOSED REPEALS OF TAX EXPENDITURES.

(a) PROPOSED REPEAL OF TAX EXPENDITURE.—The President may propose, at the time and in the manner provided in subsection (b), the repeal of any provision in an Act that would result in a tax expenditure.

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

(1) Not later than 3 days after the date of enactment into law of an Act containing a provision described in subsection (a), the President may transmit to Congress a special message proposing to repeal any such provision contained in that Act and include with that special message a draft bill or joint resolution that, if enacted, would repeal such provision.

(2) Each special message shall include, with respect to the provision proposed to be repealed, a budget analysis of such provision.

(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—Each special message transmitted pursuant to subsection (b) shall be considered in accordance with the procedures provided for special messages in the preceding section of this resolution.

(d) DEFINITION.—For purposes of this section, the term "tax expenditure" shall have the meaning given such term in section 3(3) of the Congressional Budget Act of 1974.

Mr. COHEN. Mr. President, I am sending this amendment to the desk on behalf of myself and Senator KERREY of Nebraska.

Two weeks ago the Senate debated the proposal to amend the Constitution to require a balanced budget. I regret that the proposal was rejected narrowly. I understand that my colleagues were somewhat reluctant to incorporate budget policy and procedure into the Constitution. But today we are proposing a change in the budget procedure that does not amend the Constitution, and does not amend any Federal statute. It merely amends House and Senate Rules of Procedure.

For this reason I hope that some of my colleagues who could not support the balanced budget amendment, will be able to support this proposal that we are offering this afternoon.

The amendment would establish an expedited procedure for House and Senate consideration of rescission requests made by the President. Under current law, Congress is not required to act on any requests by the President to rescind or cancel funds already appropriated by the Congress. If Congress chooses to ignore the rescission request, they simply wither on the vine.

In light of the looming and repeated deficits, however, I think the Presidential requests to rescind spending deserve to be acted upon, and Congress should not be able to simply ignore the requests.

So under the expedited rescission proposal, Congress would be required to vote on the President's rescission requests within 20 days of their proposal to Congress. This would also, I might add, not only apply to appropriation rescissions but to tax expenditures.

Wasteful Federal spending is not restricted to appropriations measures. Federal resources can be wasted in the Tax Code as well, and the President ought to have the authority to reach this type of waste as well.

Every dollar that is expended through a wasteful tax provision is a

dollar that could be better spent through a productive tax provision.

Mr. President, last year the House of Representatives passed, by an overwhelming margin, a bill to create an expedited rescission authority. The proposal I am offering today is quite similar to the House version, except that we add tax expenditures. Unfortunately, during the consideration of this bill in the House, the House rejected an amendment by House minority leader BOB MICHEL to permit the President to propose rescinding tax expenditures, as well as appropriated matters.

Also last year, during consideration of 1994 budget resolution, I offered an amendment with Senator CAMPBELL to express the sense of the Senate that expedited rescission procedures should be adopted. I was pleased that a motion to table that amendment was rejected by nearly a 2-to-1 margin.

Today, we have an opportunity to fire with real bullets. The amendment we are offering today would amend the current House and Senate provisions to make this expedited rescission a reality. I am pleased to have Senator KERREY join me in offering this amendment. It was through Senator KERREY's leadership earlier this year that we had an opportunity to vote on a substantive list of specific spending cuts that went well beyond the rescissions proposed by the President.

I urge my colleagues to support the amendment. I hope that those supporting last year's sense-of-the-Senate amendment will support this amendment today when it really counts.

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

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I am pleased to rise in support of this expedited rescission amendment. As the distinguished Senator from Maine just said earlier this year, the Presiding Officer and I, and several other Members, attempted to amend a rescission bill that was sent to the Congress by the President last fall that had been referenced to the Appropriations Committee. And we found that amending that rescission bill was extremely difficult. In this particular case, it got merged with a supplemental appropriations bill. Thus, as we came to the floor to offer our amendment to the rescission bill, many were concerned that we were slowing down a dire emergency supplemental appropriations.

It was difficult for us to get that rescission bill to the floor and for us to get our amendment considered in a very clean and straightforward fashion. Not only do I believe the expedited rescission, as this amendment offers, will give us a chance to consider the rescission bill in an expedited fashion, but I believe it will give Congress the opportunity to debate in a much more open and meaningful fashion those things that we think we would like to cut—things we would like to cut in addition to what the President is offering, both on the direct spending side and on the indirect spending side through our taxes.

All of us that have supported spending reduction have been extremely frustrated. It seems that the majority shifts when it comes time to vote for spending reductions, and we always fall a few votes short—sometimes 4 or 5, sometimes 10 or 15. What this amendment would do would be to change the budget process and make it clear that there is going to be an opportunity every year, because it is likely that every year the President is going to introduce a rescission bill, and that he will say: Here are some things I want to rescind.

This would force the Congress to consider the President's rescission legislation in an expedited fashion and, as I said, Mr. President, give the Congress an opportunity to debate in an extended fashion those things we would like to offer on the expenditure side and the tax side to further reduce this Nation's deficit.

So I applaud the work of the Senator from Maine on this amendment. I am pleased to join as a cosponsor. I believe this amendment, if agreed to, if held in conference, and if it becomes part of this Nation's budget law, will give us the mechanism that many of us have been looking for, which will permit us to come to the floor and have an open and very meaningful and constructive debate about in what areas we believe spending reduction needs to occur.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be deducted equally from both sides.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. How much time remains on this bill?

The PRESIDING OFFICER. The Senator from Maine controls 52 minutes 20 seconds. The opposition controls 60 minutes.

Mr. KERREY. Mr. President, I ask unanimous consent that the present business be laid aside so that I might offer another amendment.

Mr. SASSER. Parliamentary inquiry, Mr. President. The distinguished President pro tempore, I think, may wish to speak in opposition to the enhanced rescission amendment that is being temporarily laid aside. We will reserve our full 60 minutes when it is laid aside.

Mr. SPECTER. Reserving the right to object, I inquire from the Senator from Nebraska how long his next amendment will take, because in the sequence, I had expected that I might be the next person to offer an amendment.

Mr. KERREY. I will take no more than 5 or 10 minutes to offer it. I do not have extended comments.

Mr. SPECTER. Might I inquire of the managers if my amendment would then fall next in line?

Mr. DOMENICI. I said to the Senator that he was next if they did not have an amendment. They do have one now. There is a Cohen amendment, and then Senator KERREY's, and then yours.

Mr. SPECTER. I thought that was a Cohen-Kerrey amendment.

Mr. COHEN. It was, and now it is going to be a Kerrey-Cohen amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Reserving the right to object, to further my inquiry, we will be reserving 60 minutes on the opponents of the enhanced rescission amendment.

The PRESIDING OFFICER. Correct. There has been 3 minutes 51 seconds charged against the opponents, and an equal amount having been charged to the proponents.

Mr. SPECTER. Reserving the right to object, I just want to be sure that after the 5 or 10 minutes have elapsed, this Senator will have a chance to offer my amendment before any time is used in the balance, and I will be relatively brief, in the 10- to 12-minute range on my amendment.

Mr. President, I ask unanimous consent that that will be the order of proceeding.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, reserving the right to object, I did not hear the Senator.

Would the Senator kindly repeat the unanimous-consent request?

Mr. SPECTER. Yes.

My unanimous consent is on the sequences which we have discussed following the Kerrey-Cohen amendment, that this Senator be permitted to offer my amendment that will be relatively brief, in the 10-, 12- or 15-minute range.

Mr. SASSER. I thank the Senator.

Senator ROBB is on the floor, and he is eager to get his amendment before the Senate. I assume after the amendment of the Senator from Pennsylvania is disposed of then Mr. ROBB's amendment can be called up.

Mr. ROBB. Mr. President, I ask that it be added to the unanimous-consent request.

The PRESIDING OFFICER. The Chair will state the unanimous-consent requests that have been made.

The Senator from Nebraska asked the pending business be set aside for the purposes of his offering an amendment. The Senator from Pennsylvania asked unanimous consent that upon the completion of the amendment that will be offered by the Senator from Nebraska he be recognized for purposes of offering an amendment. The Senator

from Virginia has asked that upon completion of the amendment offered by the Senator from Pennsylvania he be recognized for purposes of offering an amendment.

Is there objection to that unanimous consent series of requests?

If not, it is so ordered.

The Senator from Nebraska.

AMENDMENT NO. 1583

(Purpose: To express the sense of the Senate regarding Federal courthouse construction)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY] for himself and Mr. COHEN, proposes an amendment numbered 1583.

At the end of title III, add the following:

SEC. . SENSE OF THE SENATE REGARDING FEDERAL COURTHOUSE CONSTRUCTION.

It is the sense of the Senate that—

(1) the President's fiscal year 1995 budget includes a request for 11 courthouses with a total estimated cost of over $1,000,000,000;

(2) while there may be significant need for new Federal courthouses, the need for programs that prevent youth violence before children get to courthouses is greater;

(3) There should be a moratorium for fiscal year 1995 on the construction of any new Federal courthouses which have not already been specifically approved by Congress; and

(4) priority should be given to programs for children and families like Head Start and grants for maternal and infant health care.

Mr. KERREY. Mr. President, I had the amendment read. It is self-explanatory.

I simply am arguing this is not a priority expenditure. I understand that these courthouses are important. I began this quest to knock these courthouses out and have a moratorium on it when I opened up the newspaper last year on a day that I happened to be trying to find $50,000 to keep a boys club in Omaha, NE, open. All we needed was $50,000 to get the job done.

I pick up the newspaper and I find out that an $85 million new courthouse is being built in Omaha, NE. I said at the time it does not make any sense to me that we are allocating $85 million to build a place where we are going to sentence young people and not provide $50,000 as a place where young people can go, hopefully so they will be able to avoid that courthouse.

It is just one more example of how I think our priorities are wrong. We hear constantly we cut the domestic discretionary expenditures to the bone. The private sector is willing to build many of these things for us. I think it is an unnecessary expenditure.

I hope that the majority of the Senate will support this rather simple and straightforward amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KERREY. I yield whatever time it takes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Nebraska yields what time is required to the Senator from Maine.

The Senator from Maine is recognized.

Mr. COHEN. I thank my friend for yielding. I also will be very brief.

Mr. President, I think the Senator from Nebraska has proposed a very sound and sensible sense-of-the-Senate resolution and points out the fact that we have had a chaotic situation in our Federal building program.

Last year, I requested that the Governmental Affairs Committee's Subcommittee on Oversight of Government Management, on which I serve as ranking minority member, hold a hearing on this subject. The findings were troubling. We found that the Federal Government was leasing a number of buildings that we would have been better off buying. Furthermore, the Government was constructing new buildings when in fact existing buildings could have been purchased to meet the Government's needs at a significant savings over new construction. For this reason, I asked the then-designee General Services Administrator Roger Johnson to temporarily suspend the construction and leasing program for new Federal office space and courthouses. This was to provide the new Administrator, with an opportunity to review all of the projects for cost effectiveness and to ensure that these projects were in the best economic interest of the taxpayer. By agreeing to my request the new Administrator, who I think has done an outstanding job, stated this morning, that the Government will save about $1.2 billion. The moratorium also forced the GSA to consider its construction program in terms of the government's priorities.

I think this amendment extends our oversight of Federal property management a step further. It is important that we get our house in order on this matter as the need for Federal property will undoubtedly continue to grow. Under the Senate crime bill, we will certainly be building more prisons. We also know we need funds for more police on the streets. It only stands to follow that we will need more prosecutors, and ultimately we will probably need more courthouses.

The evidence is clear that we are not satisfying our property needs in the most cost effective and appropriate manner. For example, often the Federal Government will construct new office space and courthouses in areas where there are already millions of square feet of vacant office space that is both appropriate and available for Federal use. This new construction often exacerbates an already high commercial office vacancy rate by displacing Federal workers from existing space. In many cases, the Government continues to build when it would be more appropriate, and certainly more cost effective, to buy existing buildings and renovate, or even lease where the cost of buying or leasing is significantly less than the cost of new construction. Yet for reasons that defy the law of supply and demand, the Government, unless we begin to pass legislation like the amendment offered by Senator KERREY and myself, will continue to construct unnecessary high-cost buildings and continue depressing existing real estate values and not engaging in a wise expenditure of taxpayer dollars.

Mr. President, the vast majority of the Federal construction projects managed by the GSA are Federal courthouses. These dollars directed toward courthouse construction is growing rapidly. In 1991, Congress appropriated over $564 million for 13 new court construction projects, which represented 42 percent of the total appropriated to the General Services Administration for new construction. The FY 1994 appropriation for GSA building projects included funding for 16 new Federal courthouses amounting to $781 million or about 84 percent of the $943 million appropriated last year for new building construction. This year, the President is asking for an additional $1 billion to construct 11 new Federal courthouses.

This growth in courthouse construction concerns me not only for the reasons I expressed earlier, but because some of these projects may not be needed. Last fall, GAO issued a report which said that projections for court space needs by the Federal judiciary are seriously flawed. As a result of the faulty projections, the administrative office of the United States Courts may have overestimated the Federal judiciary's 10-year space needs and the Government may be building three million square feet of courthouse space that we do not need. According to GAO's cost projections, this also means that GSA could be overbilling the taxpayers $1.1 billion for the judiciary's over-estimated space needs. Given that, according to GAO, the Administrative Office of the U.S. Courts did not project long-range space needs that were sufficiently reliable to form the basis for congressional authorization and funding approval of new construction, for court space, I think this amendment makes an enormous amount of good common sense, and I hope our colleagues will join in supporting it.

I yield back the time.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERREY. Mr. President, I do not know. Is there opposition to this amendment?

Mr. President, I will just yield the floor.

The PRESIDING OFFICER. If no one yields time, time will be charged equally on the amendment of the Senator from Nebraska.

Mr. COHEN. Mr. President, could I have the floor momentarily to ask unanimous consent that a study be printed in the RECORD, a GAO report about the long-range planning needs for the Federal judiciary for space?

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

EXECUTIVE SUMMARY

PURPOSE

Between 1979 and 1988, the federal judiciary's caseload increased by 99 percent, thereby creating a need for additional court space. Initial estimates from the long-range planning process, established by the judiciary in 1988 to project its future space needs, indicated that need for court space will continue to grow for the next 30 years. In 1991 Congress appropriated over $546 million for 13 new court construction projects, or about 42 percent of the total amount appropriated to the General Services Administration (GSA) for new construction projects. Concerned about the judiciary's continuing requests for more space, the Ranking Minority Member of the Subcommittee on Investigations and Oversight, House Committee on Public Works and Transportation, asked GAO to evaluate the reasonableness of the methodology used by the judiciary to project long-range space needs and to assess the reliability of the projections.

BACKGROUND

In 1988, to anticipate future space requirements, the Judicial Conference of the United States, the policymaking body of the judiciary, directed each of the 94 district courts to develop a long-range plan for its space needs. It also directed the Administrative Office of the U.S. Courts (AOC), the administrative body of the judiciary, to provide the districts with the necessary planning guidance. By establishing a long-range planning process, the judiciary became one of the first government organizations to develop a mechanism for anticipating space needs. GSA uses the 10-year space projections provided by the judiciary as the basis for requests to Congress for new construction and expansion of court space in existing facilities.

The Judicial Conference also requested independent authority from Congress to acquire its own judicial facilities. The judiciary believed that such authority would provide greater control and flexibility because it would no longer be dependent upon the executive branch for space. Congress has not acted upon this request.

AOC developed an on-going, long-range planning process based on the basic assumptions that (1) caseloads should determine staffing needs, which, in turn, should dictate space needs; (2) local district representatives should determine actual space needs rather than depending primarily upon statistical estimation methods; and (3) each district is of equal importance and, therefore, space needs should not be prioritized among districts.

Under its long-range planning process, AOC annually categorizes the 94 districts into 1 of 4 groups on the basis of the district's total caseload. For each group, the average ratios of key personnel to specific caseloads are computed. AOC then develops 5-, 10-, 20-, and 30-year projections for each district for four different caseloads—bankruptcy filings, criminal and civil cases commenced, and the number of people under court supervision. AOC uses the ratios of caseload to key personnel to convert the projected caseload to staffing needs for each time period. Staffing needs are then converted to space needs using the U.S. Courts Design Guide, a planning document that was developed for use in the design of court space.

Because the judiciary believes that final space projections should reflect the knowledge and experience of local representatives, AOC's team conducted 3-day planning sessions in each of the 94 districts. The planning sessions were attended by local representatives from each of the court components, court-related agencies—the U.S. Attorneys' office, the U.S. Marshals Service, and the U.S. Trustees—and GSA. The local representatives reviewed and modified the initial staff and space projections and compared their current space assignments to the Design Guide to identify immediate, unmet space needs (deficits). The initial projections served as a starting point for discussion, and the representatives' modifications became the final projections of staff and space needs for the district. Agency officials reported that they do not plan to continue to routinely schedule on-site sessions after completion of all 94 districts.

As of September 1, 1992, AOC had completed space projections for 60 of the 94 districts. In order to determine the estimated total impact of AOC'S planning process, GAO projected AOC's findings for the completed districts to the total 94 districts. GAO estimated that for all 94 districts, the total space requirements for courts and related agencies would increase to about 36.9 million square feet over a 10-year period, a 97-percent increase.

Because of the continuing requests for additional court space, GSA officials raised concerns about the methodology used by AOC to project future needs. When they communicated these concerns to Congress, GAO was asked to evaluate the methodology that AOC was using for long-range planning and to assess the reliability of the results produced.

RESULTS IN BRIEF

GAO found that AOC's process for projecting long-range space needs did not produce results that were sufficiently reliable to form the basis for congressional authorization and funding approval of new construction and renovation projects for court space. GAO's analysis indicated that AOC's projections of caseloads were higher than those generated using a standard statistical method in 76 districts and were lower in the remaining 18 districts. When GAO used an estimate of $31 per square foot, which represented the judiciary's average cost for all court space, the difference translated to a net cost in constant dollars of approximately $112 million annually, or $1.1 billion over the 10-year period.

GAO identified three key problems that have impaired the accuracy and reliability of the judiciary's projections. First, AOC had not treated all districts consistently. One reason for this was that it did not routinely revise district plans that were completed earlier to reflect changes made to critical factors, such as the space allocation per individual staff. Also, the procedure used to convert caseload estimates to staffing requirements did not reflect differences among districts that affect space needs. Second, based on AOC's assumptions regarding the relationship between caseloads and staff needs, many districts' baselines to which future space needs are added did not accurately reflect their current space needs. AOC used as the baseline for a district the amount of space it occupied plus any deficit identified by the local representatives. As a consequence, when a district occupied more space than the caseload warranted, future estimates of needs were overstated. Third, AOC's process did not provide reliable estimates of future space needs because the methodology used to project caseloads was not statistically acceptable. In addition, because of the amount of subjectivity involved in the process, it is likely that if the process were repeated for any district, even without any change to the caseloads, the estimate of space needs would be different.

GAO recognizes that it is difficult to project future space needs with precision. The projection of such needs is not an exact science, and in the final analysis, it is reasonable to expect some variation between the estimate and what is actually needed. Space estimates are particularly challenging for the judiciary because there are numerous factors that cause changes in the workload, and therefore space needs, which are beyond its control. However, by modifying the process, more reliable assessments of future space needs could be obtained that would provide a better basis for decisionmaking by GSA and by Congress.

GAO ANALYSIS

Districts Have Been Treated Inconsistently

AOC's method for projecting space needs has treated districts inconsistently. The process began in 1989, but all 94 districts are not scheduled for completion until 1994. Since 1989, AOC has made a number of changes in the way space is allocated but has not routinely revised the completed plans to reflect the changes. As a consequence, those districts whose plans were completed early received lower space allocations than did those completed later.

Another problem was the use of data from different time periods when future space needs were projected. AOC used 40 years of historic data to project future caseloads. Because the process has required 5 years for the completion of plans for all districts, the time period used to make caseload projections has not been the same for all districts. For example, some districts' estimates were based upon historic data for 1949 through 1989, while others included 1952 through 1992. The increase in the number of bankruptcy filings that occurred during 1990 and 1991 was not reflected in the early projections, thereby resulting in underestimates of space needs for bankruptcy courts.

Another problem related to AOC's method of grouping districts into one of four "growth models." It used the districts' total caseloads, including civil and criminal cases commenced, bankruptcy filings, and number of persons under supervision, as the basis for determining the growth model. The average caseload, number of key personnel, and ratio of other staff to key personnel were then determined within each growth model. These data defined the relationships between caseloads and staff needs that were applied within each growth model when future space needs were calculated. This method gave equal weight to all cases and ignored differences among districts' caseloads that directly affected space needs, such as case complexity and length of trials.

Baselines Have Not Reflected Current Needs

One of AOC's basic assumptions is that caseloads should determine staff needs,

which should define space needs. However, GAO found that when determining the baselines, to which future space needs were added, AOC assumed that all authorized staff were needed. Therefore, space allocations were included for all staff regardless of whether the staff was justified by current caseloads. In addition, AOC included deficits in the baselines without verifying that they represented actual space needs.

To determine the impact of these practices on projections, GAO tested two alternative methods for determining baselines. GAO did not include deficits as part of the baseline under either alternative. The first GAO alternative established district baselines directly from current caseload, while the second GAO alternative established baselines according to the number of authorized staff positions.

Under the first of these alternatives, GAO used AOC's caseload-to-staff ratios to convert current caseloads to staff needs. The Design Guide space allocations were then applied to determine the amount of space required to house this level of staff. On the basis of this alternative, GAO estimated that AOC's baselines overstated space needs in 65 districts by about 3 million square feet and understated needs in 29 districts by about 840,000 square feet.

Under the second alternative, GAO began with the current staffing levels to establish the amount of space currently required. This alternative recognized that current staff levels may not correspond to the level needed to process the caseload. However, this alternative also recognized that existing staff levels could not be readily modified. On the basis of this alternative, GAO estimated that AOC's baselines overstated space needs in 63 districts by about 2.1 million square feet and understated baselines in 31 districts by about 1 million square feet.

Under either of these alternatives, the GAO position was that additional space is not warranted until the caseload increases to the level that more staff are needed.

Projection Methods Have Not Produced Reliable Results

The long-range planning process used by AOC has not produced reliable estimates of future space needs. First, the methodology used to make initial caseload projections was statistically flawed. AOC averaged the results of different regression analyses to develop its final estimates. As a consequence, the accuracy of the initial caseload projections cannot be measured statistically.

In addition, the high level of subjectivity in the process made it likely that if the process were repeated for the same district even without a change in the caseloads, the final estimate of space needs would be different.

Subjectivity occurred at two points in the process. First, when initial caseload projections were made, if the estimate seemed to be too low, it was arbitrarily increased. Second, because the local representatives did not have available the caseload projections made by AOC prior to the on-site sessions, the final estimates of needs were based primarily upon their subjective experiences.

To assess the overall reliability of AOC's process, GAO developed 5- and 10-year projections of space needs for the judiciary using a standard acceptable statistical method. This analysis indicated that the judiciary's 10-year projections of court space needs were higher than GAO's estimates in 76 districts by about 5 million square feet and were lower in 18 districts by about 1.4 million square feet. Overall, AOC's estimates were about 16 percent higher than GAO's estimates. Using a GAO estimate of $31 per square foot, which reflected the judiciary's average cost for all court space for the period 1988 to 1992, this would represent an overestimate of about $112 million per year, or $1.1 billion for the 10-year planning period.

RECOMMENDATIONS

GAO recommends that the director of the Administrative Office of the U.S. Courts revise the future operations of the long-range planning process to:

Treat all districts consistently in terms of the application of the assumptions regarding the relationships between caseloads, staff, and space;

Establish a baseline for each district that reflects its current caseload; and

Increase the reliability of the results by using an acceptable statistical methodology to project future caseloads and by reducing the level of subjectivity in the process.

AGENCY COMMENTS

AOC provided written comments on a draft of this report; the text of these comments is presented in appendix III. AOC's comments and GAO's responses are discussed at the end of chapters 2, 3, 4, and appendix III. On June 21, 1993, GAO met with the Assistant commissioner, Office of Planning, GSA. He provided official oral comments on a draft of this report. GAO also met with agency officials from AOC to discuss their comments.

AOC agreed with GAO that all districts should be treated consistently, even though this was not occurred in the past; however, AOC pointed out that these inconsistencies were not intentional. GAO does not imply in the draft report that the inconsistencies were intentional. However, because of the 5-year period required to complete all districts, changes did occur that affected some districts, particularly those that had plans completed early in the period. Following the completion of plans for all 94 districts in early 1994, on-site planning sessions will no longer be routinely scheduled for all districts, thereby reducing the time required to complete all districts from 5 years to 2 years. As a direct consequence, the likelihood of changes that affect space allocations will be reduced, although not eliminated. GAO's position is that any time there is a change that affects space allocations, the plans for all districts should be updated to prevent the occurrence of inequities.

AOC stated that GAO misused its basic planning assumption that caseloads should determine staff needs, which should determine space needs, when it applied this assumption to determine the amount of current space needed (baselines). AOC's intent was that this assumption apply only to future needs, not to current needs, and that the baselines should reflect current space plus deficits. GAO's position is that the baselines used by AOC often do not accurately reflect existing needs; therefore, the estimates of future requirements will continue to reflect any existing overages or shortages in terms of the amount of space needed to process the districts' caseloads.

AOC commented that the projection of future space needs should be dependent primarily upon the qualitative information provided by the local representatives rather than upon statistical procedures. GAO recognizes that qualitative methods, which involve group participation, can be used successfully in some instances to generate accurate projections. However, there are two basic restrictions to the use of these qualitative methods. The participants should be experts in the relevant area, and the projection period should be limited to 1 or 2 years. However, the local representatives who participate in AOC's on-site sessions often would not qualify as experts, and AOC does not limit this method to short-term projections. Therefore, even if experts were involved the estimates produced would lack reliability. AOC stated that beginning in 1994 on-site sessions will no longer be routinely scheduled and that local input will be obtained through other channels. This may result in a reduction of the subjectivity and an improvement in the reliability of the estimates. However, GAO's position is that AOC should examine various alternative statistical methods for estimating caseloads. AOC could then directly translate these statistical projections into space requirements by applying its assumptions regarding the relationships between caseloads and staff/space.

A general issue that AOC and GSA raised was that the total process for the acquisition of facilities is more complex than just the long-range plans. GAO recognizes that the court's projection of long-range space needs is only one phase of a complex process. However, GAO was only asked to evaluate the methodology the courts used for making long-range plans not to evaluate the total space acquisition process.

GSA officials indicated that they concurred with the GAO draft report. They stated that the GAO methodology for calculating baselines represented a way to improve the reliability of future estimates of space needs for the judiciary. They also agreed with GAO that AOC should examines alternative caseload projection methods.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. SASSER. Mr. President, I would inquire of the Senator from Nebraska. I have discussed his amendment dealing with Federal courthouses with the distinguished ranking member, and if the Senator from Nebraska would be agreeable to vitiating his request for the yeas and nays, we would be agreeable to accepting the amendment. We find it to be meritorious.

Mr. KERREY. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the pending amendment.

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

The yeas and nays are vitiated.

Is there any further debate?

Is there desire to yield the remaining time back?

Mr. DOMENICI. If I had time in opposition, I yield it back.

The PRESIDING OFFICER. The Senator has 59 minutes 25 seconds.

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

The PRESIDING OFFICER. All time is yielded back.

Mr. SASSER. Mr. President, we have just been advised that one of our colleagues on our side opposes the Kerrey amendment and has raised an objection to its being accepted and, as a matter of fact, is on his way to the floor to speak in opposition to it.

Mr. KERREY. Mr. President, I ask for the yeas and nays again on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that the Kerrey amendment be temporarily laid aside so we may proceed with my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Kerrey amendment is temporarily laid aside, and the Senator from Pennsylvania is recognized for purposes of offering an amendment.

Mr. SPECTER. I thank the Chair.

AMENDMENT NO. 1584

(Purpose: To state the sense of the Senate regarding payment of arrearages of the United States in commitments for contributions to the United Nations for peacekeeping activities)

Mr. SPECTER. 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 legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. HATFIELD, proposes an amendment numbered 1584.

Mr. SPECTER. 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 end of title III add the following new section:

SEC. . SENSE OF SENATE ON PAYMENT TO UNITED NATIONS OF UNITED STATES ARREARAGES IN CONTRIBUTIONS FOR PEACEKEEPING ACTIVITIES.

(a) SENSE OF SENATE ON AUTHORITY AND OUTLAYS.—It is the sense of the Senate that budget authority of $250,000,000 in fiscal year 1995 and outlays of $170,000,000 in that fiscal year based upon funds accruing under subsection (b) should be allocated to the committee or committees of the Senate having jurisdiction over contributions to the United Nations for peacekeeping activities for the purposes of permitting the payment of arrearages of the United States in commitments in fiscal year 1994 for such contributions.

(b) SENSE OF SENATE ON FUNDS.—It is the sense of the Senate that funds should be available for the budget authority of $250,000,000 and outlays of $170,000,000 referred to in subsection (a) as the result of—

(1) the reimposition by the United States of charges on foreign governments (other than Israel and Egypt) for the non-recurring costs of research, development, and production of major defense equipment licensed for commercial export to such governments; and

(2) the recoupment by the United States from such governments of administrative costs relating to foreign military sales; and

(3) the elimination of all financing assistance for such sales (other than sales to Israel and Egypt) by the United States.

Mr. SPECTER. Mr. President, the purpose of this amendment is to express the sense of the Senate that $170 million in outlays be allocated by pay arrearages owed by the United States for U.N. peacekeeping operations. These arrearages are estimated to be as much as $1 billion by the end of this fiscal year. The sum of $170 million is obtained by reinstating certain cost now borne by the U.S. Government as subsidies for foreign arms sales.

The thrust of this amendment is readily apparent, that the purpose of U.N. peacekeeping forces is a very high value for the maintenance of international peace, contrasted with the subsidies offered by the U.S. Government for the sale of arms worldwide, which is quite a detriment to the interest of peace.

The sense-of-the-Senate resolution cites an exception for Israel and Egypt because of the spirit, if not the technical requirements, of the Camp David Accord exempting those two countries from any additional costs which might be incurred as a result of eliminating this subsidy.

Mr. President, the administration had requested that the sum of $670 million be included in the recent dire emergency supplemental, and that request was denied when the supplemental, which was directed principally for the California earthquakes, was substantially overburdened. That request was rejected.

The $670 million requested by the administration was to pay for peacekeeping forces to the United Nations. As I say, that arrearage by the United States is now projected to grow to $1 billion by the end of the fiscal year. The U.N. peacekeeping forces, Mr. President, I submit, are a very, very good investment to promote the cause of peace around the world.

We have recently seen the United Nations efforts in Somalia which, had they been undertaken earlier, had there been more resources available to the United Nations for peacekeeping in Somalia, and had the United States not been thrust into the center of that operation would not have resulted in the very regrettable circumstances which led to many deaths of United States fighting forces.

At the present time, there are some 17 U.N. peacekeeping operations around the world. In the field, there are some 70,000 soldiers, costing about $3.5 billion a year, with many additional requests pending before the United Nations if the funding were adequate to cover this important function. This is a phenomenal growth, given that in 1987 the United Nations had just 5 peacekeeping operations of some 10,000 soldiers in total and an annual budget of some $233 million.

That striking growth is worth repeating, Mr. President, so that my colleagues will see the spectacular growth of peacekeeping operations and so that those who may be watching on C-SPAN II will see the potential for very effective action by the United Nations on peacekeeping as opposed to war making.

In 1987, there were five peacekeeping operations, with some 10,000 soldiers, with an annual budget of $233 million. At the present time, there are some 17 operations, with 70,000 soldiers costing around $3.5 billion a year.

There is an additional peacekeeping request made for Georgia, one of the new independent states of the former Soviet Union, where there is a request for some 2,500 to 3,000 peacekeepers. However Russia is the only country willing to send troops there.

There are now some 28,000 peacekeeping forces in the Balkans, which is some 6,000 below strength.

The peace talks which are now underway with respect to Angola may well lead to a request for peacekeeping forces there.

The United States is in a position which is really very sad, with very substantial arrearages which we owe for the U.N. peacekeeping operations. Our Nation, as the world leader speaking for the interest of peace and democracy, ought to be at the forefront of peacekeeping efforts instead of owing arrearages.

At the same time, Mr. President, I have noted a report by the Congressional Budget Office which identifies very substantial subsidies by the U.S. Government for the export of arms around the world. In fiscal year 1985, the Congressional Budget Office issued a report entitled "Reducing the Deficit: Spending and Revenue Options," and noted that the cost of not recouping research and development costs for commercial arms sales and requiring only reimbursement for 3.5 percent of administrative costs on foreign military sales programs had a dollar outlay of $170 million in fiscal year 1995, with a projected 5-year savings of some $1.7 billion.

The United States now exports more military equipment around the world than any other country, a position—and an unenviable position, I might add—which was held by the Soviet Union during the 1980's. There are arguments made that this will maintain the defense industrial basis of the United States, which I think is hardly persuasive when the sale of these weapons just promote war, deaths and human suffering.

So it seems to me, Mr. President, that this is a rather modest approach identifying these $170 million in outlays this year for a subsidy which the U.S. Government ought not to be undertaking, and making those funds available in this sense-of-the-Senate resolution for the payment of part of arrearages due by the United States for U.N. peacekeeping forces.

I yield the floor, Mr. President, and ask if the managers have any response to this proposed amendment.

The PRESIDING OFFICER. Who yields time? If no time is yielded, time will be charged equally to both sides.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1586

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment of the Senator from Pennsylvania be set aside while I send an amendment to the desk that will be accepted.

The PRESIDING OFFICER. Is there objection to temporarily setting aside the amendment of the Senator from Pennsylvania?

Mr. ROBB. Reserving the right to object.

Mr. President, we had a unanimous-consent agreement that was entered into recently. I would like to stick to that. I do not know what the Senator from New Mexico planned to do. If he planned to take it up and have it accepted, I have no objection.

Mr. DOMENICI. Just as I sent it to the desk, they accepted it. It will take 30 seconds.

Mr. ROBB. I have no objection.

The PRESIDING OFFICER. Without objection the amendment of the Senator from Pennsylvania is set aside for the purpose of the Senator from New Mexico offering an amendment.

Mr. DOMENICI. I send this amendment to the desk on behalf of Senator MCCONNELL.

The PRESIDING OFFICER. Without objection the clerk will report the amendment by number.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. MCCONNELL, for himself, Ms. MIKULSKI, and Mr. MACK, proposes an amendment numbered 1586.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following new section:

SEC. . Purpose—To express the Sense of the Senate regarding U.S. policy in Eastern and Central Europe.

It is the sense of the Senate that, the assumptions underlying the levels of spending set forth in this resolution regarding the national defense (050) and international affairs (150) budget categories include an assumption that the United States will oppose through appropriate means attempts by the Russian Federation to intimidate, use military force or engage in economic coercion to establish a sphere of influence over the former republics of the Soviet Union, the Baltics, or Central and Eastern European nations, consistent with provisions contained in the Freedom Support Act and the Foreign Assistance Appropriations Act of 1994.

Mr. MCCONNELL. Mr. President, on Tuesday, the New York Times carried a story that represents the latest example of Russian intentions in the Baltics, the New Independent States and Central and Eastern Europe. Let me read key portions of the article so my colleagues get a clear picture of just what is happening.

More than a thousand tons of wheat seed purchased by the United States for—Armenia, where there are lines for rationed bread, are being held up by Russia which is demanding payment of a 30% export duty. Under an agreement signed by the United States and Russia two years ago, no duties are to be imposed on the import or export of relief assistance. The wheat seeds, purchased from Russia, have been in the warehouse ready to be loaded on planes since early February. Last fall, as a part of an $18 million relief package for Armenia, Congress designated $3 million for wheat seed. It was to have been used for winter wheat, but the U.S. Agency for International Development was unable to arrange the purchase before the beginning of winter planting.

Well, Mr. President, the story notes that American Embassy officials confirmed these general details but declined comment after noting that it was extremely sensitive. I also confirmed the story's accuracy and was told that a cable went out on Tuesday urging Ambassador Pickering to raise the matter at the highest levels of the Ministry of Foreign Affairs. The last word I heard on the issue was the solution was imminent.

I wonder if the solution would be imminent but for the New York Times interest. I thought the fact that we were buying wheat seed from Russia rather than the United States obviously needs to be investigated, but there is another issue which I want to pursue today, and which I address in my amendment. Unfortunately, this case of starving Armenia is not an isolated example of bureaucratic bungling. I believe this is consistent with an emerging policy in which the Russian Federation is attempting to dominate the Baltics, and former Republics of the Soviet Union and Warsaw Pact through economic coercion, political intimidation, and in some cases military intervention. Virtually every leader in Central and Eastern Europe and in Central Asia has privately and publicly expressed serious concerns about Russian neo-imperial ambitions.

In fact, the only government that does not seem alarmed by the trends is our own. Given an opportunity to explain our policy, the State Department generally explains Russian concerns. Just a few weeks ago in the Foreign Operations Subcommittee, I questioned Secretary Christopher about President Yeltsin's State of the Union address in which he asserted Russia's right to intervene throughout the region to protect Russian minorities and guarantee stability. The State of the Union speech was understandably unsettling to Russia's neighbors. Instead of responding to Russia's neoimperialist rhetoric, Secretary Christopher pointed out that Russia has legitimate interests in suppressing violence on her borders and protecting Russian minorities.

He made no mention of the rights of minorities from other republics living in Russia. He did not address their rights of sovereignty or national integrity. Secretary Christopher chose instead to argue Russia's case that their minorities were disenfranchised and should be treated—in his words—"with generosity."

Within hours, I heard from the leadership of a number of organizations with strong cultural, ethnic and political ties to the region. Everyone shared a sense of frustration and outrage with this persistent and absolute policy bias toward Russia.

This week the Russians are starving the Armenians. They suspended Ukrainian energy shipments 2 weeks ago. As Secretary of Defense Perry learned yesterday, the energy crisis has been compounded by the Russian's failure to fulfill their trilateral agreement obligations to supply Ukraine with nuclear fuel rods in return for nuclear warheads. In Georgia, Russian troops provided training and equipment to rebels engaged in war against the democratically elected government of Mr. Shevardnadze. In the Baltics, on again-off again talks for troop withdrawal have been conditioned upon Russian requirements for continued access to military installations.

I could go on and on, republic by republic, nation by nation, elaborating on Russia's pattern of intervention. But, it is not just actions that worry me. We should listen carefully to policy statements from Moscow. Let me cite just a few examples.

In an op-ed in the Financial Times on Monday, a senior policy advisor to President Yeltsin said:

Now it seems there is a growing consensus. Most feasible regimes in Moscow would probably attempt a modality under which the CIS countries would remain independent politically but be dominated economically (by Russia) * * * In this model, Russia would be first among equals * * * Russia will also have to continue to be a local peace keeper or peace enforcer.

Mr. Karaganov goes on to note that the only reason the nations will be offered a measure of political independence is so local leadership can be blamed for any problems.

I have already drawn attention to the veiled threats in President Yeltsin's State of the Union—views which are consistent with dozens of other comments he and his advisors have made on Russia's emerging role. In December, Yeltsin told a news agency "Russia considers itself a great power and a successor to the Soviet Union in all its might." Foreign Minister Kozyrev has clarified Russia's right to assert this might in what he calls the near abroad. In an interview, he noted:

Russia would strive to create effective peacekeeping forces as a means of dealing with regional conflicts in the former Soviet Union * * * such forces in the near abroad would prevent the danger of losing geo-

political positions that took centuries to conquer.

What is surprising is these are the views of the so-called moderates in the Russian Government. Hardliners associated with the Defense Ministry take the policy one step further. Not only has there been an emerging pattern of economic and political domination in the new republics, but Russia's extended reach has effectively subverted United States policy and security interests in the Baltics and former Warsaw Pact nations.

In obvious response to Russian concerns, the United States recently rejected requests from European nations to expand NATO. Declaring a reluctance to draw new lines in Europe, the administration offered an ambiguous alternative framework paper called the Partnership for Peace. The reluctance to draw lines, in truth, was a reluctance to make hard choices. The proposal in essence yielded Russia veto authority over United States-European policy. Russian opposition to NATO's expansion had been repeatedly spelled out, including by President Yeltsin in his State of the Union address. He said:

Russia is against widening of NATO by admitting more countries of the European continent without Russia. This is the path toward new threats for Europe and the world.

Sadly, the partnership seems more press opportunity than tough policy or practices. I was not surprised to learn this morning that the Polish Defense Minister is having a difficult time nailing down precise American expectations and the exact benefits of participating in the partnership. Although he was appropriately diplomatic, it seemed to me he was being waylaid by procedural matters such as how to present information to NATO rather than being advised of the concrete steps Poland should take to expand cooperation.

Mr. President, the ambiguities of the partnership reflect our overbearing regard for Russian sensitivities. While I do not accept Russia's policies and plans for the new Republics, the Baltics and the former Warsaw Pact nations, at least I can understand their ambition to reestablish their sphere of economic, military and political influence. What I cannot understand is why the administration has not clarified American opposition to this creeping imperialism. There is a profound imbalance in our approach at the expense of the independence and territorial integrity of dozens of nations.

This bias presents an obvious question—why should we care? What difference does it make if Russia's attempts to dominate the region? The answer is simple. After decades of communism and occupation, after centuries of subjugation, not one of these nations will willingly give up their hard won independence without a fight. Prospects of aggression and the resurgence of imperialism will only bear a painful price, as we have seen in Bosnia. We now have early warnings of crisis in Crimea and may still see Georgia reignite. It is in our political and economic interests to help these struggling democracies navigate a course of free markets and political liberty, not fall victim to explosive ethnic conflicts or regional civil wars.

Mr. President, I would like to turn just for a moment to a remarkable statement made by my friend from Maryland, Senator MIKULSKI. In what can only be described as a fiery statement of support for the first bill authorizing foreign assistance to former Warsaw Pact nations, her emotional reaction to Hungarians taking to the streets, in her words "to sing their beloved national anthem and pluck the red star from their flag," 30 years after Soviet tanks rolled through the streets of Budapest.

As she spoke of her Polish heritage, my colleague from Maryland cautioned us all. Let me quote further from her speech:

We must remember history. These countries (of Eastern Europe) have been buffeted on the east and west by Russia and Germany. At the end of World War II along came two agreements called Potsdam and Yalta, which led to the demise of countries which are now called captive nations. Hungary, Poland, Latvia, Estonia, Lithuania, Ukraine, to name just a few. Through Potsdam and Yalta, night fell on Eastern Europe and the Iron Curtain was drawn shut. It meant the end of democracy. It meant the end of the free market system. The communist leaders tried to squelch the religious fervor of the people, but the people refused to yield, and now 40 years later they have been able to seize the opportunity to move toward democracy. We need to be there to help them during this transitional period, to essentially provide phase two of the Marshall Plan.

Mr. President, I think Senator MIKULSKI was right in 1989 and she is right now. We now have an opportunity to take one more step along the road to democracy and stability in Europe. We can choose more balance in our foreign policy now—or we can pay a very high price later. This amendment simply states the United States will use all appropriate means to oppose Russian efforts to dominate the Baltic States, the former members of the Warsaw Pact or the new Republics through economic coercion, intimidation or use of force. It obviously does not rule out any cooperative arrangements a nation may voluntarily enter into with Russia—and, it certainly does not rule out United States cooperation with Russia. But it makes clear that our terms of cooperation depend upon Russian respect for their neighbors' independence and territorial integrity. This amendment sends a clear signal that the Senate supports balance, not bias, as we secure and advance the vital interests of the United States.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment be agreed to and I ask unanimous consent that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the Senator from New Mexico is agreed to.

So the amendment (No. 1586) was agreed to.

Mr. DOMENICI. I appreciate the indulgence of the Senator from Virginia in permitting me to do that.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 1584

Mr. SPECTER. Mr. President, my amendment is pending.

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania was set aside for the purpose of offering the amendment by the Senator from New Mexico. We are now on the amendment of the Senator from Pennsylvania.

Who yields time?

Mr. SASSER. Mr. President, may I inquire, did the Senator from Pennsylvania ask for the yeas and nays on his amendment?

Mr. SPECTER. I have not.

Mr. SASSER. I hope the Senator will not. We have examined the Senator's amendment and find it meritorious. I would be willing to accept it for our side.

Mr. President, the Senator's amendment is acceptable to both sides of the aisle. Has all time been yielded back?

Mr. SPECTER. I am prepared to yield back the time. I thank my colleagues from Tennessee and New Mexico.

I just had a brief discussion with my colleague, the manager for the majority. I asked him if he would fight hard at conference, and he said he certainly would. So I will assume for purposes of the record it would be unanimous if we took it to a rollcall vote.

There are going to be a great many votes stacked. In the interests of concluding at some decent interval, perhaps before 3 a.m. tomorrow morning, as last night, I am pleased to handle this on a voice vote.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1584) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ROBB. Mr. President, I ask unanimous consent any pending amendments be laid aside.

Mr. SASSER. Will the Senator yield for just a moment?

Mr. ROBB. The Senator will yield.

Mr. SASSER. The Senator has been extremely patient here this evening and we appreciate his patience.

The Senator from Nebraska had a courthouse amendment that he was of-

fering a moment ago, which the Senator from Arizona is in opposition to. I am advised the Senator from Arizona can speak for 5 minutes on this particular amendment, and that then we can dispose of it without a rollcall vote.

I thank our friend from Virginia.

Mr. DECONCINI. I would ask how long does the Senator from Virginia intends to take? He has been very patient here—

Mr. ROBB. Mr. President, I would tell the Senator from Arizona I am going to be making a motion. A couple of Senators are going to speak on it, but I am quite willing to yield an additional 5 minutes. I just do not want to lose my place in line too many times.

Mr. SASSER. I can assure the Senator he will not. The reason I suggest the Senator from Arizona go ahead is because I know the Senator from Virginia will require some extensive debate on his amendment.

Mr. DECONCINI. I thank the distinguished chairman and the Senator from Virginia. I understand how it is, time and time again to be put off. It is only because of these circumstances.

The PRESIDING OFFICER. The Senator from Arizona is recognized to speak on the amendment offered by the Senator from Nebraska.

Mr. DECONCINI. I thank the Chair.

AMENDMENT NO. 1583

The PRESIDING OFFICER. Without objection, the pending business will be amendment 1583.

Mr. DECONCINI. Mr. President, I want to take a few minutes to discuss the amendment offered by the junior Senator from Nebraska [Mr. KERRY], which would place a moratorium on courthouse construction during fiscal year 1995.

The Senator's resolution states that the President's fiscal year 1995 budget includes funding for 11 courthouses which eventually will cost $1 billion. The resolution further states that priority funding should be given to programs for children and families like Head Start and grants for maternal and infant care. We all support those laudatory goals. As a matter of fact, amendments have been offered here on this budget resolution which would provide additional funds in fiscal year 1995 to Head Start, the Byrne Grant Program, and the Women, Infant, and Children's Nutrition programs.

When you pit children and maternal health against the construction of Federal courthouses, it makes for a difficult argument. Placing a moratorium on Federal courthouse construction sounds politically correct.

But, there are some very real consequences. We went through a moratorium for Federal building construction last year during GSA's time out and review. Projects were put in suspension while the General Services Administration carefully scrutinized the costs and need of every project, funded or planned. From this review, GSA recommended savings of $127.7 million, the amount rescinded by the Congress for specific projects in the Emergency Supplemental Appropriations Act, Public Law 103–211, under the rescission title of the Act. GSA proposed the elimination of only two projects as a result of its review, but savings from many due to reduced scope and value engineering. The projects where funding has been requested in 1995 were recommended to proceed by GSA.

I am not sure that most Members of this body realize that there is a significant U.S. courthouse construction program underway in this country. This includes projects in pre-design planning, under design, and under construction. These projects have gone through an extensive planning process which has addressed the program need of each project and an indepth review of costs.

There is a significant demand for new and expanded courthouses in this country. The demand for courthouse projects are driven by primarily four factors:

First, the caseload of the courts continue to expand rapidly. More case load drives the need for additional space;

Second, the creation of new Federal judgeships and the satisfaction of initial space needs for judgeships previously created is also a major contributor to the need for new space;

Third, the U.S. courts and GSA have worked together to identify projected court needs for 10, 20, and 30 years into the future. If we are to plan and budget for the 10-year needs of the courts, rather than reacting on a crisis-by-crisis basis, space must be provided for short-term expansion needs; and

Fourth, many older courthouses are simply not adequate to meet the current program needs to the U.S. courts. These older courthouses were designed and constructed for a court system which has changed significantly over the years; not the least of which is major changes in technology by which the massive amounts of paper associated with the legal process is created and managed.

I think the Senator from Nebraska would agree that where the courts are concerned, the Congress is partially responsible for affecting the workload requirements. We are constantly adding more judges and Federalizing more crimes. Studies have been conducted which demonstrate that prisoners have too far to travel and this creates a security risk; jurors have to commute long distances as well. This dramatically impacts the requirements of the courts.

We can look back at the Vice-President's National Performance Review on this subject. It included a recommendation that there be a moratorium placed on GSA acquisition of Federal office space with an estimated savings of $2 billion. It makes sense that if we are going to downsize the Federal workforce as proposed by the President, the need for increased Federal office space may not be justified. However, the downsizing does not apply to the Federal judiciary.

GSA has reduced the costs of the courthouses which will be constructed in fiscal year 1995, from design and scope changes. They have recommended savings totaling $130 million, so far. I am sure there will be additional savings when all is said and done. I think the longer we hold out, the more it will cost in the long run and this will continue to exacerbate the space problems of the Federal judiciary.

I oppose this sense of the Senate resolution. I think it is well intended, and I have great admiration for the Senator from Nebraska and support his objectives. But, I have to say that this sense of the Senate resolution will not end up putting more money in the programs he is interested in. Instead, it will have the effect of harming the Federal judiciary's ability to conduct its work.

So, Mr. President, I have to oppose this amendment. In the spirit of trying to get through tonight I am prepared to let the managers accept the amendment under some real strong reservations. Having talked to the ranking member on the other side of the aisle here, given his knowledge, and having served on the appropriations subcommittee for a long period of time, I will not insist on a vote.

I understand the Senator from Nebraska is prepared to vitiate the yeas and nays.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Does my colleague want to vitiate the yeas and nays and accept this amendment?

Mr. DOMENICI. Yes.

The PRESIDING OFFICER. If no one yields time, time will be charged equally against both sides.

Mr. SASSER. I see the distinguished Senator from Maine, a cosponsor of the courthouse amendment, is on the floor.

It is my understanding he wishes to vitiate the yeas and nays.

The PRESIDING OFFICER. Who yields time? The Senator from Maine.

Mr. COHEN. Mr. President, my understanding is the amendment is going to be accepted by the managers of the bill.

Mr. DOMENICI. That is correct.

Mr. COHEN. In that case, on behalf of Senator KERREY and myself, I ask the yeas and nays be vitiated.

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

The yeas and nays were vitiated.

The PRESIDING OFFICER. Who yields time? Is all time yielded back?

Mr. SASSER. All time has been. I yield back any time I might have in opposition to this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1583) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, all good things come to those who wait. The Senator from Virginia has been waiting patiently. According to the unanimous consent, he is next in line.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Virginia is recognized for purposes of offering an amendment.

MOTION TO RECOMMIT

Mr. ROBB. Mr. President, as a former member of the Budget Committee, I have a pretty good idea of how difficult their task is. That committee defines the entire mass of the Federal budget and tries to make it fit not only the constraints of the Omnibus Budget Reconciliation Act, but current national priorities as well.

They have accomplished that feat again this year and have, in the main, in my judgment succeeded.

But I am about to make a motion to give the committee a chance to fix a fixable flaw in that resolution. It is a broadly based cut in the discretionary budget which is well-intentioned but, in my judgment, creates more problems than it solves.

This motion to recommit follows the President's explicit admonition in his State of the Union Address this year that the Nation simply cannot accept further cuts in defense. He drew a line, a line that many of us from both parties believe was absolutely necessary.

My motion would instruct the committee to do two things: First, it would instruct the committee to detail how the spending reductions would be accomplished, spelled out function by function.

Second, it would ensure that adjustments, such as the $26 billion cut adopted in committee, would not come from the already beleaguered national defense.

I concur that further reduction of the Federal deficit is necessary. I do not think anyone here disagrees with that. But we have to remember that the way to responsible deficit reduction is to make Government more efficient at those tasks which it must perform and stop doing those tasks which we cannot afford.

A laudable pursuit of deficit reduction should not be allowed to hinder the execution of constitutionally mandated responsibilities of Government. Because the extra cut adopted by the Budget Committee was put into Function 920, essentially a slush fund, I am very much concerned that unintentionally the effect will be to seriously crimp our national defense.

Mr. President, the administration's budget last year, and again this year, makes tremendous strides toward achieving deficit reduction. I commend the President for his focus. And the Budget Committee, in a praiseworthy move toward additional deficit reduction, voted to cut $26.1 billion more in outlays from the administration's submission. Unfortunately, the effect of those cuts was not distributed equally over all functions of Government.

The explosive growth in the budget is not in discretionary accounts but mandatory spending programs. As I have mentioned any number of times on the floor of the Senate, mandatory spending programs are the engine pulling the Federal Government inexorably toward the abyss.

The President and the Congress have been unable to adequately control mandatory spending growth over the last decade. The result is a balance sheet that is still getting redder by the minute. The Budget Committee addressed that imbalance. The additional cut adopted in committee reduced discretionary spending to decrease Federal deficits. I certainly applaud that goal and it need not be abandoned, but I understand that a number of members of the committee have reconsidered their support for that cut and would like a chance to revisit that decision. I hope, with this motion, to give them that opportunity.

Mr. President, providing for national security for the common defense is the principal duty of the Federal Government. It is required by the Constitution and is a uniquely Federal task. Current and future years' defense plan and the President's budget submission are based on a new and comprehensive analysis of the missions facing America's military and represent the minimum forces needed to carry out those missions.

As tens of thousands of separated military personnel can tell you, the Department of Defense has already instituted massive reductions in the number of uniformed and civilian defense personnel which the economy simply has yet to absorb. These cuts have been deep and they have been rapid.

Further, the Department of Defense has instituted substantial cuts in procurement of defense items with a strong impact on the private sector. That effect is felt particularly keenly in those areas of the country which are most affected by the public sector DOD drawdown.

I note that further reductions in both forces and procurements are already planned. On top of those cuts, many local economies still have not coped with the 1991 and 1993 base closure rounds. Of course, a further base closure list will be out by this time next year.

All of these cuts combine with a very active tempo of operations around the world, and continuing threats to American interests mean that national defense has been stretched as far as it can. When budget cuts come along, defense has been the first to feel those cuts. I and many of our colleagues believe that we have already cut defense as much as we can responsibly.

So it is particularly upsetting to me that the cut in the budget resolution ignored the real problem of uncontrolled growth in entitlements. The motion I send to the desk would recommit this resolution to the Budget Committee with the instruction that its members look again at how the budget can work without taking further from our endangered national defense.

Government has taken on many roles, Mr. President. Some are essential, others are not. None is sacrosanct. But I submit that to rule most of the budget out of bounds and then take again from the one function that is exclusively and constitutionally Federal would be an error. I am confident that when the committee members reexamine the budget with this focus, they will reach a speedy and appropriate conclusion.

Therewith, Mr. President, I send a motion 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 Virginia [Mr. ROBB] moves to recommit Senate Concurrent Resolution 63 to the Committee on the Budget with instructions to report to the Senate, within 3 days (not counting any day the Senate is not in session), a revised concurrent resolution on the budget for the fiscal years 1995, 1996, 1997, 1998, and 1999 which specifies by function any reductions in budget authority and outlays necessitated by a lowering of the discretionary spending limits contained in section 601 of the Congressional Budget Act of 1974, provided that no such reduction come from the National Defense Function (050) or the Allowances Function (920).

The PRESIDING OFFICER (Mr. FEINGOLD). Who yields time?

Mr. ROBB. Mr. President, I yield myself such time as I may use—not more than a minute or two. There are two or three other Senators who do wish to speak to this motion. I would alert Senators that it is my intention to yield back any time as soon as the Senators who have already notified me of a desire to speak on the motion have had an opportunity to do so.

I hope that with this indication, the Senators who are not on the floor who wish to speak to the motion would proceed to the floor at this time.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee controls 30 minutes in opposition. The Senator from Virginia controls 23 minutes 9 seconds in support of the motion. If no one yields time, time

will be charged equally against both sides. Time will be charged.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine, the majority leader.

Mr. MITCHELL. Mr. President, I ask that the manager yield me such time as I may use in opposition to the motion.

Mr. SASSER. I will be pleased to yield such time as the distinguished majority leader might use.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, there is no Member of the Senate for whom I have greater respect and affection than my friend and colleague from Virginia. It is with some considerable regret that I rise in opposition to the motion, but, as I previously indicated to him, I am constrained to do so. The distinguished managers of the bill will address some of the aspects of this motion which I believe should cause Senators to oppose it. I will limit myself to just one.

The Budget Committee spent several days in preparing for their markup and then in markup. As they debated this resolution, my understanding is that 11 amendments were offered to cut spending; 10 of them were specific, one was general and did not identify specific cuts. The 10 which were specific failed, and the only one which passed was the one which did not identify any specific cuts.

The motion of the Senator from Virginia would have us send this whole resolution back to the Budget Committee and tell them that they have to specify the $26 billion in cuts, except that it cannot come out of defense. There is not the slightest bit of evidence that the committee could do this in 1 day or 2 or 3 or 4 and all of the evidence is directed toward the contrary.

As much as we might wish something would happen, wishing will not make it so, and, in this case, I think all that is going to happen is that we are going to be here all of next week. I have already made clear that the Senate will not go on recess until we pass a budget resolution. I have stated that over and over again, and I want there to be no misunderstanding in that regard: There will not be a Senate recess unless we pass a budget resolution. And to just take this resolution now, having come almost to the end, and send it back to the committee with an instruction that all of the evidence indicates cannot be and will not be complied with simply is to say we are going to be at a stalemate.

I do not happen to agree with the substance of the motion which says be specific but do not cut anything out of defense. There is some reason to believe that would not be effective in preventing cuts in defense. That will be discussed by the managers. But I simply want to say, just so there can be absolutely no misunderstanding on anyone's part, that if this resolution is sent back to the committee, then the Senate is simply going to stay in session until such time as we pass this, and that means certainly next week.

If that is the choice that Senators make, I am perfectly prepared to accommodate that choice. But no one should be under any illusion in that regard. That is what is going to happen; we will be in session Monday. And if we are in session next week waiting for the Budget Committee to act, we are going to have votes.

So that Senators ought not to be under the impression, well, they just will not have to be here. They are going to have to be here. They are going to have to be voting in what I think is a fruitless pursuit for a perfect resolution. There is no perfect resolution, never has been and never will be.

I can understand the wishes of my colleague with respect to protecting defense spending from any cuts. Many Senators disagree with that on the merits. I do not know why it is necessary to say that we have to cut the budget but the one thing we cannot cut is defense spending; we have to cut everything else. That is one thing on which reasonable people can disagree, and the managers will talk about that. But I just want there to be no misunderstanding of the practical effect of this motion to recommit. I urge my colleagues to defeat the motion.

I thank my colleague.

Mr. SASSER. I thank the majority leader.

Mr. President, as I read the language here that is being offered in this motion to recommit by the Senator from Virginia, it is almost identical in its effect to the alleged walls protection that was contained in the amendment offered by the Senator from Mississippi [Mr. LOTT], yesterday. Now, the Robb motion says the following, that defense shall be excluded "from any reductions in budget authority and outlays necessitated by the lowering of the discretionary spending limits."

Now, that clearly says that protection is provided only within the increment of any cap lowering. The entire remainder of the discretionary pot, including all the defense spending, would still be subject to cuts. In other words, the protection proposed here would not really have the effect that I think our friend from Virginia wishes and would be entirely an illusion. It would not protect defense at all.

Now, there is certainly no point in the committee reconvening to establish a protection that does not, in effect, do anything to protect the defense discretionary spending.

If I could have the attention of my distinguished friend from New Mexico, he and I yesterday were discussing the amendment offered by the Senator from Mississippi [Mr. LOTT], and I wish to ask my friend from New Mexico—without commenting on his position on the Robb motion, because I know my friend from New Mexico is an ardent protector of defense spending and worked hard in the Budget Committee to reimpose the walls between defense spending and domestic discretionary spending, and as a matter of fact took some steps in the Chamber here this afternoon in an effort to restore discretionary spending so that defense spending might be safeguarded—does the Senator agree with the analysis that I have just offered of the technical effect of the Robb amendment or Robb motion to recommit?

Mr. DOMENICI. Mr. President, I think the Senator ought to tell me what the interpretation is again, if the Senator would, please.

Mr. SASSER. I would be pleased to do so. What we have here, I say to my friend from New Mexico, is an amendment almost identical—in fact, I would say identical—in its effect to the one offered by the Senator from Mississippi [Mr. LOTT]. What it does is simply safeguard that amount of the cut that was proposed in the Grassley-Exon amendment, and the remainder of all of the discretionary funds are then fungible and in one single pool.

So even if you safeguard the Grassley-Exon cut from being subjected to that being used to cut defense spending, still you can come back and take the remainder of the funds for defense out of the discretionary pool. It is my interpretation it is identical to the Lott amendment that we dealt with, I think, yesterday.

Mr. DOMENICI. I have a little more difficulty with this one. I am not prepared at this time, Mr. President, to say that the result is the same as I interpreted the efforts on the part of Senator LOTT yesterday afternoon, where he inserted the language nondefense discretionary. I am not sure this is the same. Before I answer that, I would like to study it a little more, and I will be glad to do that in just a moment.

Mr. SASSER. I thank my friend from New Mexico. But as I read this amendment, as we have analyzed it here on our side in some great detail, analyzed by counsel of the majority staff of the Budget Committee, and has been analyzed by other budget experts here, it is our interpretation that this does not, indeed, safeguard the defense discretionary spending as our friend from Virginia seeks to do.

Since it does not do that, it is our sense of the amendment that the only effect will be to extend the entire budget process and move it on into next week. Frankly, I say to my friend from Virginia, I think there is absolutely no chance that this Budget Committee could sit down and come up with specific cuts in domestic discretionary spending totaling $26 billion in outlays and $43 billion in budget authority.

As the distinguished majority leader pointed out, there were 10 amendments offered in the Budget Committee dealing with specific reductions. All 10 of these failed. The only amendment that really carried was the one that was classically nonspecific in nature, and that was a nonspecific cut across the board.

So I think we are really spinning our wheels here. I know my friend from Virginia is well motivated. I applaud his motivation.

Mr. DOMENICI. Mr. President, will the Senator from Tennessee yield to me?

Mr. SASSER. Certainly.

Mr. DOMENICI. I have now reread it and reread it. My interpretation would be that absent actual walls, the effect of the amendment would be the same from my standpoint. The Senator asked for my opinion. The Senator from New Mexico would think the effect is the same. As the amendment by Senator LOTT yesterday, which attempted to protect defense spending from any of the cuts that the Exon amendment would have imposed, I think the effect is the same here. Without permanent walls, I do not think you can protect it from the appropriations process doing what it thinks in allocating the remainder of the money.

Mr. SASSER. I thank the Senator from New Mexico for his opinion, which is highly respected by both the chairman of the Budget Committee and all members of our committee. It is well known that the distinguished ranking member is one of the most learned, if not the most learned, Member of this body with regard to the budget process and how it works. He has probably more experience at it than any Member, with the possible exception of Senator HOLLINGS and perhaps Senator JOHNSTON.

So his opinions in these matters carry great weight with me, particularly when you weigh in the balance that the Senator from New Mexico, as I said earlier, is known as a very strong proponent of defense spending and has been a very effective and skilled protector of the defense side of the budget and has been very effective in reducing the amount of cuts that would have come to it.

Mr. President, I see that the distinguished Senator from Nebraska is on his feet.

Mr. EXON. Could I have 5 minutes?

Mr. SASSER. Yes. I yield 5 minutes to my friend from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair. I thank my friend and colleague, the chairman of the Budget Committee.

I simply ask my likewise good friend and colleague from the Commonwealth of Virginia to think further on the motion that he has offered to recommit the bill to the Budget Committee. If the bill is recommitted to the Budget Committee, I would simply say that I would think that the bill that we would come back with probably would raise the budget deficit, which I believe the Senator from Virginia would not like to see.

I would like to try to establish once again the myth, as I see it, of the scare tactics that have been rampant in this body from the very highly placed people in this body that have spread these scare tactics with regard to the defense cuts beyond all reasonable proportions.

In a meeting that I attended with a group of Members of the Senate, I referred to these scare tactics as best I could explain them. And with regard to the very humorous 1-minute skit that was provided by the President and the First Lady to the Gridiron show last week with regard to the scare tactics that they claim the insurance industry were using, they ended up their commentary with the statement, "There has got to be a better way." Then on the screen it showed a picture that said, "Paid for by the Committee to Scare Your Pants Off."

I am afraid that there are some Members of this body who, like myself, believe we should not cut the defense budget further. But it has been blown all out of proportion.

Let me explain it in this fashion, if I might. The Exon-Grassley proposal that has been attacked and flaunted by highly placed Members of the U.S. Senate do not seem to quite understand the minuscule, at best, effect if the Appropriations Committee decides that all or a portion of this should come out of the defense budget. How much would that be? In the first place, if the Appropriations Committee acts in an irresponsible fashion and takes all or an extra-important part of this out of the defense budget, then we would have a right to reverse that on the floor. It is not easy to reverse the Appropriations Committee. It has not been done very often. But we might.

I simply say that I do not think it should come out of defense. But if the Appropriations Committee in its ultimate wisdom should decide an across-the-board cut of our discretionary spending—defense is about half—if they would take half of the Exon-Grassley proposal out of defense, that would be a total, over a 5-year period, of about $13 billion or $14 billion.

I would like to see that. But if that should come to pass, we would only be asking defense to cut $13 billion or $14 billion in the next 5 years out of what figure—would you believe $1 trillion or $1.3 trillion or $1.4 trillion? I do not believe it is going to be ruinous if it is necessary to cut it out of defense to think that defense could not reasonably, by the cancellation of one or two programs that do not receive a high priority, to force them to cut out $13 billion or $14 billion out $1.5 trillion budget.

I simply say that I think the time has ended to quit scaring the pants off the people with regard to national defense. No one more than I in this body has stood longer and harder and worked in that well time after time after time on defense. I, frankly, am a little bit offended that some of my colleagues on the Armed Services Committee cannot understand and appreciate the fact that Jim EXON has stood with them on many occasions not to cut defense.

The important thing is to remember that it is time that we make further cuts in expenditures. I hope that the military will not have to take any more. But if they do, I suggest that in all sincerity they could fully take the cuts that I have just outlined.

I, therefore, say I think it is very bad policy to recommit this bill. I think it will not be recommitted. I think it would be a study in discretion if the Senator from Virginia on second thought withdrew his motion.

I thank the Chair. I yield the floor. My time has expired.

Mr. DOMENICI. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say to Senator ROBB that I am as worried as he is about defense. I will give you my assessment. If this resolution as it is currently on the Senate floor comes out of conference the same way—I am not sure that is going to happen; but make sure everybody understands what I am saying with reference to the assumption—at least $25 billion in budget authority will be taken out of defense. That is very simple arithmetic. The Exon amendment cuts $43 billion in budget authority. Everybody is talking about $20 billion, $26 billion. That is outlays. But the programs are ultimately cut when you take away authority. It is $43 billion. I am roughly saying 60 percent is going to come out of defense. I just did the arithmetic. That is $25 billion.

If somebody wants to say it does not matter, that $25 billion more is not going to harm defense, that is fine. If somebody says I am scaring the pants off somebody, I am merely saying if we are lucky it will be $25 billion. The reason I am saying if defense is lucky is because we have to remember that the very same amendment cuts close to a similar amount out of all the nondefense programs. What is going to happen in the battle? Are we going to take all of this out of WIC and food stamps and education and all those programs? Is that what the Congress is going to do? I would not think so. So if you are successful, and if it forces some change in this, my hat is off to you. I think we have tried, and I think we have failed thus far.

Perhaps in conference, some light will be shed on it, some real numbers

will be looked at. I compliment the Senator for his efforts. I think he is honestly, and in a very forthright way, trying to say we ought to do something different about defense, and he is searching for a way, and I commend him on that.

I yield the floor.

Mr. EXON. May I have 15 seconds?

Mr. SASSER. Mr. President, I yield 15 more seconds to the Senator from Nebraska.

Mr. EXON. I remind my friend from New Mexico that if the circumstances are as dire as he just predicted, why did he vote for this in the Budget Committee?

Mr. DOMENICI. I have explained that to the Senate about three times. I will not do it again tonight. I said I made a mistake, and I tried to find a way to fix it. I offered it to the Senate, and the Senate turned it down.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Let me respond briefly, and then I will yield to my colleague from Mississippi.

First of all, let me say I am certainly not accusing anybody of bad faith. Certainly, my friend and colleague from Nebraska has indeed been a strong defender of defense and defense programs and a credible deterrence in our national defense.

I think the debate that just ensued, or the dialog, in effect, that occurred between the Senator from Nebraska and the Senator from New Mexico illustrates the concern that I have about the prospect for defense if the Exon-Grassley amendment, without any allocation of function, is acted upon in its current form. I want to give the committee an opportunity to think through that question again. And, indeed, the distinguished ranking member of the committee said that he, as I noted, and others, would like to take a second look at that particular question.

Let me say, however, that there was one comment with respect to the defense question and who is taking the hits and who is not. If you look at these charts which have been used by others and are familiar to Members, look at the summit baseline that we started with in 1990. These are not adjusted amounts. This one is in constant 1990 dollars. You have something in excess of $300 billion. The 1990 summit agreement took that down to the point where we are about $240 billion, and in constant dollars the Bottom-Up Review takes that down to about $200 billion. About one-third of the Defense budget in constant dollars has been eroded.

To present it in a way that may be easier to understand, if you look at actual spending in the periods—and admittedly you are combining a little bit of apples and oranges—but the foreign portion of the budget has no real effect on the Defense foreign budget depicted here. It is the one group that has been cut almost $200 billion, while every other segment of spending has increased.

Let me make a couple of points with respect to the motion itself. First of all, there are no restrictions in the motion to recommit with respect to instructions that would prevent the Budget Committee from establishing walls, if it choose to do so. Indeed, as a proponent of walls, I would be very pleased to have the Budget Committee establish such walls so both the Senator from Nebraska and I would be reassured that this very significant amount of money would not be taken out of defense spending.

Let me also say to my friend and colleague from Tennessee, in addition to no restriction on adding walls, it is not limited to discretionary spending. There may have been an assumption that it is limited to discretionary spending, but the clear language of the motion to recommit places no such restriction on the members of the Budget Committee. And given the amount of debate that has taken place, it may well be that the committee would want to turn to the mandatory spending, which I made reference to in my earlier remarks.

Third, there is no requirement that the budget deficit be raised. If the committee, in its wisdom, in reconsidering this particular matter, decides that it makes sense, it would be within their power to make whatever appropriate reductions in the amendment that was actually placed on the bill, or on the budget resolution when it was passed. I think the vote was 13 to 8. I understand there is some reconsideration that has been taking place and a desire to do that.

Finally, although I am certainly aware of the fact that many, for different reasons, may not support this particular motion to recommit with instructions, I think it does send a very clear message, not only to the conferees on the budget resolution, but hopefully for those who would be involved in the appropriations process, that we are very much concerned about the degree of cutting that has taken place in the defense side of the budget and believe that additional spending cuts ought to be taken out. In my own case, I favor additional cuts in the mandatory programs. I know the reasons that that particular approach is not favored by many Members of this body. But there are a number of options, none of which are precluded by this particular resolution.

With that, I know the distinguished Senator from Mississippi would like to speak to this particular matter. It would be his intent and mine to offer additional amendments at an appropriate time to take care of one or the other matters addressed by the majority leader.

I yield such time as he may require to Senator LOTT.

Mr. LOTT. Mr. President, I thank the Senator from Virginia for yielding me this time. I commend him for the effort he is making here this afternoon, certainly, with his background in the military and participation as a Governor in dealing with budgets. He is a former member of the Budget Committee, and he is a member of the Armed Services Committee. He is very much interested in and concerned about what we do with the defense of our country. I know he is concerned about the cuts that have been made and how some of those cuts have been made.

I also know that he said he knows we can make some changes in the military, and we are trying to do that. We are trying to have better, lighter, more mobile forces, and we are making changes and making do with less. But there is a limit as to how far that can go. If the budget resolution we have before us is not changed, Defense will suffer an additional 9.6-percent reduction. That is in addition to the reductions it has already taken.

I have heard it said here on the floor in the last couple of days in other debates that the Soviet Union no longer exists. It imploded. It is over, hallelujah. Utopia is on us. It is not. We still have a situation in Russia that is not as stable as we would like for it to be. They still have their missiles. They are still there. Very few, if any, have been dismantled. They are still aimed at us, and a dangerous situation still exists in the world.

One of the points I want to make is that defense has already paid over the past 3 years. We should not have an additional deep cut. I think most Members would be willing for defense to take some of the cuts and part of its share, but not another 9.6-percent cut, in addition to what we have already had.

We have not had many cuts in the discretionary spending. The argument has been made that we have cut it so much; what it is really is that we have cut it below what it would have been under inflated baselines. Domestic discretionary spending has still gone up every year. It was part of the budget agreement in 1990. I think it was 7 to 9 percent, or something like that; it continues to go up every year. We can do more in domestic discretionary spending.

I agree with the Senator about needing to do something in the entitlements area. That is what I was trying to accomplish yesterday—maybe not in a budgetary-perfect sense, but that was my goal. My amendment would have said, look, we would take the very fine handiwork of the Senator from New Mexico, the entitlement reductions of $20 billion, and put that on top of the domestic discretionary spending cuts that were included in the budget resolution by the Budget Committee.

I tried to make an effort to say that it would apply only to nondefense discretionary. It was argued here we know what you want to do. We understand. We can appreciate that. But you do not accomplish it.

I was attracted to Senator ROBB's approach here because I thought maybe it would come nearer to or would, in fact, accomplish the goal that I had in mind.

I want to emphasize now there was a fundamental difference in what I was trying to do yesterday and what Senator ROBB is trying to do today.

This amendment does not affect the entitlement programs at all. The only thing this would do is say that defense is not going to be a part of the $26 billion discretionary spending cuts. It attempts to exempt defense spending.

So the motion of Senator ROBB will direct the Budget Committee to correct this resolution and stipulate the Grassley-Exon cuts must not reduce defense.

I have been in the House and the Senate a long time. I have seen many times motions to recommit with instructions. There are different degrees. There is the motion to recommit with instructions to report back forthwith.

Senator ROBB's amendment, I believe, would say report back within 3 days. Perhaps, he may specify 2 days at some later point. The argument is made but it will not really happen. The Budget Committee would not do it or they might make all the other changes.

Who is kidding whom around here? For the Budget Committee this would be pro forma. It could be done in the next 15 minutes. It could certainly be done in the morning.

This amendment if passed, as it should be, is not going to force this Senate into a session that would include Saturday or Sunday or Monday. If it passed, the action required would be taken by the staff like that, and it would be done.

In fact, most of the time if it is done forthwith, it is just words. I mean it is done automatically. It just happens.

Who are we trying to fool around here like there is going be a great big Budget Committee meeting, have the great big powwow and have a fight with the things.

The Robb approach is understandable and logical. It could be done quickly, simply, and is not going to delay this Senate.

This has been the suggestion by the distinguished majority leader, who has a thankless job. I know it is tough, and he is trying to move this thing along and trying to get us to do what we need to do. But it happens every recess, every recess. We are told in January that we are going to be out on a specific day, and we all say, well, there it is. It is on our little calendars. We all have them. We are going to be out on a certain day. In good faith we make commitments to our constituents that we like to live up to because we do not like to be baldfaced liars. We accept the commitment. We say we are coming based on a good-faith statement that we would be out on a particular day, and most of us even build in a little leverage there. We know actually we are not going to get out when we are told we are going to get out. So we put a day in there to make sure we are covered.

Every time when we get ready to go out, we are told if you do not do this, do not do that, do not pass this or do not get this amendment, or you do not pass that amendment, we will commit it to the Budget Committee for weeks and days involving the problem, and we will be here Monday and Tuesday.

Gee whiz, my attitude on that is if that is the way it has to be, so be it. But I really would like to be able to know that when I am told something is going to happen I can count on it and I can tell my constituents and they can count on it.

I think when you talk about something this important, the defense of our country, I am ready to stay here Friday night, Saturday, Sunday, or Monday if that is what it takes.

We were not told in January that if we did not have the budget resolution passed, the buyout bill passed, and the Goals 2000 passed, all this long list of stuff, we would not have this chance to go home. That was not the way it was given to us.

So I realize what the leader is trying to do. He wants to get through tonight and finish up tomorrow. He is trying to keep his word.

I do not think that ought to affect the vote on this amendment. I know the Budget Committee is basically telling us you cannot do anything; you are stuck. I do not believe that either.

If we pass this motion to recommit, at least the Senate will express itself on this important subject. It is a very important subject.

So I commend the Senator from Virginia in what he is trying to do. I agree with him. Maybe you have to be here 2, 3, 4, or 5 terms to figure out how you can accomplish a goal that you want to accomplish when you say this is what I am doing and this is what my amendment will do. Then you are told that what you say your amendment will do, what you would like your amendment to do, but that is not what it does.

I know. Look, I have been on the Budget Committees. It is budgetese. We are hearing it in its very best here tonight.

At the appropriate moment I will offer an amendment to the amendment of the Senator from Virginia that would say the same thing, except I would add the paragraph to it that says that "The Committee on the Budget is further instructed to report to the Senate a revised concurrent resolution on the budget for fiscal years 1995, 1996, 1997, 1998, and 1999," which includes all provisions adopted by the Senate during consideration of Senate Concurrent Resolution 63.

So we have Senator ROBB's change. We would also preserve all of the other amendments or changes that have been made during the process of this debate over the past 2 days and today.

So, I congratulate the Senator for his effort, and I hope he succeeds, and I hope it accomplishes what he desires to accomplish.

Mr. SASSER. Mr. President, let me ask my friend to yield for a question.

Mr. LOTT. If the Senator wants me to yield time for a question, I believe the Senator yielded me such time as I may need.

Mr. SASSER. On the amendment the Senator intended to offer, does this also call for $23 billion in specific cuts?

Mr. LOTT. It is identical to the Robb amendment except that it says that the amendments that have already been passed during the budget deliberations including, for instance, the Mack amendment with regard to the Spending Reduction Commission, would be included in the package that is reported back.

So the answer to the question is it does exactly what the Robb amendment does except that one addition.

Mr. SASSER. Does my friend from Mississippi understand that will mean redoing the whole function totals if we went through and were trying to segregate out additional $23 billion in discretionary cuts? You would have to redo the whole resolution.

Mr. LOTT. How long would that take?

Mr. SASSER. How long would it take to agree on a majority vote on $23 billion worth of discretionary cuts? I do not know that that is even possible no matter how much time we have, I say to my friend from Mississippi. I remember when we were with the distinguished ranking member—

Mr. LOTT. Excuse my interrupting. Is $23 billion a big number? It would be almost impossible. Or $26 billion?

Mr. SASSER. I well remember when the distinguished ranking member and I were locked up at Andrews Air Force Base for weeks—I do not like to remember that—trying to come up with specific cuts and we worked and worked and worked and we never succeeded.

Mr. LOTT. If the distinguished Senator from Tennessee will yield, I know what he is talking about. I was in the so-called Gang of 17. I went through the budget negotiation in 1982. I was there in 1987. It is very tough.

You have some folks say, if you do that, I am out of here. Another guy says, if you do that, I am out of here. It is very hard. I do not deny that for a moment.

Let me ask the Senator this—and I know he is very knowledgeable on the

budget rules, budget process, and the numbers —but we are talking about $26 billion in domestic discretionary spending cuts out of how much? What is the total that is allowed in this budget for domestic discretionary spending for the next fiscal year?

Mr. SASSER. Somewhere in the range of $230 or $240 billion.

Mr. LOTT. It is $240 billion, and this would require about a 10 percent reduction in that amount. I do not want to belittle that. That is a high percentage, and it would not be easy.

But, I want to emphasize it probably is $23 billion out of $240 billion which looks to me like that would be achievable. I know it would be hard.

But, as a matter of fact, the Budget Committee did vote for a cut, and the full Senate has basically not knocked it out. So it is still in there. I realize it would be a hard if you did not have defense included.

Let me say this to the Senator from Virginia. This is his effort, and I commend him for making it, and I am certainly delighted to try to help him anyway I can.

Mr. SASSER. If the Senator will yield me another 30 seconds, we are rapidly running out of time on this resolution, Mr. President. If the Senator will yield back time on the motion, we will do the same on our side.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, let me say on our side, we are quite prepared to yield back the time. We do have two amendments, one that will be offered by the Senator from Mississippi as the first-degree amendment to the motion to recommit, and a second-degree amendment that I am planning to offer. But we can collapse all of the time on those. They are very minor changes that have already been indicated.

On that basis, I am prepared to yield back all of the time for the proponents to the motion as it exists at the desk at this time.

Mr. LOTT. Has all time been yielded back, Mr. President?

Mr. ROBB. All the time has been yielded back from this side. The opponents have time.

Mr. SASSER. I yield back all our time in opposition.

The PRESIDING OFFICER. All time has been yielded back.

AMENDMENT NO. 1587

Mr. LOTT. Mr. President, I have an amendment to the motion to recommit which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1587 to the motion to recommit.

Mr. LOTT. 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:

The Senator from Mississippi [Mr. LOTT] moves to recommit Senate Concurrent Resolution 63 to the Committee on the Budget with instructions to report to the Senate, within 3 days (not counting any day the Senate is not in session), a revised concurrent resolution on the budget for the fiscal years 1995, 1996, 1997, 1998, and 1999 which specifies by function any reductions in budget authority and outlays necessitated by a lowering of the discretionary spending limits contained in section 601 of the Congressional Budget Act of 1974, provided that no such reduction come from the National Defense Function (050) or the Allowances Function (920).

The Committee on the Budget is further instructed to report to the Senate a revised concurrent resolution on the budget for fiscal years 1995, 1996, 1997, 1998, and 1999 which includes all provisions adopted by the Senate during consideration of Senate Concurrent Resolution 63.

Mr. LOTT. Mr. President, I say, very briefly, that this amendment to the Robb motion requires the committee to report back to the Senate a resolution which contains all amendments added on the floor during the debate on the budget resolution. That is all it does, very simply, and I have no further comment I feel necessary at this time.

I am glad to yield whatever time I control under the rule.

Mr. ROBB. Is the distinguished chairman of the committee prepared to yield back any time?

Mr. SASSER. We are prepared to yield back all time in opposition.

AMENDMENT NO. 1588 TO AMENDMENT NO. 1587

Mr. ROBB. Mr. President, in that case, I send a second degree 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 Virginia [Mr. ROBB] proposes an amendment numbered 1588 to amendment No. 1587.

Mr. ROBB. 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:

MOTION TO RECOMMIT

The Senator from Virginia [Mr. ROBB] moves to recommit Senate Concurrent Resolution 63 to the Committee on the Budget with instructions to report to the Senate, forthwith, a revised concurrent resolution on the budget for the fiscal years 1995, 1996, 1997, 1998, and 1999 which specifies by function any reductions in budget authority and outlays necessitated by a lowering of the discretionary spending limits contained in section 601 of the Congressional Budget Act of 1974, provided that no such reduction come from the National Defense Function (050) or the Allowances Function (920).

The Committee on the Budget is further instructed to report to the Senate a revised concurrent resolution on the budget for fiscal years 1995, 1996, 1997, 1998, and 1999 which includes all provisions adopted by the Senate during consideration of Senate Concurrent Resolution 63.

Mr. ROBB. Mr. President, this amendment changes only the timing. It changes from 3 days to forthwith, so that if it is the determination of the chairman and the ranking member that they want to meet for a relatively brief period of time and make decisions that are within the purview of the instructions—and I have had tried to point out that they are not limited except for placing a floor under the amount that is allocated to defense which coincides with the figure that the President of the United States said was the figure below which he would not permit spending to fall—and report back immediately, which could include any of the remedies that have already been considered.

In any event, the only change is to allow the Budget Committee to meet forthwith. And if the majority leader chose to do so, the committee could report back tomorrow morning and we could complete action on this in accordance with essentially the same timetable we are working on right now.

But I would reserve my time until I know that the distinguished chairman of the committee, the Senator from Tennessee, is prepared to yield back any time. If he is prepared to yield back, I am prepared to yield back any additional time.

I have been advised that the Senator from Georgia has requested that I not yield back all of the time. He is enroute and would like to speak to the amendment briefly.

I reserve the remainder of my time, and yield to the Senator from Tennessee or the Senator from New Mexico if they would like to speak in opposition.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. I have two amendments that have been agreed to. I ask unanimous consent that they be in order at this point.

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

AMENDMENT NOS. 1589 AND 1590, EN BLOC

Mr. DOMENICI. Mr. President, I submit two amendments on behalf of Senator HATCH and Senators CHAFEE, WALLOP, MURKOWSKI, and COHEN. I ask unanimous consent that they be con-

sidered en bloc; that the amendment be agreed to; and the motions to reconsider be laid on the table en bloc.

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

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 1589

Mr. DOMENICI offered amendment No. 1589 for Mr. CHAFEE, for himself, Mr. WALLOP, Mr. MURKOWSKI, and Mr. COHEN.

At the appropriate place, insert:

SEC. . SENSE OF SENATE REGARDING DIESEL FUEL DYEING REGULATIONS.

(a) FINDINGS.—The Senate finds that changes made to the collection point of the diesel fuel excise tax made as part of the Omnibus Reconciliation Act of 1993 and the Internal Revenue Service regulations implementing such changes have caused economic hardship, created market distortions, and added burdens to users and suppliers of diesel fuel by—

(1) requiring businesses, primarily small entrepreneurs, to invest thousands of dollars in equipment, or choose between taxable and nontaxable users of diesel fuel, in order to comply with the new rules;

(2) imposing cumbersome notification requirements for marketers and distributors of diesel fuel and home heating oil; and

(3) creating shortages of fuel due to storage tank limitations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Service should make every effort to ensure its regulations implementing the changes to the collection point for the diesel fuel excise tax will minimize the economic hardship, market distortions, unnecessary burdens, and supply shortages;

(2) such regulations should, to the extent possible, be consistent with Environmental Protection Agency regulations implementing the diesel desulfurization program; and,

(3) if the Internal Revenue Service lacks the authority to issue revised regulations consistent with this resolution, then Congress should consider legislation that will eliminate these hardships, distortions, burdens, and shortages.

Mr. CHAFEE. Mr. President, I am offering this sense-of-the-Senate resolution to highlight my concerns, as well as those of many of my colleagues, over changes made to the collection of the diesel fuel excise tax. These changes were included in last year's reconciliation bill.

Last year's legislation changed the collection point of the excise tax on diesel fuel from the producer or importer to the terminal rack. This change made the collection point for diesel fuel similar to the method used to collect gasoline taxes. It was generally thought that making this change would improve taxpayer compliance and assist the Internal Revenue Service with administering the tax.

In addition to moving the collection point of the tax, a dyeing scheme was enacted to differentiate taxable diesel fuel from nontaxable fuel. Finding a way to differentiate the fuels is important to enforcing the tax, because diesel fuel is used for a variety of purposes, not all of which are subject to the excise tax. For example, diesel used to fuel over the road vehicles is subject to tax, whereas diesel used as home heating fuel is not.

A distributor of diesel fuel destined for a nontaxable use, must receive dyed fuel to indicate that it is intended for a nontaxable use. This fuel may only be used for the nontaxable purpose for which it was originally sold, and under no circumstances can it be sold for a use which would not be exempt from tax.

Mr. President, I fully support efforts to increase compliance with out tax laws. But in making changes such as this, we must be cognizant of the problems we create. Let me give you a few examples of some of these problems.

Diesel fuel is used to power many boats. Most of them are commercial boats, such as fishing vessels, but it also is used for larger recreational boats. Diesel fuel sold for commercial purposes is not subject to the excise tax, but the same fuel, sold to a recreational boater, is taxable. Under this new scheme, the fuel sold to the recreational boater is clear fuel, not subject to the dyeing requirements, because tax has been paid on the fuel. Fuel sold to the commercial boater must be dyed fuel to indicate that it is exempt from the tax.

The obvious problem created by the new rules is that a marina or dock that services both commercial and recreational boaters must now have two separate storage tanks in order to service these customers. It may not be economically feasible to install a new tank, and in many instances it is physically impossible to do so. The alternative available to the marina are first to buy dyed fuel and give up its pleasure boat business, second to buy undyed, taxed fuel, pass the tax on to all of its customers and insist that the commercial users apply for refunds. In most instances, cash-flow problems associated with this second option cause undue economic hardship for the ultimate user.

My concern is that marinas will be forced to forgo its recreational business, particularly where their commercial business dominates. That could very well result in fuel shortages for recreational boaters.

The problems created by these new rules are not limited to the sale of fuel for boats. As I mentioned, the fuel used to run trucks and buses is essentially the same as the fuel used to heat your home. Therefore, the new dyeing rules apply to home heating oil distributors.

Home heating oil is exempt from the diesel fuel excise tax, therefore, the fuel sold for this purpose must be dyed under the new rules. In order to increase compliance, the Internal Revenue Service requires that the delivery ticket contain the following statement:"dyed diesel fuel, nontaxable use only, penalty for taxable use."

This statement was not required as part of the statute, but was included in the Service's regulations. These regulations were not filed until the end of November of last year, but were effective January 1, 1994. Home heating oil marketers could not have anticipated this notification requirement, as it was not included in the statute. Thus, the delivery tickets that they purchased earlier in the year did not contain this statement, and they were forced to hand stamp the notification onto the tickets in order to comply with the regulation. While this may not seem to be a monumental problem, in the middle of a very cold winter, where demand for fuel oil was quite high, it certainly created an additional burden.

Mr. President, the problems created by these new rules are not concentrated just in my State or the Northeast. I am aware of similar problems across the country. My sense of the Senate resolution simply calls on the Internal Revenue Service to ensure that the regulations minimize economic hardship, market distortions and supply shortages. I hope my colleagues will support this amendment.

AMENDMENT NO. 1590

(Purpose: To express the sense of the Senate that no taxpayer should be required to pay more Federal taxes because of being married)

Mr. DOMENICI offered amendment No. 1590 for Mr. HATCH, for himself and Mrs. HUTCHISON.

At the end of the resolution, insert the following new section:

SEC. . SENSE OF SENATE THAT TAXES NOT BE INCREASED BECAUSE TAXPAYERS ARE MARRIED.

(a) FINDINGS.—The Senate finds that—

(1) successful stable marriages are an essential part of a successful stable society;

(2) the breakdown of marriages has been one of the causes of our unacceptable crime, illiteracy, school dropout, drug abuse, and illegitimacy rates;

(3) the Federal Government has a moral and ethical obligation to help promote stable marriages or at least to not undermine them financially;

(4) the Internal Revenue Code currently contains a number of provisions that financially penalize couples for becoming or remaining married (so called "marriage penalties");

(5) marriage penalties are in effect an annual Federal tax on marriage licenses;

(6) the Omnibus Budget Reconciliation Act of 1993 added new marriage penalties to the Internal Revenue Code and expanded some existing marriage penalties;

(7) marriage penalties financially discriminate against the most fundamental and important unit in our society—the family—and are especially harmful to our Nation's children; and

(8) there is no policy justification for the Federal Government to financially penalize couples simply because they choose to become or remain legally married.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that no taxpayer, regardless of age, sex, income, or number of dependents, should be required to pay more in Federal taxes under any provision of the Internal

Revenue Code because that taxpayer is legally married.

Mr. HATCH. Mr. President, on behalf of myself and the Senator from Texas [Mrs. HUTCHISON], I rise to offer an amendment to the budget resolution.

The debate in the Senate this week on the budget resolution has touched and will touch on many matters of great importance to the people of this Nation. The decisions about how this Government collects and spends tax dollars are central to the economic well-being of our country and even to the rest of the world.

In our discussions about this $1.5 trillion budget and the billions spent here or the billions spent there, we must not forget one thing, Mr. President. And that is that our Nation is comprised of individual families, which are the most basic and most important institutions of all. The strength and the future of this Nation is directly dependent on the success and stability of the American family.

I would like to bring to the Senate's attention today a provision of Federal law that is undermining our families—the tax treatment of married couples.

Mr. President, I believe that a great deal of this Nation's problems with crime, illiteracy, school dropout, drug abuse, illegitimacy, and other social ills are caused by the breakdown of so many of the families in our society. And, among the chief reasons for family breakdown are the divorce of parents or the failure of parents to get married. Perhaps most disturbing is the fact that our tax laws encourage divorce and discourage marriage.

Part of the blame for America's disintegrating families can be traced right to the Internal Revenue Code. I would like to briefly outline for the Senate how our Federal tax laws are contributing to the decline of the family by discouraging single parents from marrying and by encouraging couples of all ages and income brackets to divorce.

Moreover, Mr. President, the problem is getting far worse. Our Tax Code has long had a bias against marriage, but last year's tax bill greatly expanded the so-called marriage penalty for many couples, and in some surprising ways. Under President Clinton's deficit reduction plan, we were told that only the very richest of Americans would have to pay higher taxes. What few of us realize, however, is that the Omnibus Budget Reconciliation Act of 1993 greatly increased the penalty for being married, and not just for wealthy couples.

Here are the effects of the marriage penalty on several hypothetical Utah families, both before and after the 1993 tax changes. And, I have to say, Mr. President, that the results are shocking.

Let's look at the example of a couple I will call John and Marie. John, a divorced single father of one, earns $11,000 a year working at a fast food restaurant in Salt Lake City. He has been dating Marie for over 2 years and wants to marry her. Marie is a widow with two small children who earns $13,000 a year working in the lunchroom of an elementary school. Under the current tax law, John and Marie receive a combined refund of $4,128 filing as two single individuals. As you can see from the chart, most of the refund is because they each qualify for the earned income tax credit. If John and Marie were to marry, they would have to pay $581 on their joint tax return. This is a marriage penalty of $4,709, or almost 20 percent of their total income for the year. Financially, they would be foolish to marry!

Before the 1993 tax changes, the marriage penalty in this case would have been $4,305. In other words, the cost of marriage for John and Marie has gone up $404 since last year.

As I mentioned earlier, the Tax Code has long discriminated against married couples who both earn a substantial portion of total family income. The marriage penalty paid by low-income families is mostly due to the fact that many singles can qualify for the earned income tax credit [EITC] on their separate incomes. When married, however, the Tax Code combines the spouses' incomes to determine EITC eligibility. This often places the couple above the income threshold for EITC and creates a tremendous disincentive for marriage.

With last year's expansion of the EITC, this particular marriage penalty is no longer falling only on those with lower incomes. Many middle-income families are also affected.

For example, let's look at Jeff and Becky Smith. This is an average Utah family where Jeff is produce manager for a grocery store and earns $31,000 a year. Becky, his wife, works part time as a nurse and makes $13,000 a year. The Smiths have three children. The Smiths may not know it, but they would be better off financially if they were to divorce and Becky take two of the kids. Under current law, the Smiths pay $3,810 as a married couple filing jointly. If Jeff and Becky were to divorce, however, their combined single taxes would only be $910. This represents a marriage penalty of $2,900 a year. If the 1993 tax changes had not been enacted last year, the marriage penalty would have been $2,522, so the tax on Jeff and Becky's marriage license has gone up by $378 a year.

Let me state right now, Mr. President, that I am a supporter of the earned income tax credit. And, I am certainly glad that we expanded it last year. But I feel we overlooked a serious side effect of that expansion with these terrible marriage penalties that it creates.

The causes of marriage penalties go far beyond the earned income tax credit, however. The basic reason for much of the penalty for most couples is the fact that the tax rates are biased against marriage.

At higher incomes, Mr. President, the marriage penalty gets even worse, in terms of total dollars. This is because the thresholds for moving into the new 36 percent and 39.6 percent brackets are designed to hit married couples at lower levels than they hit singles. In fact, the threshold for the 39.6 percent bracket is the same for married as it is for singles. This creates a tremendous marriage penalty for those with higher incomes.

Consider the example of the Williams family, who lives in Provo, UT. David is a successful computer software company owner who earns $150,000 per year. Patricia, his wife, is an attorney and earns $135,000. They have two sons. Under current law, the Williams pay Federal tax of $79,109 as a married couple. If they were to divorce, however, their combined tax would drop by a whopping $14,814 per year. If last year's tax bill had not been enacted, the marriage penalty would have been only $8,700, which is still an awfully high price to pay just to be married.

Certain senior citizens are among the hardest hit by last year's marriage penalty increases. Most Social Security recipients don't know it yet, but there is a new marriage penalty hidden in the tax law for many of them in 1994.

Let's look at Bob and Edith, who live in St. George, UT. Bob, a retired furniture store manager, earns $35,000 a year from a pension and from interest and dividends. He also receives $12,000 a year from Social Security. Edith still works part time as an accountant. She earns $20,000 plus draws $12,000 a year from Social Security. Under current law, Bob and Edith pay $12,602 as a married couple. If Bob and Edith were to divorce, however, they would save $2,924 on their taxes. The marriage penalty would have been only $1,748 if last year's bill had not passed.

Mr. President, many of society's problems can be blamed on the weakening of the American family. Yet, our Tax Code provides an economic incentive for couples to break up or not marry at all. This is just plain wrong.

My amendment expresses the sense of the Senate that no taxpayer, regardless of age, sex, income, or number of dependents, should be required to pay more Federal taxes under any provision of the Internal Revenue Code because that taxpayer is legally married.

Mrs. HUTCHISON. Mr. President, I rise today to support Senator HATCH's call for the abolition of the Tax Code's marriage penalties. It's not surprising that something as cold and complicated as the Tax Code can be completely backwards when it comes to protecting the American family. The fact is that when two people get married in this country there generally is

a windfall for the Treasury, and an unqualified financial disaster for the happy couple.

The Tax Code penalizes marriage by combining spouses' incomes and pushing them into a higher tax bracket. The usual explanation for this is that two can live more cheaply than one. Maybe so, in some cases, but where does it say Government is entitled to any money left over after a married couple's living expenses.

We have progressive income taxes in the name of "fairness." But there is nothing fair about it when a two income takes the plunge into marriage, and finds their combined incomes taxed at higher rates than either of them paid as singles. Perhaps marriages should be sealed with vows to love, honor, and pay higher taxes together for as long as both shall live.

So, what do we charge our constituents for the privilege of enjoying the institution of marriage? As you can see on this chart, two single-income taxpayers each making $15,000 would each receive a refund of $724, for a total refund of almost $1,500. But if they get married, they must pay over $2,000 in taxes. That's a marriage penalty of $3,500. For taxpayers making $30,000 a year, that is a catastrophic financial penalty.

The irony in this is that income tax progressivity, the very tool by which social planners have sought to redistribute wealth more fairly, contributes to destabilizing the traditional family, illegitimate births, child neglect, illiteracy, health problems, drug use, and crime. An over dramatization? Let's look at the facts.

In every modern survey, the number one underlying cause of marital problems and divorce is financial pressures. Putting aside the extra burden the Federal Tax Code places on wedded bliss, it isn't easy to pay for a marriage and family these days.

It takes a big chunk of family income to pay for food, clothing and decent shelter. Add transportation, the expense of child care and health costs—and with what's left over married couples struggle to save to buy a home, to pay for college, and to put aside something for retirement. Is it any wonder financial pressures break up marriages? With the way our Tax Code unfairly adds to these stresses, it wouldn't be too far fetched to have the Federal Government named a correspondent in divorce proceedings.

Unfortunately, it isn't adults who suffer the worst consequences of the marriage penalty. Every dry statistic that depicts incremental weakening in the cohesion of family units has a real human face—the innocents, the children who are born into and grow up without the stability and nurturing and family resources most of us take for granted.

We're going to debate welfare reform here a little later this year, and much will be made about the rate of illegitimate births in this country. More than 1.2 million babies were born out of wedlock in 1991—five times as many as 30 years before, even though the total number of babies born in 1961 and 1991 was about the same.

These are children far more likely to die in their first year, because most of them are born into poverty. Poverty rates are five times as high as single-parent families as for two-parent families. Nearly half of children who grow up without a father present receive Government assistance; less than one in ten children with two parents do.

These are children, many of whom grow up in substandard housing and dangerous neighborhoods, who don't get a good education or adequate health care, and who have the greatest temptation—the temptation of hopelessness—to turn to crime and drugs. So, the next time someone blithely says two can live more cheaply than one, remind them who really pays.

Government ought to encourage stable, nurturing families—two people sharing the joys and sacrifices of building a life together, raising a family, and relying on each other in old age.

Championing conventional marriage is no longer quite politically correct. It has been assigned a connotation of intolerance for alternative lifestyles and limits on personal freedom. But I hope even those who recognize no social conventions can agree that marriage is not an affront to common decency, a thing that ought to be discouraged or even penalized by Government.

Mr. President, it would be a very complicated thing to adjust the Tax Code to remove the existing marriage penalty. Yet it is such a small thing, in comparison to the benefits our entire society would realize by strengthening families and helping to care for our youngsters.

Mr. President, I yield the floor.

AMENDMENTS NOS. 1591, 1592, AND 1593, EN BLOC

Mr. DOMENICI. Mr. President, I send to the desk three amendments on behalf of Senators PACKWOOD, DANFORTH, and MURKOWSKI, and ask unanimous consent that they be considered en bloc.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendments be agreed to; that the motions to reconsider be laid on the table, and statements by Senators involved in the amendments be printed as if read.

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

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 1591

(Purpose: To clarify the budget points of order applicable to years 6 through 10)

Mr. DOMENICI offered amendment No. 1591 for Mr. PACKWOOD, for himself, and Mr. MOYNIHAN.

In section 23 of the pending Resolution, on page 49, beginning on line 7 strike the following: "to a significant degree".

AMENDMENT NO. 1592

(Purpose: To express the sense of the Senate regarding any reduction-in-force at the Kansas City Plant of the Department of Energy)

Mr. DOMENICI offered amendment No. 1592 for Mr. DANFORTH, for himself, Mr. DOLE, Mr. BOND, and Mrs. KASSEBAUM.

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE REGARDING CERTAIN DEPARTMENT OF ENERGY REDUCTIONS-IN-FORCE.

It is the sense of the Senate that—

(1) a reduction-in-force at the Department of Energy's Kansas City Plant should not be carried out until—

(A) the National Defense Authorization Act for fiscal year 1995 and the Energy and Water Development Appropriations Act for fiscal year 1995 become law; or

(B) Congress has otherwise approved such an action.

DEPARTMENT OF ENERGY KANSAS CITY PLANT

Mr. DANFORTH. Mr. President, the purpose of this sense-of-the-Senate amendment is to retain Congress' role in evaluating the budget request of the Department of Energy, as it relates to the Department's Kansas City plant, before the budget request is implemented.

The Department of Energy budget proposal for fiscal year 1995 for the Department's Kansas City plant is very troubling. Initially, the Department requested $280 million for the Kansas City plant for fiscal year 1995. However, responding to an Office of Management and Budget review of its budget, DOE scaled the funding proposal back, first to $270 million, and finally to $214 million.

Our need to develop and produce nuclear weapons has, fortunately, diminished greatly. Reductions in funding for maintenance of the Nation's nuclear deterrent are now possible. For the past several years, the Department has studied how it should consolidate facilities which produce nonnuclear components for nuclear weapons. Last year, the Secretary of Energy determined that all nonnuclear component manufacturing and stockpile maintenance at the Rocky Flats, Mound, and Pinellas plants should be terminated and that consolidation should take place at DOE's Kansas City plant. Even though Kansas City will be the one consolidated nonnuclear site, the Plant has experienced significant cutbacks over the past several years.

The fiscal year 1995 budget request of the Department of Energy for the Kansas City plant would not allow the plant to maintain a competent weapons stockpile support production capability. The plant still has many tasks that it is charged with performing. It must: implement the Department's plans for consolidation; perform lab-

oratory testing and flight testing of systems that remain in the enduring stockpile to ensure safety and reliability; carry out the DOE's retrofit and quality improvement program—including the B83 Quality Improvement Program and the B61 modification program; perform the limited life component exchange maintenance function; provide special design test gear and special sensitive production; refurbish and maintain safe secure trailers for the transport of completed nuclear weapons and fissionable components; dismantle older weapons systems for which the Kansas City plant produced most of the components; and perform the ongoing mission of repairing and replacing components in the stockpile based on reliability tests or evidence that security or safety improvements are needed. The budget request of the Department of Energy would permit the Kansas City plant to perform only between 60 and 70 percent of the work it is supposed to do.

Mr. President, I fear that this budget recommendation is based not on the important requirements of maintaining our nuclear stockpile, not on the need to address safety concerns associated with maintaining nuclear weapons. I fear that this cutback is driven solely by the OMB budget ax. As much as anyone in this body, I support budget cuts. However, a major cut at the only facility in the country that will, over the long term, produce crucial components for nuclear weapons must be done carefully, based on actual reduced workload requirements and not on arbitrary budgetary requirements.

This amendment is necessary because, based on the fiscal year 1995 budget request, the Kansas City plant will begin layoffs immediately. By the end of June, 1994, it will have laid off between 1,200 and 1,500 highly and uniquely skilled people. By the end of June, Congress will not have determined spending levels for fiscal year 1995. Congress, thus, is left out of the process. Congress has the power of the purse. It is the job of Congress, not the executive branch, to determine funding levels for different missions at the Department of Energy. It is unacceptable for the Kansas City plant to lay people off without knowledge of whether Congress will accept the Department's budget recommendation. As a result, this amendment expresses the sense of the Senate that the restructuring of the Kansas City plant should not be carried out until Congress takes action, either through the defense authorization bill for fiscal year 1995, the energy and water development appropriations will for fiscal year 1995, or any other legislative vehicle.

I urge the Secretary of Energy to reconsider the budget needs of the Kansas City plant and to delay layoffs until Congress has a chance to act.

AMENDMENT NO. 1593

(Purpose: To express the sense of the Congress regarding minerals management)

Mr. DOMENICI offered amendment No. 1593 for Mr. MURKOWSKI, for himself and Mr. STEVENS.

At the end of title III, insert the following:

SEC. . SENSE OF THE CONGRESS REGARDING MINERALS MANAGEMENT.

It is the sense of the Congress that the budget authority and outlay totals set forth in this resolution assume sufficient funding under budget function 300 (Natural Resources and Environment) to ensure—

(1) the ability of the Minerals Management Service to run an effective Outer Continental Shelf resource evaluation program that responds to increased interest on OCS areas, including Alaska;

(2) the ability of the United States Geological Survey to continue to perform mineral resource surveys at the same levels as in previous years; and

(3) the continued effective functioning of all current Bureau of Mines offices.

Mr. MURKOWSKI. Mr. President, I am pleased to have included in the manager's amendment a Sense of the Congress resolution concerning the natural resources portion of the fiscal year 1995 budget.

My sense-of-the-Senate resolution states that three programs under the jurisdiction of the Department of the Interior should be funded at levels consistent with past years in order to provide the same level of services provided in past years. My amendment states that the Minerals Management Service should have the resources needed to run an effective Outer Continental Shelf resource evaluation program that responds to increased interest on OCS areas, including Alaska. Second, the amendment states that the U.S. Geological Survey should be funded at a level to allow it to continue to perform mineral resource surveys at the same level as in previous years. Last, the amendment states that funding be provided to keep all current Bureau of Mines offices functioning effectively.

This amendment is consistent with the views of the Energy and Natural Resources Committee as presented in its analysis of the President's budget which was forwarded to the Budget Committee by unanimous vote. My concern, and, I think, the committee's concern, stems from the fact that, though the overall budget for the Department of the Interior is not slated for severe reductions, the President has signaled his intention to shift funds away from development programs which many Western States, like Alaska, rely upon to create economic opportunities for their citizens.

These resource development programs benefit the entire country by increasing America's economic strength and making it easier for individuals and businesses to create jobs. New jobs create revenue for the U.S. Treasury in the form of income and business taxes.

Let me discuss the situation in my home State of Alaska. The Minerals Management Service, U.S. Geological Survey and Bureau of Mines programs are slated to be cut by $12 million and over 100 employees. It is a severe cut for my State, and would be a severe blow to miners, firefighters, drillers and others who depend on these crucial Federal services.

Reductions of the U.S. Geological Survey could eliminate future geologic mapping of Alaska. My amendment states the Senate's intent that the USGS continue to perform its duties at the same level as in previous years. This is important because less than 40 percent of Alaska has been fully mapped. Alaskans depend upon their maps for mining, remote firefighting, aviation, and navigation. Extensive road maps used in other States simply do not exist in Alaska, due to the vast areas without roads. USGS maps are the only information source of this kind. Under the Statehood Act, the Federal Government agreed to explore Alaska's potential. The $2.1 million cut to the USGS in Alaska proposed by the President would severely curtail these services.

Closure of the Bureau of Mines offices in Juneau and Anchorage, which the President's budget envisions, will remove entirely a Federal mining presence in the State with the best prospects for future mining development. My amendment states that all Bureau of Mines offices should continue to function effectively. Alaska has a history of world class mineral development. Potential for new world class mines is great. These are undisputed facts. Yet the President contemplates that the nearest location of a Bureau of Mines office would be in Spokane. What new mines will be found in Spokane? Shifting funds away from the programs that directly benefit mining represents a dangerous shift within the Bureau. Many of my Western colleagues share my concern on this issue. The Bureau of Mines closure in Alaska will put 34 employees from Anchorage and Juneau out of work and cut roughly $7 million from this important program.

Cutbacks at Mineral Management Service in Alaska will slow down the offering of offshore oil lease sales. My amendment states that funds should be made available to ensure the ability of the MMS to run an effective Outer Continental resource evaluation program that responds to increased interest in areas like Alaska. Alaska OCS has potential for major discoveries that will benefit the U.S. and reduce our dependence on imported oil. With every major oil field in the United States declining we need new oil and gas development. Alaska has developed its Prudhoe Bay field safely and can do it elsewhere in the State if it knows where to look. The proposed budget will put 50 employees in Anchorage out of work, about a third of the workforce, and cut $2.5 million in funding.

Mr. President, though the amounts involved may seem small, the impact on Alaska and the West is monumental. My sense-of-the-Senate resolution expresses the desire of this body to maintain these programs at current funding levels and manpower strength. I am pleased that it has been accepted and thank my colleagues for joining in making this very important statement.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate vote on or in relation to Senator GRAMM's amendment number 1574 at 8:05 p.m.; that upon disposition of Senator GRAMM's amendment, the Senate vote, without any intervening action or debate, on or in relation to Senator ROBB's motion to recommit; that no further amendments be in order to either the motion or the Gramm amendment or to any language that may be stricken.

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

Mr. DOMENICI. Reserving the right to object.

Senator COHEN asked me to object and he is on the floor now.

Mr. COHEN. Might I inquire in terms of when the Cohen-Kerrey amendment would be coming before the body this evening?

Mr. SASSER. Well, there will be further debate on the Cohen-Kerrey amendment following the disposition of these amendments on which we are stacking votes.

Mr. COHEN. So you would intend then, following the stack of these votes, to proceed to the Cohen amendment?

Mr. SASSER. That would be my intention. As the Senator from Maine knows, we are awaiting—have been awaiting the arrival of the President pro tempore, who indicated he wished to speak on this matter.

Mr. COHEN. Am I correct my amendment would be the next in order, after laying it aside by unanimous consent?

Mr. SASSER. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, might I inquire? I understood the Senator from New Mexico has about 42 or 43 minutes remaining and that is all the time there is for general debate?

The PRESIDING OFFICER. That is correct, except there is 15 minutes reserved to the Senator from Tennessee to conclude debate.

Mr. DOMENICI. Mr. President, apparently there are three Senators who are seeking to speak. We are reserving our time for about three amendments that have still not been called up. I urge Senators to use as little time as possible. There is no time left on the Robb amendment, as I understand it. We have yielded back. Is that not correct?

Mr. ROBB. I say to the Senator from New Mexico, we are on the second-degree amendment. As far as the constraints of the total time allocation, we have not used up but about a minute of that time. But it is the intent of this Senator, as soon as the Senator from Georgia has completed his remarks, to yield back all time and then, if it is in accordance with the wishes of the managers of the bill, to voice vote the first- and second-degree amendments and ask for a rollcall vote only on the amended motion to recommit.

Mr. DOMENICI. I thank the Senator. I have no objection to the unanimous consent request.

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

Who yields time?

Mr. ROBB. Mr. President, I yield such time as he may require to the distinguished Senator from Georgia, the chairman of the Armed Services Committee.

Mr. NUNN. Mr. President, I do not think I will require a whole lot of time, but I rise in support of the Robb amendment.

Mr. President, I had hoped we would not reach the stage where we really were attempting—and it certainly may not pass, but at least there is an attempt being made here—to send the whole budget resolution back.

The reason I am reluctant to get to this stage is because I know how hard the Budget Committee has worked. I understand the hours they put in. I certainly understand the leadership required by the Senator from Tennessee and the Senator from New Mexico to put together a budget which, by anybody's definition, is very difficult to do.

It is very easy to see why we have such huge deficits when you look at what has happened here on the floor in the defense area and in the other areas.

If you look at the chart that the Senator from Virginia has displayed here, you could easily see what is happening to the Federal budget.

Now a lot of people do not want to look at it. They do not want to basically confront the facts, but at some point arithmetic has to take over. I do not know how many years it is going to take before we start being able to just add and subtract in this body.

At some point we have to understand that you are not going to get the deficit under control, nor are you going to be able to continue to finance the domestic side of this budget as well as the entitlement programs by cutting defense. It cannot be done, not because I say it cannot be done, but because it is arithmetic. If you just look at what has happened, we go by this baseline concept around here.

Mr. President, I think everyone ought to focus on what is happening to the budget.

We have a baseline concept around here. If you make the baseline go up enough, meaning anticipated spending, then you can bend it just a little bit and say you cut spending no matter how much it is going up.

So, really we bewilder the public trying to follow these debates because everything is geared to the baseline. I understand it from a technical point of view, but from a practical point of view it is not the way ordinary, normal people think. I do not think most people understand it. Frankly, I understand why they do not.

But, if you want to look at what is happening to spending, you want to take a look at this chart 1 minute. This chart shows the amount of money we spend in various categories: defense, foreign aid, domestic discretionary, Social Security, health care, other entitlements, and interest on debt.

It shows what we spent for the 5 previous years. Then it shows what we are going to spend the next 5 years. This is how you tell what you are doing in budgeting—getting away from the baseline that is arcane and technical and difficult and, in my view, increasingly irrelevant to basic arithmetic.

In defense, in the next 5 years, without the Grassley-Exon cuts that are in this budget resolution, we are going to reduce, compared to the previous 5 years, by $190 billion; domestic discretionary is going to go up about $250 billion. These two areas together are what we call discretionary spending. If you net them out because of the $190 billion reduction in defense, you have a plus over the 5 years in discretionary of about $60 billion. That is 2 percent—$60 billion is a lot of money but it is only 2 percent growth in that area.

Look at what is happening in other categories. Social Security is going up over $400 billion, compared to the previous years. That is all paid for, because there is enough money coming into Social Security. In fact, there is a surplus. That is the good news.

The bad news is we are borrowing all that money from the Social Security trust fund to the tune of about $80 to $100 billion a year and we are sending from the operating fund an IOU in the form of a Treasury bill saying we owe the Social Security trust fund for this surplus.

What we are going to do is we are going to leave future generations to pay off that when we reach the point where there is no more surplus in the Social Security trust fund because we do not have as much coming in as we have going out. That year will be about 2015, about 23 years from now.

Does anybody want to venture a guess what we are going to owe the Social Security trust fund then, based on this borrowing which we are counting as if it were reducing the deficit, which it is not? The number is about $5 trillion. Not billion, trillion. Trillion. That is when our grandchildren are going to say what did this generation

do to us? What did this generation do to us? It is going to be our children and our grandchildren. They are not going to forgive us for what we are doing fiscally.

Look at what we are doing in health care. How much money are we going to spend in health care over the next 5 years compared to the previous 5 years? Additional money—this is not total money—this is additional money, this is incremental, this is beyond the previous 5 years—about $800 billion. Guess what. That is assuming the President's plan passes and it is assuming that we are going to achieve all the savings the President asked us to achieve and projects we are going to achieve.

Other entitlements go up somewhere in the neighborhood of $70 billion. And then take a look at why we are in such a hole and we are getting in a deeper hole. Interest on the debt, compared to 5 years ago, the next 5 years we are going to spend $190 billion more on interest on debt than we did in the previous 5 years.

Guess what. People asked, what happened to the defense dividend at the end of the cold war? $190 billion here less in defense. Guess where it goes. Just to pay the interest on the debt increase, because we are continuing to grow these entitlement programs.

The Robb amendment does not cure all these problems. He does not pretend to. What it basically says is let us at least protect our national security. Let us not continue to pretend we can cut this category that is already going down, that is paying much more than its share of the decreases, while continuing to let these grow. This is not in dispute. These are facts. These are facts.

Just look at the history of what we have done over the last 3 years. The budget summit agreement in 1990 was supposed to save $500 billion by 1995. What happened? This was because of the recession; it was not all the budget agreement. But we not only failed to reduce the deficit by the $500 billion, we had another, a second major reconciliation bill enacted last year, under President Clinton, which provides additional deficit reduction in 1994 and 1995. The deficit still, after both of these bills, both of which were supposed to save about $500 billion each—the deficit is still going to increase by 1995 by $250 billion.

So we have enacted two budget agreements, two different major reductions in the deficit, which was supposed to reduce the deficit, but it is going up by $250 billion instead of going down by $500 billion. Guess why. Because entitlements are out of control. And everybody knows that.

I hope we support the Robb amendment. It is not going to solve this problem, but it is going to prevent us, at least, from wrecking our national security while we are continuing to be irresponsible in our fiscal management.

The President of the United States stood before the Congress and asked us in his State of the Union not to cut defense any more. He has said over and over again in private, and I believe some in public, that he believes we have cut defense too much or are cutting too much. He is right. We are.

Who is going to be accountable? Who is going to be accountable when our military people come up and say we cannot meet the two-regional-war scenario? The most we can do is perhaps fight one regional war. What kind of signal does that send to people in Korea? To people in the Middle East? What kind of signal does it send all around the world about America? That is where we are going. Mark my words. Within 6 months to 1 year you are going to hear over and over and over again from the military people, "You have cut defense so much we cannot come before you and tell you we can do the job we have been assigned. If you want to give us another job, if you want to have a different set of assumptions, fine. But we cannot perform the functions assigned to us by the Clinton administration under the Aspin Bottom-up Review—and the Congress of the United States that has gone along with that."

Mr. President, we are getting in serious trouble. I support the Robb amendment as a last resort on this resolution, and I congratulate him on giving us the chance to vote for it. I do not know whether it will pass or whether it will fail. But at least we will be able to register our opinion.

To those people who voted against the Domenici resolution earlier today, the Domenici-Nunn resolution, this is your chance to redeem yourself. Because what you did when you voted against it, whether you realized it or not, you made it clear that you were in favor of cutting the defense budget of the United States below President Clinton's budget by at least $21 billion over the next 5 years, minimum.

That was a vote to cut defense. Some people are going to try to rationalize it and explain it another way, but anybody in this body that has witnessed the budget process in the last few years who believes with a cut of $42 billion in discretionary accounts believes that less than half of that is coming out of defense, they have been in a dream world. It is going to be at least 50 percent, probably closer to 60 percent.

I will do my best to keep it from being any higher than it has to be. I had planned to offer a firewalls amendment. The Senator from New Mexico and I were going to offer a firewalls amendment. But right now we are in a hopeless position with the firewalls amendment for this reason: Because we do not know how much is coming out of defense, and if we put up a firewall now, after the Domenici amendment has been killed by this body—many on this side of the aisle and many of that side of the aisle voted against it—we do not have any way to have a firewall. Not at this point because we do not know how much the appropriators are going to assign to defense out of that $42 billion cut. And if we put a complete firewall up, what we will be saying is not one penny of the $42 billion comes out of defense. I do not believe this body will vote for that.

Last year we had 54 Senators vote for a firewall, less than the 60 required. I do not believe we can fairly ask our colleagues to have a firewall when we do not know what is going to happen with the money that has been cut under the Exon-Grassley amendment.

Mr. President, I will ask the Senate tonight, and everybody is going to have a chance before the night is over—we may not have a chance to debate it, but the Senator from New Mexico and I will be offering an amendment on entitlement caps. People are going to get to vote for this, and we are going to have everybody run out and say you cannot do that because it is going to cut health care, and that will be wrong because we drafted the amendment so that the baseline—and I hate to even use that word—but the baseline is going to be after we pass the health care bill this year.

So the beginning measuring point is going to be in 1996. It will not interfere with health care. Whatever we pass in health care will be the baseline. And then you will limit the growth. We will test whether the health care plans can save money. If the health care plans cannot save money, then we are going to keep going into this hole more and more every year.

So what we are going to be proposing later, and I hope we will have a few minutes to debate it, will be an entitlement cap. It will not include Social Security. It will exclude Social Security and interest on the debt, but it will allow the entitlement programs to begin growing with a rate of inflation plus the population, plus we have even a 4 percent kicker the first year above the rate of inflation, 3 percent the second, and 2 percent the third.

Mr. President, if we cannot live with that, then this deficit is hopeless and we might as well forget it.

So we are going to have a chance to vote on an entitlement cap even if we do not have a debate before this night is over.

It is my hope that the Robb amendment will be adopted and that even though we may miss the recess—whatever it takes—we will go back and try to begin doing this job right. We are digging a deep hole, not one that will be recognized immediately, but one that will be recognized over a period of time. We are digging a very deep hole for our children and our grandchildren.

Mr. President, I hope the Robb amendment is adopted. I will support it, and I thank the Senator for his leadership.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). Who yields time?

Mr. ROBB. Mr. President, let me thank the distinguished Senator from Georgia for his eloquent articulation of precisely why I think it is important that we do adopt this particular amendment. I hope it will be the will of the majority of our Senators to honor the position that has been staked out by the chairman of the Armed Services Committee and honor the request of the President of the United States to ensure that defense spending is not cut beyond the point that it has already been cut with respect to all of the other options in solving this problem, including the reimposition of walls, if it be the will of the committee to do so. They are not precluded by this amendment.

I am prepared to yield back any remaining time, and I am also prepared to have the second-degree and first-degree amendments voice voted, if that is in accordance with the will of the managers.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment No. 1588, offered by the Senator from Virginia.

So the amendment (No. 1588) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1587 offered by the Senator from Mississippi, as amended.

So the amendment (No. 1587), as amended, was agreed to.

VOTE ON AMENDMENT NO. 1574

The PRESIDING OFFICER. The hour of 8:05 p.m. having arrived, the question is on agreeing to amendment No. 1574, offered by the Senator from Texas.

Mr. ROBB. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. ROCKEFELLER] would vote "aye."

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

The result was announced—yeas 32, nays 67, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—32

Bennett	Gramm	McConnell
Bond	Grassley	Murkowski
Brown	Gregg	Nickles
Burns	Hatch	Packwood
Coats	Heflin	Pressler
Coverdell	Helms	Roth
Craig	Hutchison	Shelby
D'Amato	Kempthorne	Simpson
Dole	Lott	Smith
Faircloth	Mack	Wallop
Gorton	McCain	

NAYS—67

Akaka	Exon	Metzenbaum
Baucus	Feingold	Mikulski
Biden	Feinstein	Mitchell
Bingaman	Ford	Moseley-Braun
Boren	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Hatfield	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Riegle
Campbell	Johnston	Robb
Chafee	Kassebaum	Sarbanes
Cochran	Kennedy	Sasser
Cohen	Kerrey	Simon
Conrad	Kerry	Specter
Danforth	Kohl	Stevens
Daschle	Lautenberg	Thurmond
DeConcini	Leahy	Warner
Dodd	Levin	Wellstone
Domenici	Lieberman	Wofford
Dorgan	Lugar	
Durenberger	Mathews	

NOT VOTING—1

Rockefeller

So the amendment (No. 1574) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to recommit by the Senator from Virginia.

Mr. MITCHELL. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO RECOMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia [Mr. ROBB] to recommit. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Texas [Mr. GRAMM] are necessarily absent.

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—28

Bennett	Glenn	Lugar
Brown	Gorton	Mack
Coats	Hatch	McCain
Cohen	Helms	McConnell
Coverdell	Hutchison	Murkowski
Danforth	Lieberman	Nunn
Dole	Lott	Robb
Roth	Smith	Warner
Shelby	Stevens	
Simpson	Thurmond	

NAYS—70

Akaka	Exon	Mathews
Baucus	Faircloth	Metzenbaum
Biden	Feingold	Mikulski
Bingaman	Feinstein	Mitchell
Boren	Ford	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Bryan	Harkin	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Hollings	Pryor
Campbell	Inouye	Reid
Chafee	Jeffords	Riegle
Cochran	Johnston	Rockefeller
Conrad	Kassebaum	Sarbanes
Craig	Kempthorne	Sasser
D'Amato	Kennedy	Simon
Daschle	Kerrey	Specter
DeConcini	Kerry	Wallop
Dodd	Kohl	Wellstone
Domenici	Lautenberg	Wofford
Dorgan	Leahy	
Durenberger	Levin	

NOT VOTING—2

Bond Gramm

So, the motion to recommit was rejected.

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

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

The motion to lay on the table was agreed to.

HOUSE CONCURRENT RESOLUTION 232—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. MITCHELL. Mr. President, this request has been cleared on both sides of the aisle and it relates to the adjournment resolution.

I now ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 232, that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

So the concurrent resolution (H. Con. Res. 232) was agreed to as follows:

H. CON. RES. 232

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, March 24, 1994, it stand adjourned until noon on Tuesday, April 12, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, March 25, 1994, Saturday, March 26, 1994, Monday, March 28, 1994, Tuesday, March 29, 1994, Wednesday, March 30, 1994, or Thursday, March 31, 1994, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 11, 1994, or at such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized.

UNANIMOUS-CONSENT REQUEST

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate return to the Harkin amendment No. 1578 that had been temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Mr. President, reserving the right to object, may I inquire as I understand the Cohen-Kerrey amendment was the one pending. I think we can resolve that rather quickly.

Mr. SASSER. I withdraw the unanimous-consent request.

AMENDMENT NO. 1582

The PRESIDING OFFICER. The question does occur on amendment No. 1582, which is the Cohen-Kerrey amendment. There is 27 minutes overall that remains for debate.

The Senator from Maine, Mr. COHEN.

Mr. COHEN. Mr. President, for a number of reasons, I have decided to withdraw the amendment that was offered earlier with Mr. KERREY, which calls for expedited rescission.

We are advised by the parliamentarian that the amendment will be considered to be nongermane and, therefore subject to a budgetary point of order. I would, of course, propose to waive this point of order, however, doing so will require 60 votes.

At this time, it seems unlikely that we would prevail on a 60-vote point of order. Senator KERREY and I, however, have reached an agreement with the chairman and ranking member of the Budget Committee to withdraw the amendment in exchange for commitment that the committee would hold a hearing on expedited rescission legislation that Senator KERREY and I will soon introduce, and that we would be permitted to testify.

Under those circumstances we would be willing to withdraw the amendment and go forward at a later time with hearings on a freestanding bill.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY] is recognized.

Mr. KERREY. Mr. President, the Senator from Maine laid the case out very well. If it would have been judged nongermane, it would be prudent and important that it be heard.

I appreciate the offer of the distinguished Senator from Tennessee, as I understand, to hold hearings on this as a freestanding piece of legislation.

Mr. SASSER. I thank Senators.

I think this would be an excellent resolution of this problem, particularly this late in the evening.

We will be pleased to hold hearings. I would advise my friend from Maine and my friend from Nebraska that the distinguished President pro tempore has indicated he wishes to be a witness at these hearings. We will be accommodating him, also.

Mr. COHEN. Will we be required to appear en bloc before the committee?

Mr. SASSER. I would just leave that decision to the Senators themselves.

Mr. COHEN. I thank the Senator.

Mr. DOMENICI. Let me say I concur and commend him and, to the extent I have anything to say about the hearings, we will join in trying to get them held. I will be there.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I withdraw the amendment.

The PRESIDING OFFICER. That will require unanimous consent. The Chair construes that as a unanimous-consent request?

Mr. COHEN. Yes.

The PRESIDING OFFICER. Is there objection?

The Chair hearing none, without objection the amendment is withdrawn.

So the amendment (No. 1582) was withdrawn.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized.

AMENDMENT NO. 1578

Mr. SASSER. Mr. President, I ask unanimous-consent that the Senate return to the Harkin amendment No. 1578.

Mr. DOMENICI. Mr. President, reserving the right to object, I regret but I must tell you I have a Senator who asked that we defer that to another time. He is trying to determine whether he wants to ask for the yeas and nays.

I urge that the Senator do that, just set it aside for a while. I think it will work out if we give him a little time on it.

Mr. SASSER. We will withdraw the unanimous-consent request relative to the Harkin amendment.

Mr. DOMENICI. I thank the Senator.

AMENDMENT NO. 1577

Mr. SASSER. We have also an amendment pending by the distinguished Senator from Arizona [Mr. MCCAIN].

Mr. President, I ask unanimous consent that the Senate return to the McCain amendment No. 1577 that has been temporarily laid aside.

The PRESIDING OFFICER. The Chair will inform the floor managers that that is the pending question.

Mr. SASSER. Has all time been yielded back on that amendment?

The PRESIDING OFFICER. All time has expired.

The yeas and nays have been ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have been authorized to ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, the yeas and nays on amendment No. 1577 are vitiated.

The question occurs on the amendment.

The question is on agreeing to the amendment.

The amendment (No. 1577) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair will inform the floor manager the question now occurs on the Harkin amendment No. 1578.

Mr. SASSER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. I was under the impression that the Harkin amendment had been laid aside. Did we not propound the request to do that?

The PRESIDING OFFICER. The Senator from Tennessee is partially correct. It had been requested to be laid aside, but by virtue of the disposition of the previous amendments it now is the pending question.

Mr. SASSER. Mr. President, I would ask that the Harkin amendment be temporarily laid aside, and we will follow our usual rotation here, which would mean it would be the minority side's turn to bring up an amendment.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, the request by the Senator from Tennessee is agreed to.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to Chairman SASSER we have three amendments: Senator GRAMM of Texas on immigration, Senator SPECTER on drugs, and Senators JEFFORDS, FORD, and BROWN on special education.

We thought they were each going to have 10 minutes. I am not sure there are 10 minutes remaining for each of those amendments.

I wonder if we might inquire how much time, and the Senator might agree to some lesser time so they each have an opportunity to offer the amendments.

The PRESIDING OFFICER. The Chair will inform the Senator there are 20 minutes remaining.

Mr. SASSER. I would be pleased to agree to less time in order to accommodate those Senators.

Now, on our side I think Senator NUNN has an amendment that is dealing with the entitlements, Senator GRAHAM also has an amendment dealing with entitlements, also, a sense-of-the-Senate resolution dealing with entitlements.

Senator PRYOR and Senator SIMON have an amendment dealing with the Internal Revenue Service.

I believe those are the only amendments on our side.

How much time is remaining, I might inquire of the Chair?

The PRESIDING OFFICER. The Chair would inform the Senator from Tennessee that there are 19 minutes and 45 seconds remaining.

Mr. DOMENICI. Mr. President, might I ask, the Senator said somebody had an IRS amendment. Is that treating the funding for IRS outside the budget? Is that the amendment?

Mr. PRYOR. Mr. President, if I may respond on behalf of Senator SIMON, who I do not see on the floor, I think Senator SIMON's amendment is the amendment the Senator from New Mexico was referring to. I have worked with Senator SIMON on some amendments that I believe will be of a safeguarding nature.

Mr. DOMENICI. I understand.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of Senate Concurrent Resolution 63 at 10 a.m. on Friday, that the following be the only amendments remaining in order to the concurrent resolution, and that each of the amendments be limited to 10 minutes for debate, with all time equally divided in the usual form, with relevant second-degree amendments limited to the same time limitation as the first-degree amendment to which it is offered: an amendment by Senator HARKIN, a sense of the Senate regarding Department of Defense; an amendment by Senator GRAMM of Texas regarding immigration; an amendment by Senators JEFFORDS and BROWN regarding education; an amendment by Senator SPECTER regarding drugs; an amendment by Senator NUNN regarding entitlement caps; an amendment by Senator NUNN regarding walls; an amendment by Senator GRAHAM of Florida, a sense of the Senate regarding control of entitlements; an amendment by Senators SIMON and PRYOR regarding the Internal Revenue Service; an amendment by Senator DORGAN, a sense of the Senate regarding Canadian wheat; that upon the disposition of these amendments, Senate Concurrent Resolution 63 be temporarily laid aside and the Senate then proceed to Calendar Order No. 387, House Concurrent Resolution 218; that all after the resolving clause be stricken; that the language of Senate Concurrent Resolution 63, as amended, be inserted in lieu thereof, and that all time on the resolution be yielded back; that upon the adoption of House Concurrent Resolution 218, the Senate insist upon its amendment and request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there objection?

Mr. DOMENICI. Reserving the right to object, I think Senator NUNN is willing to strike one of his two amendments, an amendment identified as the walls amendment.

Mr. NUNN. That is correct. I will take that off.

Mr. MITCHELL. Mr. President, I modify my request to delete the Nunn amendment regarding walls.

Mr. DOMENICI. Further reserving the right to object, I did not understand what the Senator said about a wheat agreement?

Mr. MITCHELL. There is an amendment by Senator DORGAN, a sense of the Congress regarding Canadian wheat.

Mr. DOMENICI. I understand I have to inquire about that. If the Senator will take that off and do the rest, I will inquire right now.

Mr. MITCHELL. The problem is, if I take it off and the agreement is approved, I could not put it back on.

Mr. DOMENICI. You could inquire about it.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). 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.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection.

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

PROGRAM

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. The Senate, under this agreement, will complete action on the budget resolution tomorrow. There is remaining a maximum of, I believe it is nine amendments—eight or nine amendments. I understand from the managers that it is not likely all of them will require rollcall votes, that the number of votes will be much smaller than that, and then we will proceed to final passage.

I thank and commend the managers for the diligent job in managing a very difficult matter.

Now, that will not complete the Senate's action prior to the recess, as all Senators know. There will remain pending the cloture votes with respect to the conference report on the education bill. After we complete action on this tomorrow, I expect we will proceed to consideration of that matter. I will discuss with the distinguished Republican leader, as is my regular practice, on how best to handle the scheduling of that matter. But for now, I understand the managers are going to be here for a while considering other amendments that they may take. Then we will return at 10 a.m. tomorrow with these amendments to be offered.

May I inquire if the managers intend—and I encourage them to do so—to line up one of these amendments so we could begin at 10 tomorrow with an amendment? Senators then should be aware it is possible votes will occur conceivably as early as 10:10 if an amendment is offered promptly at 10 and the 10 minutes is used up.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wanted to say to the majority leader, when he propounded unanimous consent and I expressed concern about the Dorgan amendment, I was mistaken. I did not understand what it was. I should not have objected even then. I thought it was a freestanding amendment we were agreeing to. I should not have objected at that time.

Mr. MITCHELL. Mr. President, there is absolutely no problem with that, and I thank my colleague for his kind words.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I ask unanimous consent I may be permitted to speak up to 7 minutes as in morning business.

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 195 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. SPECTER. I thank the Chair and yield the floor.

ORGAN AND BONE MARROW TRANSPLANTATION AMENDMENTS

Mr. HATCH. Mr. President, I rise in support of the managers' amendment to the Organ and Bone Marrow Transplantation Amendments, H.R. 2659.

This amendment substitutes the language of the organ transplant reauthorization—S. 1597—approved by the Labor and Human Resources Committee and the text of the Comprehensive Child Immunization Act—S. 732—of which I am a cosponsor. Both of these are very important pieces of public health legislation which deserve speedy approval by the Congress.

Ever since the passage of the National Organ Transplant Act [NOTA] a decade ago, we have attempted to fine-tune this program so that it improves the acquisition and distribution of transplant organs. The issues that surround organ transplants are both difficult and emotional, and crafting amendments to NOTA is never an easy process.

Certainly, one of the more compelling problems facing organ transplantation is the increasing gap between the demand for an the supply of organs. From 1988 to 1992, the annual number of people waiting for transplants rose by 66 percent to nearly 50,000 in 1992. In the same time period, the number of organ donors grew by only 31 percent, with 4,497 donors providing 15,715 organs in 1992.

But, even more compelling is the fact that, during this 5-year time period, over 10,000 people died waiting for an organ transplant.

At present, over 30,000 Americans are waiting for an organ transplant; tragically, between five and seven people die each day because an organ is not available for transplant.

The Senate organ transplant reauthorization, S. 1597, is a carefully crafted measure which, on balance, appropriately addresses the need to develop an equitable system to allocate organs. It strengthens the system by achieving a more systematic and equitable process for organ transplants and allocation.

As my colleagues are aware, the State of Utah has been a pioneer in transplant development, and I have worked closely with State transplant officials during the development of this legislation.

In particular, I wish to recognize several outstanding experts in the field of transplantation, all of whom provided valuable advice and counsel in crafting this legislation. They are: Dr. David Nelson at the Utah Cardiac Transplant Program at LDS Hospital; Dr. Robert Shaddy at the Pediatric Heart Transplant Program at Primary Children's Medical Center; Dr. Don Olsen at the Artificial Heart Research Laboratory at the University of Utah; Dr. John Hylen of the State Division of Health Care Financing; and Dr. John Holman, Jr. of the Intermountain Organ Recovery Systems and the University of Utah Kidney Transplant Program.

We have also worked closely with the State in development of the childhood immunization bill, which we are also considering today.

It is no secret that I have had concerns about the scope of the administration's proposals on childhood immunization. But I am in absolute agreement that we must intensify our effort to immunize our children against diseases that can be prevented through vaccines. That is the intent of this legislation.

The State of Utah has undertaken an intensive effort to raise its childhood immunization rates. We have established a task force under the leadership of the First Lady of Utah, Mrs. Jackie Leavitt, and that task force has been working diligently with a broad spectrum of influential groups to improve immunization rates in Utah.

For example, this public-private partnership funded a care-a-van, which in just a 2-month period vaccinated 4,000 children. They have worked with vaccine manufacturers, such as Merck, who agreed to donate free vaccines to all Medicaid providers.

The success of this partnership underscores concerns some of us have shown about establishing a Federal effort that is too large and that could supplant, rather than supplement, existing efforts.

I would like to thank Governor and Mrs. Leavitt for their leadership on this issue. In addition, I would like to thank Rick Crankshaw from the Utah Community Health Services Division, who provided me with invaluable assistance.

And, finally, I would like to thank Chairman KENNEDY, who agreed to insert language in the bill which will allow the Centers for Disease Control to give priority in funding grant applications from States such as Utah, which may have low immunization rates despite their best efforts to improve them. This is an important provision that will help many States.

AMENDMENT NO. 1568

Mr. GRASSLEY. Mr. President, I want to register my opposition to the Bradley amendment, No. 1568 that passed by voice vote earlier.

I'm not sure many Members realize that the amendment passed, let alone what the amendment said. This body just voted, albeit by a sense of the Senate, that all tax expenditures, including the home mortgage deduction, personal exemptions, first-time farmer bonds, educational exemptions and hundreds of others, should be put on the chopping block.

If this were to become law, it would, despite the proponent's objections, amount to a backdoor tax increase. If the Finance Committee was required to cut a certain amount of tax benefits, many positive benefits would be cut, because there just aren't many, if any, illegitimate tax expenditures left. The proponent's attitude is that all income belongs to the Government and the Government should decide how much it's going to give back to the taxpayer.

If so-called loopholes do exist, I'd like the proponents to tell us what they have in mind, because as a Member of both the Budget and Finance Committees, I'm always looking for wasted money out there that can be put to good use. The Finance Committee already has the authority to review all tax expenditures, and if unfair benefits exist, then we should, and I believe will, address them.

So, Mr. President, I want to register my opposition to this ill-considered amendment.

AMENDMENT NO. 1565

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator COHEN, and Senator JEFFORDS be added as cosponsors to the amendment I offered last evening to the Budget Resolution which provided increased funding for Low Income Heat Energy Assistance Program, Prisoner Literacy and Job Training, and Prenatal Care programs.

Further, Mr. President, I ask unanimous consent that a statement by Senator COHEN and a statement by Senator JEFFORDS be included in the RECORD in support of the amendment adopted by the Senate last evening.

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

Mr. COHEN. Mr. President, I am pleased to join my colleague from Pennsylvania, Senator SPECTER, in offering this amendment to restore full funding to the Low-Income Home Energy Assistance Program [LIHEAP], which provides assistance to poor households for paying their energy bills.

The budget resolution approved by the Senate budget committee takes us a giant step toward restoring adequate funding for this valuable program in the face of a drastic budget cut proposed by the Clinton administration. Senator SPECTER's amendment will raise the funding level further to ensure that the needy will receive the help they need when facing their energy bills.

In January more than half the Nation was submerged in arctic temperatures brought on by a blast of cold air from Canada. We witnessed record cold temperatures in numerous towns and cities across the country, thick ice on major waterways, broken water mains in cities from Atlanta to New York, and a declaration of a state of emergency in the District of Columbia.

The weather has now improved in most of the country. Temperatures are back to normal. The state of emergency has been lifted.

But for those struggling to pay their energy costs during this relentless winter, the emergency is anything but over. The administration's proposal to cut funding for LIHEAP in half only exacerbated their fears about being able to survive through the winter.

I am very pleased that the budget resolution before us today restores 70 percent of this cut, but I remain concerned that the continuing erosion of funding for fuel assistance benefits will have a drastic effect on the ability of the poor and elderly to survive through any winter, whether it sets records or not.

The amendment I am joining Senator SPECTER in offering ensures continued support for fuel assistance and will provide some assurances to those in need that they will receive some assistance in paying their energy bills. For these families and individuals, the LIHEAP Program is absolutely crucial, and particularly so in my State of Maine.

While the rest of the country reacted in panic to the ordeal of winter weather, Mainers watched with bemusement as other regions tried to adjust to conditions that they face not just for one week once in a lifetime, but for several months during the fall and winter every year.

Let me just read some weather statistics that were provided to me by the national weather service:

In the northern part of the State, which also happens to be one of the poorest parts, the average normal temperature—not this year's record lows—is below freezing for five months of the year—November through March—and is in fact close to zero in December, January and February. April is just above freezing, at 38 degrees.

As it was in many places around the county, this past winter has been an extremely harsh one for Mainers. They, too, faced record cold temperatures and snowfall levels. But long, cold winters are not a rare thing in Maine; they are the norm. They occur not just once in a decade, but year in and year out.

I am bringing this information to the attention of the Senate today to explain why I, and my constituents in Maine, are deeply concerned about the Clinton administration's proposals to reduce funding for the Low-Income Home Energy Assistance Program.

The importance of LIHEAP benefits to the 62,000 low income Mainers who receive assistance cannot be underestimated. Winter fuel bills run at an average of $1,200 for many families in Maine, but benefits average only $170 for the whole winter. For some households who heat their homes with kerosene, wood or oil, benefits range from only $48 to $120 for the entire winter in Maine's poorest counties. These amounts are pitifully low, yet now we face a proposal to cut funding even more.

When word first leaked out that the program might be cut, I wrote to President Clinton and to Health and Human Services Secretary Donna Shalala to express my deep concern about the rumored cuts.

Those letters were sent before the Arctic blast reached a vast portion of the country, including Washington, DC. I had hoped that as a result of their experience with the bitter cold, decisionmakers in Washington would come to understand what it means to live with constant subfreezing temperatures and just how important a warm home can be. I am greatly disappointed that these concerns were ignored by the administration.

Again, I want to express my appreciation to the Senate Budget Committee for restoring a vast portion of the proposed cut. The efforts of the chairman and others to assist in improving the funding outlook for this program is greatly appreciated in Maine and many other states dependent on this funding. I know that difficult budget choices had to be made, and I think the committee did a commendable job under the circumstances.

However, more can be done, and I believe the amendment before us now accomplishes that. I will continue to work with Senator SPECTER and others to secure additional funds for this worthwhile program and explore ways to ensure that states with the greatest demands for assistance receive adequate funds.

In closing, I implore my colleagues to listen to the cry of need from the poor and elderly struggling to make ends meet. When we sit here in thawed-out Washington, DC, making budget decisions that affect other parts of the country, please keep in mind how fuel assistance can make a huge difference in the lives of those who live in colder climates.

LIHEAP benefits today reach only 25 percent of those households eligible to receive assistance. Those who are lucky enough to receive help are among the poorest of the poor, with more than half surviving on incomes at or below the poverty level, and they already spend a disproportionately high amount of their limited incomes on energy costs. While you and I spend about 3 percent of our income on energy costs, LIHEAP recipients spend about 12 percent of their income on heating bills and electricity.

This is not the time to impose additional reductions in this important program. Too many families and elderly individuals depend on it to make ends meet, and we cannot hurt them further. Fuel assistance is absolutely crucial to the poor and elderly and helps influence the decisions they are forced to make about whether to buy food, medicine or heat.

Last month, I received a letter from a disabled World War II veteran living on social security who is concerned about fuel assistance cuts. He wrote, "It's a toss up between medicine, food or heat. We have been out of oil for 3 days in this cold."

I urge my colleagues to think of this individual and thousands like him when making decisions about spending on LIHEAP, and I urge them to support this amendment.

Mr. JEFFORDS. Mr. President, I rise to cosponsor the amendment offered by the senior Senator from Pennsylvania and commend him for his tireless efforts on behalf of the Low-Income Home Energy Assistance Program (LIHEAP). The amendment we are considering shifts $425 million from government consulting accounts into LIHEAP and other vital programs, such as the Maternal and Child Health Block Grants.

I am particularly pleased that this amendment will restore full funding—$1.48 billion—of LIHEAP in fiscal year 1995. My colleagues may recall that Congress already appropriated this amount last fall. But earlier this year, when President Clinton released his budget proposal for fiscal year 1995, he proposed cutting LIHEAP funding in half. The Budget Committee restored about 70 percent of the cut when it reported Senate concurrent Resolution 63. This amendment restores the rest.

The administration claims that falling fuel prices justify steep reductions in a program already cut by 30 percent since funding for it peaked at $2.10 billion a decade ago. The Labor Committee did its best to disabuse the administration of this view during a reauthorization hearing last week.

I will state this as plainly as possible: home energy prices have not fallen. They may not have risen as rapidly as inflation generally, but then again, neither have the incomes of our low-income families—whose ranks have swollen enormously because of the recent recession.

I contacted the Department of Labor's Bureau of Labor Statistics (BLS). BLS maintains and updates a household fuel price index. The index includes fuel oil, natural gas, electricity, coal, and other sources of home energy. Average prices, weighted by use, for the years 1982 through 1984 serve as the index base. The average annual LIHEAP appropriation for those three years was $1.96 billion. I applied index values for subsequent years to the average annual appropriation to determine the annual appropriations necessary for the program to maintain purchasing power at the 1982–1984 level. In every year since 1987, actual appropriations have fallen short. The cumulative loss of purchasing power between 1985 and 1993 totaled $3.63 billion. For the current fiscal year—just to keep pace with changes in home energy prices—we should have appropriated $2.18 billion, but we fell $747 million short. The fact that the President had to release $300 million in emergency funds this winter merely underscores how important LIHEAP is.

Obviously, the budget caps on domestic discretionary spending are forcing Congress and the Administration to face and make exceptionally difficult choices regarding program funding. I don't think any LIHEAP advocate expects funding for the program to increase in this budget climate. But we can't let it decrease any farther than it already has. So, as I mentioned earlier, I commend Senator SPECTER for offering this amendment. I am pleased to cosponsor it. And I urge my colleagues to support it.

THE REPUBLICAN ALTERNATIVE

Mr. DURENBERGER. Mr. President, I rise today in opposition to the fiscal 1995 budget resolution.

I commend the Budget Committe for reporting a budget resolution which reduces the deficit by $38 billion over 5 years. In particular, I commend the Committee for adopting the Exon-Grassley amendment, which increases the President's proposed deficit reduction of $12 billion by $26.1 billion.

That is a good start, but we must do better—despite the efforts of Senators EXON and GRASSLEY, the budget resolution will only cut the deficit by $1.6 billion in outlays for fiscal 1995.

For some reason, both the President and Budget Committee Chairman SASSER believe that we should take a rest from significant deficit reduction this year. I acknowledge the fact that a $173.5 billion deficit projection for fiscal 1995 is a significant improvement from the $235 billion deficit in fiscal 1994. However, we must bear in mind that this reduction is largely a consequence of the economic recovery that began under President Bush.

As former Federal Reserve Chairman Paul Volcker advised members of this body last week, during periods of recovery we should strive for a surplus. In other words, we should act now. I do not suggest that a surplus like that advocated by Chairman Volcker is realistic in the immediate future. But we must begin to work towards that goal. We should not defer hard budget choices until later in the business cycle, when general economic conditions may impair our ability to act.

Earlier this month, this body debated the proposed balanced budget amendment to the Constitution. At the risk of rehashing that debate, I believe this body needs to focus—again—on the consequences of our staggering deficit.

The projected fiscal year 1995 deficit of $174 billion will be added to the $4.7 trillion bill we are dumping on our children and grandchildren. Each American family of four is burdened with $74,500 of debt due to the past fiscal irresponsibility of the Federal Government. As a consequence, in 1994 we are spending $294 billion in gross interest payments on that debt—$50 billion more than all domestic discretionary spending.

Mr. President, we all know that it is tough to make friends by pursuing meaningful budget reforms. Courageous leadership on this issue may have cost our last President his job. But it is something we must do.

Reducing government spending has been a priority throughout my Senate career. In 1984, I launched an organization called Americans for Generational Equity which sought to make clear how our reckless spending habits devastates future generations. That organization worked hard to identify and achieve the reforms necessary to cut the budget without harming important programs.

I have also been a part of numerous efforts within this body to attack the deficit. In the early 1980s, I sponsored along with Senator GORTON the Durenberger-Gorton bill to balance the budget. Since then, I also have supported strongly such measures as the 1985 Gramm-Rudman-Hollings Act, the Kassebaum-Grassley-Baucus proposal, the Boschwitz spending freeze, the 1990 budget summit reforms, the 1992 entitlement freeze, the 1993-94 Kerrey-Brown and Dole deficit reduction proposals, and, most recently, the balanced budget amendment. I have also opposed the concept of emergency supplementals and have offered amendments to offset such off-budget spending.

For the same reasons I supported those proposals, I also strongly oppose any attempt to strike the $26.1 billion of savings in outlays included in the Exon-Grassley amendment. These savings can be achieved by the Appropriations Committee without harming our national security or compromising important Presidential initiatives such as health care reform.

Mr. President, we all recognize that deficit reduction must be carried out responsibly. That means cutting politically sensitive programs such as entitlements. That also means resisting the temptation to submit unrealistic deficit reduction proposals to the Congress. Unfortunately, Mr. President, I believe the administration's 1995 budget fails on both counts.

I am disappointed to note that the President's 1995 budget did not recommend any cuts in entitlement programs. Furthermore, the President's 1995 budget proposed cuts in programs such as LIHEAP, REA, AIDS Research, and Head Start which the administration should have known this body could not responsibly accept. I congratulate the Budget Committee members on both sides of the aisle who worked to restore some of these harmful cuts. To the committee's credit, more appropriate cuts were identified to pay for this additional spending.

Mr. President, I believe that the Republican substitute budget sponsored by Senator DOMENICI represents a more responsible approach to putting our fiscal house in order. The Republican substitute achieves the kind of deficit reduction that we need—$322 billion more over the next 5 years than the President proposed. Under the Republican plan, the deficit would be reduced to $99 billion in 1999. In contrast, under the Presidents budget the 1999 deficit would be $205 billion, an unacceptable figure.

Mr. President, I also commend Senator DOMENICI for crafting a sound plan for attacking the deficit while preserving the core of the Davis-Bacon Act.

I support the Republican alternative, and will work within its limits to ensure that its cuts are implemented responsibly. That means preserving programs, such as Legal Services, which have practical merit rather than political appeal. That means cutting areas, such as certain entitlements, whose principal merit is their political appeal. And that means not passing the buck by imposing unfunded mandates on State and local governments.

Mr. President, I believe we must achieve greater deficit reduction—this year. Therefore, I am compelled to vote against the fiscal year 1995 budget resolution. Instead, I support the Republican alternative sponsored by Senator DOMENICI—it achieves meaningful deficit reduction and does so responsibly.

DEFENSE LEVELS OF THE FY 1995 BUDGET RESOLUTION

Mr. MCCAIN. Mr. President, I fully support the laudable goal of my colleagues on the Senate Budget Committee to cut spending and reduce the deficit by $43 billion, but I am concerned about the potential impact on defense of the amendment adopted in the Committee's markup. If, as some have said, these cuts will all be taken from defense, this resolution could result in an additional $43 billion cut in the defense budget over the next 5 years. I cannot support such a reduction in the defense budget. Therefore, I offer an amendment to ensure that these discretionary spending reductions would be allocated fairly and appropriately among defense and domestic discretionary programs.

The amendment, in the form of a sense of the Senate resolution, rejects the stated intention of some of my colleagues to foist on the defense budget the entire burden of this deficit reduction.

In my view, this is a fair and equitable approach to cutting discretionary spending. As my colleagues should know, defense spending has been cut every year since 1985. If approved, the President's budget proposal submitted to Congress will result in a 35 percent real cut in the defense budget since 1985, and another 10 percent real reduction by 1999. Defense has already been cut severely; it is time to look to domestic spending for its fair share of cuts to reduce the deficit. Our national security need not be sacrificed to deficit reduction.

Mr. President, I should also note that I have serious concerns that the President's budget cuts defense too fast and too deep. Although full details are not yet available, I am concerned that the capability and readiness of our military will continue to decline under the administration's proposals.

Last July, I published a compilation of responses from the Chiefs of Staff to my questions about the readiness status of the military Services. This publication, entitled "Going Hollow: The Warnings of Our Chiefs of Staff", contains page after page of statements

from the Chiefs that readiness is already declining in each of the Services, and that underfunding will only exacerbate the problem. Last Friday, I wrote to each of the Chiefs to ask again for their assistance in identifying shortfalls in funding or indicators of declining readiness. With another year of declining defense budgets, I am not hopeful that their responses will be more encouraging this year than last.

It does not appear that the President's budget request adequately addresses these serious problems. When the budget was submitted in February, the Pentagon disingenuously claimed to increase spending on readiness by $5 billion. Yet only about 20 percent of that amount was allocated to readiness-related programs. Secretary Perry has since admitted that this increase was overstated.

Under the administration's defense budget request, operational training rates, which the Pentagon claims are maintained at current levels, actually decline in several areas compared to training rates at the end of the Bush administration. Without adequate training, our smaller force will be less ready to fight and win any future conflicts.

The men and women who serve in the Armed Forces are denied a full pay raise in the Clinton defense budget. Cost-of-living allowances for military retirees are delayed until October, while civilians retired from Federal service will receive their COLAs in April. Once again, the Clinton administration is singling out military personnel and retirees to bear an unfair share of deficit reduction. This disregard for the financial security of military personnel who are serving or have served their country has a severe negative impact on the morale of our troops.

Only 3 years ago, we went to war in the Persian Gulf as the most combat-ready force in the world. The value of that readiness was clear in the decisive victory we achieved in just a few weeks with minimal loss of life. Today, that readiness is beginning to erode. Our forces are going hollow.

These are serious matters upon which the lives of American soldiers, sailors, airmen, and Marines depend. Future opponents are not likely to allow us time to get ready for war. If we are not ready, the men and women we send into combat will pay for our negligence with their lives.

Mr. President, I trust my colleagues have also been the many reputable studies which suggest that the President's defense budget is insufficient to fully fund the force levels of the Bottom Up Review [BUR]. Estimates of funding shortfalls range from $20 billion, which is the Pentagon's own figure, to more than $100 billion over 5 years. The inadequacy of this budget to fund the BUR Force exacerbates the readiness problems I have outlined above and heightens the danger our troops will confront in future conflicts.

As many of you know, Secretary of Defense Perry has testified to Congress that inflation estimates in the defense budget are understated by this amount over the 5-year plan. I have asked the Congressional Budget Office to analyze the inflation factors in the President's defense budget request, and CBO has responded that, using their estimates, the 5-year defense plan is underfunded by $19.5 billion for inflation increases. Secretary Perry has testified that these inflation costs will be fully funded in future defense budgets, even if he has to request additional funds for defense. I hope his efforts will be supported by the administration.

Other studies take this budgetary analysis a step further and suggest, with a great deal of validity, that the bottom up review force is inadequate to support the underlying strategy, which requires that our military be prepared to fight in two nearly simultaneous major regional conflicts. For example, the BUR calls for a force of 100 long-range bombers, which would be expected to swing from the first major regional contingency to the second, and possibly back again. Another critical asset slated to do double-duty in theaters on opposite sides of the globe is the Joint STARS aircraft, which provided essential and timely support to our forces in the Gulf war. The BUR Force is also woefully inadequate in strategic life assets, requiring military planners to make questionable assumptions about warning time and time between the onset of these contingencies.

Lack of funding for these critical military assets, which are unquestionably some of the most expensive programs in the DOD budget, calls into question the validity of the entire bottom up review concept. It also places in serious jeopardy the lives of our military men and women who may be called upon to support our national military strategy with inadequate equipment, training, and support.

Mr. President, even as the defense budget is steadily decreasing, the percentage of the budget devoted to nontraditional civil activities is rapidly increasing. I could talk at great length about the burden on defense created by the Congress' practice of directing DOD to use defense dollars to support domestic activities. These non-defense activities include peacekeeping, environmental compliance, drug interdiction, disaster relief, and the like. In a study released last November, the General Accounting Office concluded that:

> For fiscal years 1990 through 1993, DOD allocated at least $10.4 billion to [domestic] activities. This figure, however, *understates* the full amount spent because data on such activities are incomplete. [emphasis added]

On March 21, the Congressional Research Service completed a study of items in the DOD budget that may not be directly related to traditional military capabilities. This study analyzed defense expenditures for fiscal year 1990–1993, the same period covered in the GAO report cited above, and the report concludes that $28.3 billion was expended during that period for items which could be defined as non-defense activities. CRS looked further at fiscal year 1994 defense appropriations and the fiscal year 1995 defense budget request, and identified another $24.3 billion in nondefense activities in these 2 years alone. All together, CRS lists $52.6 billion in defense expenditures for items not directly related to military capability.

Mr. President, while views differ as to the relevance of some of these expenditures to military capabilities, the GAO and CRS studies illustrate the increasing drain on scarce defense resources for non-traditional, non-defense activities. These are costs which the Department of Defense must pay, and they are growing costs which must be considered when we assess the levels of funding for defense. Every dime spent by DOD on these types of activities is money which jeopardizes the ability of our military to fulfill their primary mission, to defend the security of the United States.

Mr. President, I do not look back with nostalgia on the Cold War. I welcome the relaxation of tensions between the United States and the former Soviet Union. But the end of the superpower conflict which drove our national security policy for 45 years cannot be interpreted to mean that the world is now a stable and safe place. Our troops may soon be sent into harm's way in Korea, Bosnia, or other places in the world where instability could easily lead to regional conflict. We have an abiding obligation to provide the best possible equipment, training, and support to the men and women who are ready to risk their lives to protect our security.

Finally, Mr. President, despite our best efforts, we have not yet halted the proliferation of weapons of mass destruction and destabilizing advanced conventional weapons to countries which may pose a threat to our security in the future. In addition, the administration has proposed a wholesale easing of restrictions on the export of enabling technologies to these potential enemies. We must plan now to ensure our ability to deal with the potential consequences of continued weapons proliferation.

On March 8, Senators NUNN and THURMOND, the chairman and ranking minority Member, wrote to the Budget Committee to urge full support for the President's budget request. They wrote:

> We do not believe that reductions below the aggregate funding level proposed by the President should be made in defense in fiscal year 1995.

They went on to say that:

We believe the Congress and the administration should adjust the defense budget upward in the outyears to properly fund the administration's proposed force structure.

On January 25 of this year, President Clinton spoke unequivocally in his State of the Union address of his unwavering support for the defense budget he had submitted to Congress. He said, and I quote: "The budget I [will] send to Congress draws the line against further defense cuts * * * We must not cut defense further." I am told that the White House is very much opposed to the cut in discretionary spending recommended by the Budget Committee.

Mr. President, it must be apparent to my colleagues that these are good arguments, not for cutting defense further, but for increasing the funds allocated to defense by President Clinton. And I am concerned that the overall levels of the administration's defense budget is dangerously low. At a minimum, however, I urge my colleagues on both sides of the aisle to vote for my amendment to guarantee fair and equitable allocation of discretionary spending reductions.

SAVE-AS-YOU-GO PROPOSAL

Mr. KOHL. Mr. President, I support this budget resolution. It contains real and significant cuts in appropriated spending. It does not raise taxes. It is responsible and thoughtful.

However, the resolution has one major flaw, in my view. It does nothing to address entitlement spending. Entitlements comprise over 50 percent of all Government spending and are growing at a rate faster than inflation—while non-entitlement spending is actually shrinking. Controlling entitlements is key to controlling the deficit. Because we have not addressed entitlements, the deficits projected by this budget increase from $174 billion in fiscal year 1995 to $192 billion in fiscal year 1999. Deficits won't go down until all spending goes down.

To achieve this deficit reduction, we must reform the way in which Congress addresses entitlements. I understand that we cannot change budget rules on this resolution, but I want to make the point that what we need is a change in the way this body does business.

Currently, our budget rules require us to pay as you go for entitlement spending. That is, any change in law that increases entitlement spending must be offset 100 percent.

Clearly, that system is not good enough. It offers no incentive to cut back entitlement programs. It allows them to continue to grow with inflation, population increases, and spiralling health care costs.

I propose that we trade pay as you go for save as you go. Our rules should require any new entitlement spending to be more than offset. For every new entitlement dollar we spend, we ought to offer up $1.10 in spending cuts—$1.00 to pay for our new initiative and 10 cents to go into the deficit reduction trust fund for future generations.

I ask unanimous consent to place in the RECORD a letter I am sending today to Robert Reischauer, Director of the Congressional Budget Office.

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

[See exhibit 1.]

Mr. KOHL. I am asking CBO to analyze how much we would have reduced the deficit over the last few years had this simple reform been in place. I ask my colleagues to consider this save as you go approach as a real opportunity to bring entitlement spending down the way we are bringing nonentitlement spending down—and to help protect our children's future.

This is a good budget for current generations—it cuts spending, keeps taxes down, and holds the deficit steady. It is not a good budget for future generations. Until the budget is balanced, we are passing on our debts to our children. We need to change the way we think about budgeting in Washington. It is not good enough to get through today; we have to save for tomorrow as well. I urge my colleagues to consider changing our rules on entitlements to force us to save as we go, and perhaps we can start using the budget to take care of our children as well as we take care of ourselves.

EXHIBIT 1

U.S. SENATE,
Washington, DC, March 24, 1994.

Mr. ROBERT D. REISCHAUER,
Director, Congressional Budget Office, Washington, DC.

DEAR MR. REISCHAUER: I have developed the attached proposal to amend the Pay-Go provisions created by the Budget Enforcement Act of 1990. I seek your assistance in answering the following questions:

If such a provision had been enacted as part of BEA, how much would less deficit reduction would now be required?

If such a provision were enacted now, how much less would the deficit be in six years, assuming a similar level of direct spending legislation as has been experienced over the last six years, compared to the status quo?

What is your brief assessment of this proposal in terms of its promise at reducing the deficit? Are there any design suggestions (e.g., how should user fees be treated, etc.) that you can offer?

To ensure that we could get this proposal enacted early enough in this session to affect the major entitlement bills that are likely to be enacted this year, I request that you complete this analysis as soon as possible, or no later than May 2, 1994.

Thank you for your assistance. If you have any questions, please contact Richard Turman at 224-5653.

Sincerely,

HERB KOHL.

ENCOURAGING DEFICIT REDUCTION UNDER "SAVE-AS-YOU-GO"

The Proposal: Reduce the burden on future generations by amending the current "Pay-As-You-Go" requirement that legislative changes in Federal entitlements be offset 100 percent by other spending cuts or revenue increases. Under the modification, the required offset would be increased to 110 percent of the new spending, with the additional 10 percent dedicated to deficit reduction.

Why Do We Need To Change the Budget Rules

1. Our Future Demands That We "Save-As-You-Go"—We are now threatening our childrens' future, but have a chance to do something about it. Whenever we make a change in entitlement law—and pay for it by reducing lower-priority programs—we owe it to our children to invest an additional amount in their future. This means investing $10 for every $100 in new spending in deficit reduction.

2. Without Such Changes, the Deficit Will Remain Uncontrolled—Although the discretionary caps restrain the 36 percent of the $1.5 trillion Federal budget to which they apply continued growth in mandatory spending drives the deficit ever-higher in both OMB and CBO forecasts. Without reforming the legislative process for mandatory budgeting, we will never stop stealing from future generations!

3. The Current Pay-Go Rules Are Not Designed To Solve the Deficit Problem—We need to move beyond controlling changes to entitlements through Pay-Go to controlling entitlement spending itself. Pay-Go merely keeps the Federal government from knowingly increasing the deficit through new mandatory spending. By enforcing a one-for-one trade-off between new spending and savings, the Pay-Go rules assume that the deficit doesn't matter. Instead of encouraging budget savings, the Pay-Go rules actually encourage any spending cuts to be saved up and used to offset new spending. We need to change the rules to build deficit reduction into the regular course of business instead of leaving it to be accomplished once in a while through big omnibus bills—otherwise we will never get the deficit down.

How Would "Save-As-You-Go" Work

If a bill increases spending by $100 million in a fiscal year, it would have to be accompanied by $100 million in offsets for that same year. Pay-Go's existing enforcement tool, the sequester, would be modified so that any new spending violating these rules would generate a sequester large enough to offset 110 percent of the new spending. The baseline would be adjusted downward to ensure that the savings are locked in.

Do We Really Need This Change

After several years, "Save-As-You-Go" would cut a sizable dent from the deficit, ensuring a better future for the next generation and doing so in a manageable way. Unless we make this investment in the future every time we legislate changes in entitlement spending, we may never be able to balance the budget without huge, crippling, spending cuts or tax hikes. We could have enacted such a change when we created Pay-Go, and the problems we now face would be more manageable. It is not too late to get started—our children will start benefiting whenever we do!

WIC

Mr. LEAHY. Mr. President, I would like to highlight what I believe is a crucial element of this budget resolution. I am referring to the budget assumptions regarding the Special Supplemental Food Program for Women, Infants and Children.

Page 21 of the committee report on the resolution reads:

The Committee's recommendation assumes the full $354 million increase in budget au-

thority over a freeze requested by the president. An additional 710,000 low income women and children would be served and the program would remain on track for full funding in 1996.

In addition, the Boxer-Leahy amendment, adopted yesterday, assumes an additional $100 million in WIC in 1995.

Mr. President, am I correct in understanding that the committee's resolution adopts and assumes the President's full fiscal year 1995 funding request for WIC, as well as an additional $100 million, toward the goal of serving all eligible WIC who apply by 1996?

Mr. SASSER. That is correct.

Mr. LEAHY. I would like to applaud the chairman of the Budget Committee, Senator SASSER, for continuing to make funding for the WIC a high priority in the Senate budget resolution.

Mr. President, WIC serves children at one of the most critical times of their lives. It provides nutritious food, access to health care and nutrition education to pregnant women and young children up to age 5 who are low income and at nutritional risk.

WIC is universally acclaimed as one of our Nation's most successful and cost-effective early intervention programs.

I would like to highlight the role that a program like WIC can play in health care reform. WIC is a perfect example of how prevention can work to save both money and lives. When pregnant women participate in WIC, they give birth to healthier babies.

A study released last May by Mathematica Policy Research found that infant mortality rates for babies born to WIC participants are one-fourth to two-thirds that of nonparticipants. Reductions in neonatal mortality rates are even greater—one-sixth to two-thirds the rate of nonparticipants.

Mr. President, the infant mortality rate in the U.S. ranks 22d among industrialized nations. We have a moral responsibility to invest in WIC.

Dr. Buford Nichols, of the department of pediatrics at Baylor College of Medicine, testified before the Senate Budget Committee in 1990 that "20,000 infant deaths can be prevented each year by improving prenatal nutrition and care."

In addition to saving lives, WIC improves the quality of life for children by getting them off to a healthy start. Babies with low birthweight are at greater risk of having developmental handicaps, birth defects, infectious diseases, behavior problems, and complications.

WIC not only saves lives, it saves taxpayer dollars as well. For every dollar that we spend through WIC to improve the health and nutrition of a pregnant woman, we save as much as $3.13 in Medicaid costs during the first 60 days after birth.

We save money because babies born healthier require less care. That's smart public policy.

The average medical cost of a low birthweight baby can exceed $39,000. The average cost of the WIC food package in 1991 was $31.67 per participant per month.

Unfortunately, Mr. President, WIC does not live up to its potential when it does not serve all the people who need it. Under current funding levels, 3 million women and children—about 40 percent of those eligible—cannot get WIC.

By not fully funding WIC, we spend much more on health care for babies who are born premature and weighing too little. We are contributing to the health care crisis that is crippling our economy.

In this budget resolution the Senate once again affirms its commitment to reaching full funding for WIC, and the House budget resolution makes a similar assumption regarding funding for WIC. I applaud my Democratic and Republican colleagues in both the Senate and the House of Representatives for their continued bipartisan support for this important program.

Discretionary programs have come under a great deal of pressure in the past few years and they continue to do so this year as we struggle to reduce the budget deficit.

I strongly support efforts to bring down the deficit. But I also know that an ounce of prevention is indeed worth a pound of cure, and that full funding for WIC is an important part of controlling health care costs and the deficit.

The House and Senate Budget Committees recognize the wisdom of that saying and have made a point of increasing funding for WIC even in this time of discretionary cutbacks.

I applaud their vision and their courage in including the President's full WIC request in this year's budget resolution, and I hope to work closely with my fellow appropriators to provide this level of WIC funding.

Mr. SASSER. Mr. President, I share the distinguished chairman of the Agriculture Committee's enthusiasm for the WIC Program. I would point out that the budget resolution as reported by the Budget Committee included $3.6 billion for this program, an 11 percent increase over last year's levels. This level of funding would keep this program on track for full funding in fiscal year 1996. Senator BOXER's amendment that we adopted yesterday added $100 million, bringing the total level of funding to $3.7 billion or 14 percent over last year's level.

WIC, which has now been in existence for 20 years, is certainly one of the most successful of all Federal programs. Providing nutritious food and vital services to at-risk low-income women and children invests not only in their future, but also reduces the potential for costly health problems.

I commend my colleague from Vermont for his strong leadership on the WIC Program and child nutrition in general.

PROVISION TO TERMINATE THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Mr. FEINGOLD. Mr. President, the Budget Committee is to be congratulated for their excellent work, and in particular for continuing the critical work to reduce our deficit by requiring an additional $26 billion in cuts over the next 5 years. It is vital that we continue to make headway in this area, and build on the deficit reduction work begun by President Clinton in his landmark deficit reduction program.

Though their overall effort is to be applauded, Mr. President, I take exception to some language included in the committee's report accompanying the concurrent resolution on the budget. In particular, the report language supporting the continued funding of the Uniformed Services University of the Health Sciences [USUHS] is inconsistent with the overall intent of this resolution.

Of course the language has no binding effect, but I feel the issue merits a response.

Put most clearly, Mr. President, USUHS is not as cost effective as alternative sources of military physicians.

The Department of Defense obtains almost all of their physicians from three sources—about 70 percent through the medical scholarship programs, about 20 percent from physicians who volunteer directly, and about 10 percent from USUHS. Of all of those sources, though, USUHS is the least cost effective.

Mr. President, this is not only the conclusion of the nonpartisan Congressional Budget Office and the Office of Management and Budget, it is the finding of the Department of Defense, the agency that runs USUHS.

Responding to an Inspector General's review of USUHS, the Secretary of Defense—in May of 1990, directed the Assistant Secretary of Defense—program analysis and evaluation—to conduct a study of USUHS. That study found that the acquisition costs of USUHS-trained physicians are much higher than the costs of acquiring physicians from any other source, more than four times as high.

The Congressional Budget Office findings were even worse, noting, as of 1991, that at $562,000 per person USUHS was the most expensive source of physicians for the military, providing physicians at more than 5 times the $111,000 per person from the military's medical scholarship program, and more than 10 times the cost of obtaining physician volunteers.

Of course, acquisition expenses are not the only cost of a physician to the military. Salaries and retirement benefits make up a substantial portion of the total cost. Here again, USUHS-trained physicians tend to be more expensive.

In fact, because of their higher retention rates, average salaries and pensions are so much higher for USUHS-trained physicians that the Department of Defense found that even if they could acquire a USUHS-trained physician for free, instead of the $562,000 estimated by the Congressional Budget Office, USUHS would still be the most expensive source for military physicians.

The bottom line is, as the Department of Defense noted in its own study, "the Uniformed Services University of the Health Sciences is a significantly more expensive provider of physicians to the Department of Defense" than any other source.

It will take time to phase down USUHS operations, and we will not realize full savings until it is closed. But even as we start that process, the Congressional Budget Office estimates that we can save $190 million over the next 5 years.

Mr. President, with the overall downsizing of our force structure, and the continued pressure put on the entire Federal budget by our deficit, it does not make good economic sense to keep funding USUHS, and I will work to ensure that the President's provision phasing down the Pentagon's medical school is included in the 1995 budget.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for up to 10 minutes as if in morning business.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of Senate Joint Resolution 178 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. CONRAD. Mr. President, I ask unanimous consent that we now have a period of morning business.

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

FEDERAL COMMUNICATIONS COMMISSION AUCTIONS FOR SPECTRUM LICENSES

Mr. HOLLINGS. Mr. President, last summer under the Budget Reconciliation Act of 1993, Congress revised the assignment process by which the Federal Communications Commission awards licenses. In particular, section 6002(E)(2) of title VI creates a special rule which provides that the Commission may not issue a license by lottery after the date of enactment unless one or more applications for such licenses were accepted for filing by the FCC before July 26, 1993. Thus, under the legislation, the FCC may use a lottery to award any licenses license for which an application was filed prior to July 26, 1993.

While not every authorization for which applications were filed before July 26, 1993 must be awarded by lottery, the conferees specifically provided the Commission with the opportunity to award licenses applied for before that date by lottery for a number of reasons. Among them was the concern that a retroactive application of auction rules would be inequitable to applicants who filed before the date the Budget Act was enacted. Thus, under the legislation, the FCC may use a lottery to award any license for which an application was filed prior to July 26, 1993.

JESSICA MATHEWS' WASHINGTON POST EDITORIAL

Mr. President, an editorial by Jessica Mathews, entitled "Today's Catch—and Tomorrow's: An Orgy of Over-Fishing is Depleting the Oceans and Endangering Future Food Supplies," appeared in the Washington Post on Sunday, March 13, 1994. This editorial discusses the crisis in global fisheries management, emphasizes the need for strengthening international fisheries management, and also makes several points that apply to the regulation of fisheries within the United States Exclusive Economic Zone [EEZ].

This article is particularly timely because the Senate Committee on Commerce, Science and Transportation is considering the reauthorization of the Magnuson Fisher Conservation and Management Act (Magnuson Act) this session. The Magnuson Act is, of course, the primary Federal statute governing the regulation of marine fisheries, and its reauthorization is a priority for the committee. While international fisheries agreements are a critical component of global fisheries management, 95 per cent of the total U.S. commercial landings are fish caught in U.S. waters. Hence, we must focus our effort in the coming months to promote the sustainability of U.S. fisheries as a vital component of U.S. economic strength in the global market, and consideration of the reauthorization of the Magnuson Act is important in these efforts.

We are reviewing the reauthorization of the Magnuson Act at a time when, as Ms. Mathews points out, many of the stocks in our Nation's waters have become severely depleted. The difficulty in addressing regional differences within a broader legislative framework is a challenge for the Magnuson Act reauthorization and also for international agreements. The transboundary nature of many species of fish—across national and state borders—demands a management strategy that balances international and national standards with strong domestic and regional fishery regimes. The Senate Commerce Committee will continue its efforts in this regard.

I ask unanimous consent that the editorial by Jessica Mathews appear in the RECORD immediately following my remarks.

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

TODAY'S CATCH—AND TOMORROW'S

(By Jessica Mathews)

Next week another round of U.N. talks begins that will try to resolve a genuine global environmental crisis. There is no danger of crying wolf on this one. The negotiations are not hobbled by scientific uncertainty nor polarized by a North-South divide. The risk is not abstract or diffuse or distant from human need. None of these handicaps, which can make environmental agreements so difficult, obtains. The only bars to action are short-sightedness and greed.

The crisis is the drastic overuse of ocean fisheries. Thirteen of the 17 major global fisheries are depleted or in serious decline. The other four are overexploited or fully exploited. Every one, in other words, has reached or far exceeded its sustainable yield. The global catch has been declining since 1989. Long before that, rising tonnages masked a shift from valuable species, such as flounder, haddock and swordfish, to much less edible ones, such as spiny dogfish, skate and shark—all that was left.

This is not just a tragedy of the global commons. Individual countries have managed no better. Since the United States took control of its 200-mile offshore zone, it has presided over a government-subsidized orgy of overfishing that has decimated species after species. Despite ever-greater effort—bigger boats, sonar, more days at sea—the catch of nine of the 12 Atlantic groundfish stocks has collapsed. The take of such species as cod, haddock and flounder is down by 70 percent to 85 percent. Clam and oyster catches are down by half. Pacific salmon are nearing commercial or biological extinction. In the Gulf of Mexico it is the same story.

Here is one measure of how fast this devastation has occurred. In 1979, in the frenzy of the second oil crisis, the government wanted to drill for oil on Georges Bank, a biologically rich shoal in the Atlantic. Georges Bank then had more fish per square meter than any place in the world, and was bringing in more than $1 billion per year. It served also as the spawning ground for dozens of species fished there and elsewhere. All of this was to be put at risk for an estimated amount of oil equal to less than five hours per year of U.S. energy needs for 20 years.

The irony is that though there proved to be no oil, Georges Bank was nearly destroyed anyway—by blind mismanagement. After 350 years of continuous fishing, the area was stripped bare in a decade. Today, much of it is closed to fishing.

There is still time to save global fish stocks, but little to waste. Though the resource is stretched to or beyond its limits, world population marches steadily upwarded by 1.75 percent per year. By 2035 it will have doubled. Already, 800 million people are mal-

nourished. Preserving the source of one-sixth of the world's animal-protein supply is a dire necessity.

The only hope lies in creating a strong international regime to manage the fisheries. This, not another toothless declaration, must be the goal of the U.N. talks. The agreement should set minimum global standards to be met or exceeded by regional pacts.

Countries must be required to participate—their participation to include the collection of vital data on their ships—or forfeit fishing rights. Catch standards should consider the whole marine ecosystem, because present fishing methods devastate birds, marine mammals and non-target fish as well as edible stocks. Recovery plans that create temporary or permanent unemployment in the fishing industry will sometimes be the only alternative to permanent loss of the resource.

If this seems ambitious, it is no more than what interdependence means in practice.

Fish move. The 200-mile boundary that separates national zones from the open seas is meaningless underwater. All countries need the fish; those operate a few miles from shore and "distant water" nations that send their fleets around the world. Finger-pointing between the two groups over who has done most damage to a particular stock—the principal pastime at the U.N. talks so far—serves only to deepen the crisis and make the choices in an eventual recovery harsher.

To date, the United States has offered no leadership. Ambivalence about whether to give priority to fishing interests or conservation has shown up in the low level of representation at the talks, the absence of a clear strategy and the opposition to a binding global agreement. The view is that U.S. interests would be best served by preserving the freedom to use America's muscle in regional agreements.

This is like saying that U.S. interests would be served by a world of regional trade agreements in place of a global regime: NAFTA with no GATT. In those terms the error is obvious. With a global agreement, regional pacts provide added benefits. Without one they can be a menace, encouraging a beggar thy neighbor's region approach.

Most environmental concerns pose a sterner test than a global fisheries agreement. They require a grasp of the sometimes subtle bearing on human welfare and a concern for the future. In this case, the former is obvious and the latter unnecessary. This is no long-term challenge. It is here and now.

THE APPARENT ASSASSINATION OF LUIS DONALDO COLOSIO

Mr. CHAFEE. Mr. President, the world was shaken and shocked in the past 24 hours to hear first of the shooting, and then of the death, of Luis Donaldo Colosio, the Mexican Presidential candidate for the Institutional Revolutionary Party. Although little is known of the incident at this point, it appears that Mr. Colosio was assassinated.

I met Mr. Colosio, then Secretary of Social Development, in February of 1993, during a brief trip I made to Mexico, prior to Senate consideration of the North American Free-Trade Agreement [NAFTA].

I found Mr. Colosio to be a most impressive individual: personable, dynamic, and clearly committed to making those changes and advances he believed would improve the situation of Mexico and its citizens.

Mexico is a country struggling to improve both the short- and long-term well-being of its populace, and create the foundation for a prosperous and stable future. In the past few years, the people of Mexico have taken some remarkable steps: The unprecedented opening of the Mexican economy and the Nation's successful bid to join the GATT; the very public, lengthy fight to win United States approval of the NAFTA and thereby create a partnership designed to lead to developed nation status. Mexico has also faced some extraordinary challenges: the recent armed peasant uprising in Chiapas and the reverberations both political and economic—that followed; and now this—the assassination of the nation's leading political candidate.

The Mexican people have been through a great deal, and shown great national courage and fortitude. But the assassination of Mr. Colosio comes as a terrible blow to Mexican citizens, regardless of party affiliation. Indeed, in the wake of Mr. Colosio's death, the country understandably appears to be in shock. President Salinas has urged calm; and so far, that calm seems to be holding.

I wish to convey to the Mexican people, and the Colosio family, my condolences for the loss they have suffered. We in this country understand this pain all too well. At a time like this, the future may seem uncertain, but I have faith that the Mexicans will emerge from this terrible tragedy, and emerge even stronger than they are now.

TRIBUTE TO THE LEGENDARY DANNY BARKER

Mr. JOHNSTON. Mr. President, on Sunday, March 13 New Orleans lost one of our most beloved, respected and well known jazz greats, Mr. Danny Barker. A member of one of New Orleans' famous musical families, the Barbarin Family, Danny Barker began his career playing music in a street band called the Boozan Kings, but soon rose to play with other New Orleans legends in New York including Jelly Roll Morton, Louis Armstrong, and Sidney Bechet, to mention just a few.

A musician, an historian, and an entertainer Danny Barker also was a songwriter. Who could ever forget the tune and words of "Save the Bones for Henry Jones" which was recorded by Nat King Cole and Johnny Mercer? It was as back up to his beloved wife, Blue Lu Barker, a great jazz singer, that some of his most classic work was recorded.

Like many of New Orleans renowned musicians, Danny Barker returned to the home he loved in the 1960's. In the 1970's he founded the Fairview Baptist Church Brass Band, which was the training ground for some of the most outstanding classical jazz musicians we have today in the Crescent City: Lucian Barbarin, Greg Stafford, Leroy Jones and Michael White all participated in this tremendous gift Danny Barker gave back to the City from which he came.

I met Danny Barker when I chaired a hearing in New Orleans on a very hot Friday July afternoon on a bill I had introduced directing the Secretary of the Interior to conduct a feasibility study on establishing a new unit of the national park system to preserve, commemorate and interpret the origin, development and progression of jazz in New Orleans. Part of our concept was to look at educational programs for kids in New Orleans, and we invited Mr. Barker to testify. He agreed without a moment's hesitation to make time to come down to the Theater for the Performing Arts and be the lead witness on one of our panels.

Danny Barker's words were heartfelt and straight-forward. He told us that he prayed that our project would go forward, because he was so concerned about so many kids sitting around doing nothing. I well remember what he said: "You give a kid a horn, he becomes identified in the neighborhood as something special. And that is what youngsters look for. To be identified with something. All of them cannot be 7-foot basketball players * * * You should not leave youngsters laying around doing nothing, because they are inventive, one way or another, and it is a bad influence. It is about time something is done about it."

Danny Barker did "something about it." Over 125 kids went through his program; 20 or 30 of them are still playing music in New Orleans today. I think he may have been proudest of this effort, and he had much to be proud of in his life.

All of us will miss Danny Barker, but part of him will remain with us through the many contributions he made to our City and to the world of music.

Mr. President, I ask unanimous consent that an article from the Wall Street Journal and two articles from the New Orleans Times Picayune about this great, generous and very modest man be printed in full at the end of my remarks.

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

[From the Wall Street Journal, Mar. 23, 1994]

JAZZ PURIST GETS HIS SOLEMN SEND-OFF

(By Roxane Orgill)

Danny Barker made it clear before he died: No jazz funeral, please. The man who played guitar with everybody from Bunk Jounson to Cab Calloway and then came home to mount a one-man crusade to preserve traditional New Orleans jazz didn't like the way funeral

parades had deteriorated. The bands played rhythm and blues now instead of slow hymns and dirges on the way to the cemetery. Second liners danced in a cloud of reefer smoke, and youngsters jumped on the roofs of cars, even the hearse. The jazz funeral had become just another rowdy party in a party town. No way was Barker, who died on March 13 at age 85, going out like that.

But his wishes put his musician friends in a pickle. How could they not give Danny Barker a jazz funeral? Even nonmusicians are entitled to a funeral parade complete with a seven- or eight-piece band and grand marshal. How could they let the man who wrote the song "Save the Bones for Henry Jones," made many recordings with his wife, singer Blue Lu, and got elected to the Jazz Hall of Fame go to his grave without a peep?

So of course Barker got a jazz funeral, a great big, beautiful, noisy funeral with a band of 40 musicians or more, six grand marshals and a second line numbering in the many hundreds. Not as grand as the great clarinetist Alphonse Picou's funeral, which drew 10,000 people in 1961, but close. More to the point, it was a traditional jazz funeral, or as near to one as organizer Gregg Stafford, a 40-year-old trumpet player in Barker's band, the Jazz Hounds, could make it, given such modern-day hindrances as freeways and Reeboks.

Jazz funerals date back at least as far as 1819, when architect Benjamin Henry Latrobe noted that funeral parades were "peculiar to New Orleans alone among all American cities." Also peculiar to the "city of pleasure" was a mania for brass instruments. Every social club and benevolent society had its brass band. For a funeral, the practice was to assemble at the club in the morning and parade to the church, delivering a steady stream of dirges and slow marches along the way. After the ceremony the band escorted the body to the cemetery, again playing slow, mournful music. There is some dispute as to whether the musicians entered the cemetery or stayed respectfully outside. In any case, after the burial, they burst into spirited marches and popular songs, to represent the joy of everlasting life, and paraded back to the club. The whole affair might last nine hours, most of which were spent in motion, making music.

Times change. Freeways dissect the city now, and not even the determined Stafford could persuade band members to trek out to St. Raymond Catholic Church, three miles from the town center. So they assembled three blocks from the church, paraded to the gates, and after the service, drove to a point seven blocks from St. Louis Cemetery No. 2 for the final cortege.

The musicians gathered with vigorous handshakes all around, even though most had seen each other only minutes before at the service. The grand marshals adjusted the sashes across their chests bearing the names of their bands (Olympia, Tuxedo) or clubs (Money Wasters), and the paper doves perched on their shoulders, representing the flight to the hereafter. At the first drumroll, adults and children appeared from who knows where to dance alongside, forming the so-called "second line" that was no line at all but a throbbing mass. The marshals led with a halting sideways two-step. One of them waved a picture of Barker.

The colorful scene was not lost on the throng of photographers, shooting excitedly away, but the music!—the music was the thing. Trumpets, trombones and saxophones locked in harmonic and melodic step formed a thick block of sound, from which countermelodies on a clarinet or soprano sax spiraled up like cigarette smoke. "In the Sweet By and By." "Lord, Lord, Lord," "What a Friend We Have in Jesus"; second liners sang along. One could see their open mouths and ecstatic eyes but their voices were all but lost in the mournful march of bass drum and blasts of tuba.

The music is difficult. It calls for musicians to improvise not as soloists, as they would in later jazz (Louis Armstrong was the first to play solos, in the 1920s), but as a unit. The individual is encouraged to express himself freely but must not lose step with his fellow musicians and with the tune. No wonder that most brass bands today prefer the easier route of rhythm and blues, in which improvisation is minimal and melody comes mostly in riffs—rhythmic snips of music, played over and over.

They normally play in jeans, T-shirts and sandals, too, which would never do for the funeral of Danny Barker, grandson of Isidore Barbarin, a member of the mighty Onward Brass Band in its prime. Stafford insisted on the standard uniform: black jacket, tie, trousers and shined shoes; clean, pressed white shirt; special black cap with a band's name emblazoned across the front. The shined shoes were especially important. Clarinetist Michael White, who is 39, remembers gazing in awe at the senior musicians' "shoes that shone like glass."

White came up through the Fairview Baptist Church bands, which Barker founded in a hugely successful attempt to jump-start the brass band in the '70s. He is dedicated to carrying the torch for traditional jazz, and he is worried. "The tradition is in a lot of trouble, because of commercialization and people dying like this," he says.

Catching his breath at parade's end, Stafford, also a Fairview band alumnus, said he was "95% pleased with his attempt to deliver an authentic jazz funeral. Included in the 5%, one can assume, were the single pair of black Reeboks and the brief episode of rhythm and blues. That came near the end, after many, many hymns, minutes before the band marched single file into Trombone Shorty's for liquid refreshment. A short while later, a few of the musicians could be seen marching up the street to a rocking R&B beat, surrounded by second liners like a swarm of bees.

[From the Times-Picayune Publishing Co., Mar. 14, 1994]

LEGENDARY JAZZ MAN DANNY BARKER DIES

(By Scott Aiges)

Danny Barker, a musician, historian and humorist who played with many of the seminal figures of jazz and left a lasting legacy on New Orleans music died Sunday of cancer at his home. He was 85.

Barker rose from playing music on New Orleans streets in a makeshift "spasm" band called the Boozan Kings to a distinguished career playing with a who's who of jazz: Jelly Roll Morton, Louis Armstrong, Cab Calloway, Sidney Bechet, James P. Johnson, Charlie Parker, Dizzy Gillespie and Dexter Gordon.

He was fond of saying that since he had begun playing music for tips as a teen-ager, "I was never an amateur."

At 20, he followed his uncle, bandleader Paul Barbarin, to New York. He remained there as a journeyman musician for 35 years.

It was in New York that Barker began a decade-long association with Morton, a fellow New Orleans expatriate who is considered the first great Jazz composer.

Morton "never called me nothing but Hometown as long as I known him," Barker once said. He knew my name, but he called me Hometown. He felt a feeling for me, "cause I was a little catfish in a sea of sharks."

Barker considered himself an entertainer more than a stellar musician. His strength was making an audience smile with innuendo-laced songs while strumming a guitar or a six-string banjo. But it was backing up his wife of 64 years, singer Blue Lu Barker, that Barker achieved some of his greatest renown in the late 1930s. Their recordings were too risque to become hits, but they remain classics.

Barker's songwriting talents were such that some stars of the day, including Nat "King" Cole and Johnny Mercer, recorded his "Save the Bones For Henry Jones."

Barker was self-deprecating about his own abilities compared with the flashy young guitarists who came after him. But he also was proud of his wide knowledge of popular song and solidity as a rhythm section accompanist.

He could play "extremely subtly on the guitar," jazz historian Richard B. Allen said. "In an apartment or a home he could show you some of the soft things. Danny could play those sweet love songs from the '20s and '30s—play these beautiful harmonics that you just don't get in a nightclub atomoshere. It's a shame that was never captured on a recording."

In the 1940s, Barker was a featured artist on the nationally broadcast "This Is Jazz" radio program. His performances helped to rekindle interest in traditional jazz after the music had gone out of style.

After returning to New Orleans, Barker made perhaps his greatest contribution to jazz: He helped revive the dying brass band tradition by starting the Fairview Baptist Church Brass Band in the 1970s.

Through its ranks passed many of the players who today are the most outspoken advocates for the traditional New Orleans sound, including Lucian Barbarin, Greg Stafford, Leroy Jones and Michael White.

Yet he accepted changes in the music easily.

"Nobody wants to do what their grandparents did," Barker said in 1993. "You can't expect youngsters to play 'Didn't He Ramble' and so on."

To Barker, as long as there are brass bands in which young people can learn to play, jazz will take care of itself.

"I wouldn't fret the least bit about this music dying out," he said. "People love a parade. There's always going to be 'When the Saints Go Marching In.'"

A quintessential jazz man, Barker had a strut in his step, and hepcat expressions such as "You dig?" and "monkeyshine" peppered his speech long after they fell from common use.

He often stood up for common people, pointing out that jazz developed as a pressure valve for African-Americans who "caught hell the rest of their lives."

In recent years, Barker was a familiar sight around New Orleans. He played at private events and he could be heard weekly at the Palm Court Jazz Cafe in the French Quarter until illness curtailed his activities in January. His last performance was at Preservation Hall on New Year's Eve.

Barker made guest appearances on several albums, including a Jelly Roll Morton tribute by the Dirty Dozen Brass Band. In 1993, Barker capped his recording career with "Save the Bones," a collection of solo performances released on Orleans Records.

In 1991, he was named a Master of Jazz by the National Endowment for the Arts. Two

years later, he was inducted into the American Jazz Hall of Fame.

He wrote an autobiography, "A Life In Jazz," and a study of New Orleans music, "Bourbon Street Black."

As a historian, Barker "had a real knack for capturing the flavor of music and musicians and the people around it," said Allen, the dean of New Orleans jazz scholars. "When he's in top form, he's my favorite writer for writing about jazz."

Barker is survived by his wife; their daughter, Sylvia Barker; and a grandson.

Funeral arrangements are incomplete.

Musician, historian and humorist Danny Baker, who died Sunday, played with the who's who of jazz from its beginnings to today.

Danny Barker: A Jazz Great's Legacy (By John McCusker, Staff photographer)

"Danny's dead," my friend said sadly over the phone Sunday. Though awakened from a late afternoon nap, I knew exactly what she was talking about. The man with the pencil-thin moustache and river-wide sense of humor was gone.

Danny Barker, the beloved musician who to many WAS New Orleans jazz, will not soon be forgotten. His was a life that touched so many others that it is truly impossible to make an accounting of his legacy.

I know this because I knew Danny. I am calling him Danny now, but I never called him that to his face. It was always Mr. Barker.

Part of that was my Algiers upbringing; you always called someone older "mister." But in his case, it was strictly a sign of respect. "Mr. Barker" deserved that.

I have no special claim to Danny's memory. I knew him only 17 months. Still, I find it impossible to imagine a world without him.

We met in 1992. I called him up out of the blue to see if he would help me "learn about jazz" for a story I was working on. "Can you come over this afternoon?" he asked without skipping a beat.

That was Danny. If the subject was jazz, he was always willing to tell you what's what.

Danny's career started when he was a child playing the streets of the city with his kid's band, the "Boozan Kings." He left New Orleans in 1929 and found fame in New York.

Over the next three decades, he played with about every major name in jazz including Jelly Roll Morton, Billie Holiday and Louis Armstrong. He achieved success any musician would envy. But, to me, this was not his greatness.

The most remarkable phase of Danny's life took place after his years of fame in New York when he moved back to New Orleans in the '60s. Seeing the musical traditions of the city fading, he started a one-man crusade to preserve them.

He founded the Fairview Baptist Church Brass Band in his neighborhood and taught young musicians the musical heritage of the city. He wrote books, gave lectures and entertained practically any request for an interview, all in the name of keeping the jazz tradition alive.

The fruit of Danny's preservation efforts will, ironically, be evident in his funeral procession on Thursday. His casket will be escorted by a black-hatted brass band playing a funeral dirge; a band, no doubt, featuring some of Danny's prodigies. There too, will be the multitude of others who, like myself, feel indebted to this very special man.

So when I grieve for Danny, it will not be for the man who played guitar for Cab Calloway or wrote "Save the Bones for Henry Jones." I will grieve for the elderly, yet energetic stranger who invited me into his modest Sere Street home and taught me about jazz.

Thanks for the lesson, Mr. Barker. I will miss you.

SENATE COMMERCE COMMITTEE BUDGET VIEWS AND ESTIMATES

Mr. HOLLINGS. Mr. President, during the consideration of the fiscal year 1995 budget resolution, I submitted to the Senate Budget Committee a letter containing the Senate Commerce Committee Views and Estimates for fiscal year 1995 and beyond. I ask unanimous consent that these views and estimates be printed in full in the RECORD following my remarks.

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

U.S. SENATE,
Washington, DC, March 22, 1994.

Hon. JAMES SASSER,
Chairman,
Hon. PETE V. DOMENICI,
Ranking Republican,
Washington, DC.

DEAR JIM AND PETE: This letter comprises the views and estimates report of the Committee on Commerce, Science and Transportation on the President's Fiscal Year (FY) 1995 budget proposal and economic package.

The Committee will address several areas of concern during the 103d Congress. The budget for FY 1995 and beyond for agencies handling these issues will be scrutinized carefully to ensure adequate resources for implementing Committee initiatives and policies. The following is a discussion of major issues of interest, which are reviewed in the context of what the Committee understands to be the President's budget for FY 1995 and beyond.

AVIATION

The Committee believes that operations and programs of the Federal Aviation Administration (FAA) must be funded at levels to ensure the continued safe operation of the national airspace. All of the FAA programs, except for a portion of the Operating account, are funded by fees collected from the travelling public, and deposited in the Airport and Airway Trust Fund.

The FY 1995 President's budget is intended to promote the following objectives: safety; competitiveness through increased investment in aviation infrastructure; and the reinventing of government through streamlining and reducing overhead. In this regard, the Committee intends to exercise oversight to assure that FAA safety functions are not affected adversely by attempted efficiencies.

A stated aviation policy goal in the President's budget is the corporatization of the air traffic control system. The Committee notes that there is significant concern that a separation of air traffic control responsibilities from the rest of the FAA will not improve efficiency or address existing problems with the management of the FAA, and may even adversely affect safety.

With respect to the Facilities and Equipment, or capital, account, the President's request of $2.269 billion is less than the authorized level of $2.9 billion. Under this account, the Committee is concerned about the reportedly large cost overruns in the Advanced Automation System (AAS) Program, and awaits with interest the outcome of the FAA Administrator's review of this situation. The Committee will scrutinize future plans and estimates for the AAS to ensure that the program can be carried out within agreed upon funding levels. Other areas of system modernization and improvement, such as work on the Global Positioning System, must be continued, and funding must be adequate for these areas.

The Airport Improvement Program level under the President's budget is $1.69 billion. This amount is considerably lower than the $2.2 billion that the Committee believes is necessary to continue funding for necessary capacity and safety projects, as well as to assure continuation of funding for existing Letters of Intent, which are long-term planning documents for airports.

The President's request for the Operations account is $4.58 billion, which is virtually the same level as last year's appropriated amount. Salaries of controllers, safety inspectors, security personnel, and all support functions are paid from this amount, and thus the Committee believes that this level is the minimum needed to assure that the vital safety functions and activities of the FAA are covered.

The President's request with respect to Research and Development is almost $30 million below the existing authorization of $297 million. Research is a critical aspect of the mission of the FAA. The United States must continue its efforts to lead the world in development and testing of new technology in air transportation, human factors, airport capacity and aviation medicine.

With respect to aviation expenditures, the Committee is concerned that the surplus in the Airport and Airway Trust Fund is projected at $4.6 billion at the end of FY 1994, and $4.5 billion at the end of FY 1995. The Committee continues to believe that Trust Fund monies should be spent for their intended purposes, and surpluses should not be allowed to build up while capital needs go unmet.

COMMUNICATIONS

The Committee will continue its oversight of the various sectors of the communications industry, the Federal Communications Commission (FCC), the National Telecommunications and Information Administration (NTIA), and the Corporation for Public Broadcasting (CPB) and will be considering reauthorizations of these programs. The President has submitted budget proposals for these programs for FY 1995.

The President has proposed funding for the Federal Communications Commission (FCC) in FY 1995 in the amount of $72.4 million. This is a decrease of $27.5 million over the amount appropriated in FY 1994. The decrease is due in large part to the increase in FCC fees authorized last year in the Budget Reconciliation Act of 1993. The Office of Management and Budget projects that the FCC will raise approximately $95 million in new fees for FY 1995, bringing the FCC's total budget authority to $167.4 million in FY 1995. The Committee will be considering the reauthorization of the FCC for FY 1995 later this year.

The President's FY 1995 budget proposes to increase the overall funding for NTIA from $71 million to $134 million. This amount would include an increase in funding for the National Information Infrastructure (NII) grant program from $26 million to $100 million. The committee understands that this program will fund demonstration projects to enhance the communications capabilities of schools, hospitals, public safety, libraries,

and other similar groups. The Committee will consider authorizing the NII grant program at the levels requested by the President in FY 1995 at $100 million and in FY 1996 at $150 million—levels which are included in S. 1883, the NTIA authorization bill recently introduced.

The President has proposed $11 million for the Public Telecommunications Facilities Program (PTFP) in FY 1995. Despite recommendations by the Bush and Reagan Administrations to terminate the funding for PTFP, Congress has continued to fund the program. PTFP was appropriated $24 million in FY 1994. The Committee is considering reauthorization of the PTFP program as part of the NTIA authorization bill, S. 1883, in both FY 1995 and 1996 in the amount of $42 million (the same amount authorized in FY 1992, 1993, and 1994).

The President's FY 1995 budget includes $1 million in funding for the National Endowment of Children's Educational Television (NECET). It does not include funding for the Pan-Pacific Educational and Cultural Experiments by Satellite (PEACESAT) program. Both the NECET and PEACESAT are administered by NTIA, and S. 1883 includes authorizations for NECET at $6 million for each of FY 1995 and 1996 and PEACESAT at $1.5 million for FY 1995.

In addition, the Committee anticipates considering reauthorization of the CPB for FY 1997, and 1998 and 1999. The President has proposed $293 million for CPB in FY 1995, which is the same amount already authorized.

OCEANS AND MERCHANT MARINE

Coast Guard

During the past several years, the Coast Guard has demonstrated the capability to undertake a number of diverse and important missions across the United States. Adequate funding will be necessary if it is to continue to fulfill these national responsibilities. The Committee will be considering reauthorization of the Coast Guard for FY 1995 this year and estimates that the Coast Guard will require $3,875 million in spending authority for FY 1995 to maintain current services and implement Administration proposals.

With respect to the Coast Guard's Operating Expenses (OE) account, $2,592 million in spending authority was appropriated in FY 1994. This OE budget emphasized funding for the Coast Guard's marine safety and drug and migrant interdiction efforts, while maintaining the Coast Guard's strong commitment to marine environmental protection, national security, fishery law enforcement, and search and rescue. Such activities must be continued in FY 1995, requiring increased spending authority of $59 million after adjustment for inflation and Government-wide administrative and personnel reductions. Of the total funding level for operating expenses, $33 million can be transferred from the Boat Safety account, and $25 million can be transferred from the Oil Spill Liability Trust Fund to the OE account. Thus, the Committee recommends new budget authority of $2,651 million for the Coast Guard's OE account in FY 1995.

The Coast Guard's Acquisition, Construction,and Improvements (AC&I) account will require a significant increase in funding from the FY 1994 level. The CBO baseline based on current spending levels is $316 million for FY 1995. The baseline does not include $33 million to be transferred from the Oil Spill Liability Trust Fund. In addition, an increase of $60 million will be needed to fund three essential new replacement projects for motor lifeboats, buoy boats, and coastal patrol boats to maintain the Coast Guard's operational capabilities. In addition, $32 million will be required to continue implementation of a new vessel traffic system for busy ports and harbors to reduce maritime accidents and the threat of hazardous materials and oil spills. Increases also will be necessary to continue replacement of seagoing and coastal buoy tenders, many of which are over fifty years old. The Committee supports these acquisitions and recommends new budget authority of $439 million for Coast Guard's AC&I account for capital improvement of the Coast Guard's vessel, aircraft, shore facilities, information management resources, and aids-to-navigation.

In other Coast Guard accounts, the Committee supports adequate funding to continue existing programs at current levels, including: $65 million for reserve training; $25 million for environmental compliance and restoration; $40 million for boat safety; $13 million for bridges; and $563 million for retired pay. Such funding levels are consistent with the President's budget request, with the exception of the boat safety and bridge accounts, and, in large part, with the CBO baselines.

Oceans and Atmosphere

The Committee remains committed to the advancement of the atmospheric, oceanic, and fisheries programs of the National Oceanic and Atmospheric Administration's (NOAA). For FY 1995, the Administration budget request has focused on three priorities for strengthening agency program and infrastructure: (1) advancing short-term warnings and forecasts; (2) providing stewardship of natural and living marine resources; and (3) advancing interagency programs such as the U.S. Global Change Research Program and high performance computing and communications.

The Committee will be considering the reauthorization of various NOAA programs and in general supports continuation of NOAA's current activities, which CBO estimates will require spending authority of $1,929 million to cover base operations, construction, and ongoing procurements at FY 1994 service levels. In addition, an increase of $80 million may be required to address activities which the Committee views as priorities, including modernization of NOAA's oceanographic fleet, environmental facility compliance, and environmental data management. In total, the Committee recommends new budget authority of $2,009 million for NOAA in FY 1994.

Maritime Administration

This year the Committee will continue its examination of the state of the maritime industry and in this regard will continue its oversight of the activities of the Maritime Administration (MarAd) within the Department of Transportation (DOT). MarAd's activities are essential to the maintenance of a strong U.S. Merchant Marine and the national defense of the United States.

The President's FY 1995 budget proposal for MarAd requests appropriations of $381 million for FY 1995, a 10-percent decrease from FY 1994. The total appropriation for MarAd for FY 1994 was $424 million.

The Administration's FY 1995 budget for MarAd includes: $77 million for operations and training, an increase of $0.6 million over the FY 1994 appropriation for this account (including funding for the merchant marine academies); $250 million for the Ready Reserve Force, $48 million below its FY 1994 appropriation; $50 million for title XI loan guarantees; and $214.4 million for operating differential subsidy (ODS) obligations. (These amounts do not included the cost of the ocean freight differential, for which there is a permanent, indefinite appropriation to cover additional shipping costs for government-impelled preference cargoes. The expected amount of this differential in FY 1995 is $60.6 million.)

The Committee takes note of the President's FY 1995 budget proposal of $50 million in funding for title XI loan guarantees. The Credit Reform Act of 1990 requires that the cost of any new loan guarantees under this program is to be appropriated. Appropriations of $50 million would support $500 million in loan guarantees.

In addition, the President's FY 1995 budget proposal requests $1 billion in budget authority for direct spending for maritime reform legislation, with offsets for that spending to be obtained through increasing existing tonnage duties. This proposed program, known as the Maritime Security Fleet Program, would provide for annual outlays of approximately $100 million over 10 years. Last session, the House of Representatives approved H.R. 2151, the Maritime Security and Competitiveness Act of 1993. H.R. 2151 authorizes $1.2 billion for a new maritime program, which is $200 million more than the President's request and would provide for annual outlays of $120 million over 10 years. The Administration's legislative proposal to implement the Maritime Security Fleet Program has been introduced by request as S. 1945. The Committee will continue to examine carefully the adoption of maritime reform legislation this year.

SCIENCE, TECHNOLOGY, AND SPACE

Technology Programs and High-Performance Computing

Overview: S. 4/H.R. 820. On March 16, 1994, the Senate approved H.R. 820, as amended by the Senate-passed text of S. 4, the National Competitiveness Act. This bill: (1) reauthorizes and strengthens the technology and manufacturing assistance programs of the Technology Administration of the Department of Commerce (DOC), especially the programs of its National Institute of Standards and Technology (NIST); and (2) authorizes agencies participating in the existing High-Performance Computing and Communications Initiative to work with computer users and vendors to develop new applications of advanced computing. As passed by the Senate, the legislation authorizes a total of $1.9 billion for FY 1995 and 1996 for these programs.

DOC's Technology Administration. DOC's Technology Administration contains four key technology agencies—the Office of the Under Secretary for Technology, the Office of Technology Policy, the National Technical Information Service (NTIS), and NIST.

NIST is the largest of these four agencies. The Technology Competitiveness Act (sections 5101–5164 of the Omnibus Trade and Competitiveness Act of 1988, P.L. 100–418) upgraded DOC's National Bureau of Standards into NIST and gave the agency new authorities to help U.S. industry to speed the commercialization of new products and improve manufacturing. Under the 1988 Act, NIST assists industry in three ways: (1) continued in-house research and technical services, which provide industry with precise measurements, quality assurance techniques, and new process technologies; (2) the services of the Manufacturing Extension Partnership, including Manufacturing Technology Centers and the State Technology Extension

Program; and (3) the Advanced Technology Program (ATP), which provides seed money, on a matching basis, to industrial consortia and individual companies to help to develop new precompetitive, generic technologies.

NIST is the government's principal agency for helping American industry to develop and use the new basic technologies necessary to spur economic growth, create new industries, and help firms to create and retain jobs. In an era when U.S. leadership in commercial technology is eroding, when many jobs are at risk, and when major trading partners spend a far higher percentage of their gross national products on commercially-related research, these programs are important to the future prosperity and security of the Nation.

The President's budget proposal includes an expansion of NIST programs in FY 1995 and beyond. A 1993 presidential document entitled "A Vision of Change for America" states: "the Federal Government has an important role to play in promoting economic growth, in part by supporting research and development. This proposal provides aggressive growth for the National Institute of Standards and Technology (NIST). NIST is the only Federal laboratory with the principal mission of supporting U.S. industry and has provided a steady stream of technology support to U.S. firms for over 90 years." The President proposes during FY 1995 to increase the Technology Administration (including NIST) by $439 million above the FY 1994 level of $526 million. H.R. 820 as amended by the Senate reflects this approach.

Applications of High-Performance Computing. In November 1991, Congress passed the High-Performance Computing Act (P.L. 102-194), which created a multi-agency computing initiative. The purpose of the program is to help to develop advanced computers and computer networks and make them available to the U.S. research and educational community. The program is coordinated through the White House Office of Science and Technology Policy (OSTP), which the Commerce Committee oversees. The Administration strongly supports the program and proposes funding increases for high-performance computing for FY 1995 and outyears.

Title VI of H.R. 820 as amended by the Senate would add a new element to the existing Federal computer initiative. While the current program focuses on computing for the U.S. scientific community, H.R. 840 as amended authorizes an information technology applications research program under which these Federal agencies also will work with computer users and vendors to develop applications of high-performance computing in important areas in addition to science—particularly education, health care, manufacturing, and information dissemination.

National Science Foundation

This year, Congress will consider a new authorization bill for the National Science Foundation (NSF) as well as the President's budget proposals to expand funding for NSF programs. The President has requested an FY 1995 budget of $3.2 billion, an increase of $182 million over the FY 1994 level. A presidential statement on NSF lays out of the rationale for an increase: "Studies show that investments in research and development (R&D) tend to be the strongest and most consistent positive influence on productivity growth. Most of NSF's investments are in university-based R&D programs which * * * contribute to the Nation's productivity by generating new scientific and engineering knowledge and contribute to the training of the next generation of scientists and engineers." In the past, the Committee has approved legislation supporting NSF's programs.

The Committee shares jurisdiction with the Committee on Labor and Human Resources over six of NSF's seven budget accounts—reaserch and related activities, academic research infrastructure, major research equipment, salaries and expenses, NSF headquarters relocation, and the Office of the Inspector General. The agency's seventh account, education and human resources, remains under the sole jurisdiction of the Labor Committee. Therefore, the views and estimates regarding NSF that are submitted by the Commerce Committee address all of the agency's accounts except education and human resources.

National Aeronautics and Space Administration

The President has requested $14.3 billion in FY 1995 for the National Aeronautics and Space Administration (NASA), a $250 million decrease from the FY 1994 appropriation. The Committee notes that, while the President's budget request for FY 1995 reduces the level of funding for NASA, it does not cancel any major programs. The Committee will be considering a NASA authorization bill for FY 1995.

Funding for NASA is needed to support a variety of aeronautical and space research and development programs, the construction and maintenance of aerospace facilities, and a civil service work force. The space station was redesigned last year by NASA with a view toward lowering its costs. With a reduced budget request, however, the space station will continue to command a large percentage of the NASA budget in FY 1995. In the FY 1995 budget request, the space shuttle operations funding continues to decrease, to reflect efficiencies in the program. The FY 1995 budget proposes a substantial increase to the Mission to Planet Earth program. A substantial decrease in funding is proposed in the President's FY 1995 budget for aeronautics research and technology for FY 1995.

The Committee will be reviewing carefully the funding allocations for individual programs in NASA's authorization bill. In establishing funding priorities for NASA for FY 1995, it is important to highlight funding initiatives proposed by the President to enhance the competitiveness of U.S. industry such as the High Speed Civil Transport, Advanced Subsonics, and the High Performance Computing and Communications program. Also, continued support of NASA's Mission to Planet Earth program is important to increasing information in the earth sciences and maintaining the U.S. commitment to the Global Change Research Program.

SURFACE TRANSPORTATION AND CONSUMER ISSUES

Surface Transportation

The Committee will continue its oversight of the motor carrier, railroad, and pipeline industries with respect to economic and safety issues. In this regard, the Committee this year will be considering legislation to reauthorize the National Railroad Passenger Corporations (Amtrak), the Local Rail Freight Assistance Program (LRFA), the rail safety program, and the Hazardous Materials Transportation Act (HMTA). The Committee also has reported legislation authorizing funding for high-speed rail.

The Committee will consider the reauthorization of the Amtrak for FY 1995 and subsequent years. For FY 1995, the President's budget proposal includes Amtrak's request for $788 million, including capital grants of $252 million and Federal operating grants in the amounts of $536 million. Amtrak recommends that Congress establish a capital fund account to fund Amtrak capital improvements in the future. The President's budget additionally requests $199.6 million for the Northeast Corridor Improvement Program (NECIP) for FY 1995, which is a $25.4 million decrease from the FY 1994 appropriated level.

With regard to LRFA, the President's FY 1995 budget request does not include any funding for this program. The Committee will be reviewing the feasibility of this program, and a bill, S. 1942, has been introduced reauthorizing it.

With respect to rail safety, the President's budget requests $47.7 million for FY 1995, of which approximately $43.5 million is to be collected through an expanded user fee base. This request would include funds for enforcement, automatic track inspection, and safety regulation and program administration.

With respect to other transportation safety programs, the Hazardous Materials Transportation Act of 1993 was reported by the Committee last session. This bill, if enacted, would authorize $13.1 million for FY 1995 to facilitate HMTA's safety agenda and is consistent with the President's budget proposal of $12.99 million.

Regarding high-speed ground transportation, S. 839, the High-Speed Ground Transportation Development Act of 1993, was reported last session by the Committee. The President's budget has requested $32.5 million for FY 1995, to assist in developing high-speed technologies and devising a cohesive national plan for high-speed rail ground transportation, of which $5 million would be funded out of the Highway Trust Fund. The President's budget does not include any funding for magnetic levitation research and development.

National Highway Traffic Safety Administration

The Administration has requested a total budget of $321 million, which is slightly higher than its FY 1994 budget. Of this amount, $77.743 million has been allocated for operations and research, and $196 million for highway traffic safety grants. The remaining $48.092 million will be derived from the Highway Trust fund for additional operations and research programs.

The $77.743 million budgeted for operations and research is close to $2 million less than the amount ($79 million) projected by the Congressional Budget Office (CBO) based on current spending. Programs funded under operations and research include rulemakings, enforcement, and research and analysis. Under the 1991 Intermodal Surface Transportation Act (ISTEA), NHTSA is required to consider or initiate several safety rulemakings. NHTSA's enforcement programs include the implementation of vehicular safety standards, fuel economy requirements, recalls, and the investigation of vehicular defects.

The $196 million for highway safety grants is consistent with CBO's projections based on current spending. NHTSA is required under ISTEA to issue, under its traffic safety grants program, grants to states to encourage the enactment of more stringent alcohol and impaired driving laws, and increases in safety belt and motor vehicle helmet use.

Federal Trade Commission

The Administration has requested a total FY 1995 budget of $96.1 million for the Federal Trade Commission (FTC), which is lower than the amount authorized in S. 1179,

passed by the Senate last session as an amendment to H.R. 2243 and now in conference with the House. Of the amount proposed by the Administration, approximately $33 million (34%) is projected to be obtained from Hart-Scott-Rodino merger filing fees, which represents a significant increase in the percentage of the agency's total budget that is to be obtained from filing fees. (The FTC's FY 1994 operating budget is $88 million, of which $20.820 million (23%) is projected to be obtained from filing fees.) The Administration predicts that there will be an increase in the amount of Hart-Scott-Rodino fees due to an increase from $25,000 to $40,000 per merger filing. The FTC's FY 1995 budget consequently represents a reduction in the amount of the FTC's government funding.

Under its FY 1995 proposed budget, the FTC will be required to make major staff reductions. The Administration has requested the FTC to reduce its full-time employees by 14 during the current fiscal year and by 15 in FY 1995. The employee reductions would affect both the FTC's competition and consumer protection bureaus. Concerns have been raised about these required reductions.

Consumer Product Safety Commission

The Administration has proposed funding for the Consumer Product Safety Commission (CPSC) for FY 1995 at $40.2 million, representing a 5 percent reduction from its FY 1994 appropriation. The agency has indicated that this funding level could affect adversely its ability to carry out fully its product safety programs, and could require it to reduce its work force by approximately 5 percent. The Committee will be considering the reauthorization of the CPSC for FY 1995 this year.

In conclusion, this Committee remains committed to responsible deficit reduction while maintaining adequate funding for those priority programs under its jurisdiction.

With warmest regards, I am

Sincerely,

ERNEST F. HOLLINGS,
Chairman.

SATELLITE COMPULSORY LICENSE EXTENSION ACT OF 1994

Mr. LEAHY. Mr. President, on Thursday, March 3, 1994, I came to the Senate floor to reassure the thousands of families in Vermont and millions of households nationwide that Congress was not about to pull the plug on home satellite dish reception. I return today to mark our progress toward extending the Satellite Home Viewer Act of 1988.

On March 24, the Senate Subcommittee on Patents, Copyrights and Trademarks amended and voted unanimously to report S. 1485 to the Senate Judiciary Committee. This bill now moves on for consideration by the full Judiciary Committee and should be on the Senate calendar before much longer. Four members of the Judiciary Committee are cosponsors and nine members have now voted for the bill.

I commend the leadership of the Chairman of the Subcommittee and the ranking Member, the distinguished senior Senators from Arizona and Utah, respectively. They know full well how important satellite dish reception is to those within their States.

For the rest of our colleagues, I respectfully suggest that areas served by satellite technology are not limited to the mountains of Vermont and our expansive western States. We all have rural areas in our home States. We all have constituents whose television reception is dependent on satellite technology, who cannot receive network broadcast signals due to distance or terrain, and for whom cable is not a viable alternative. Indeed, for purposes of this bill, I submit that we should all be Senators concerned about our rural areas and interested in ensuring that our constituents therein have the opportunities to participate in the widest possible array of news, sports, entertainment, educational and informational programming that can be made available through satellite technology. Direct broadcast satellite service, with its dramatically smaller and more affordable dish, holds great promise to connect all our citizens, even those in the most remote areas, in our modern information age.

I am sure my colleagues have received calls from their constituents who are concerned that the expiration of the current license this year will mean that their satellite dishes will go dark. I am continuing to work to avert that possibility by supporting passage of this necessary legislation to extend the Satellite Home Viewer Act copyright license without further delay. I note that just since my statement on March 3, my friend from Vermont, the distinguished Senator from my neighboring New Hampshire and the senior Senator from Alabama have all joined as cosponsors on the bill. I urge our other colleagues to do the same. Join us to ensure prompt passage of this needed legislation.

The Subcommittee bill contains amendments that improve the legislation initially introduced. While the bill extends the satellite license, as amended, it now contains a sunset provision. It includes the Public Broadcasting System and Fox as network signals, at their behest, and clarifies that Fox affiliates are to be treated as local stations for cable compulsory license purposes. Of importance to many of my constituents is the provision including microwave as "wireless cable" in the cable compulsory license.

One of the principal disputes that had slowed the bill's progress has been removed by compromise language that establishes a more effective mechanism for enforcing the license limitations to so-called "white areas" that do not receive a strong local network affiliate broadcast signal. I commend the representatives of the network affiliates and the satellite industry who worked out this compromise with our encouragement.

While hurdles remain before final passage, I take this opportunity to mark the progress we have made.

RETIREMENT OF JUDGE JOSEPH PHELPS

Mr. HEFLIN. Mr. President, Alabama will lose one of its most distinguished jurists next January when Montgomery Circuit Judge Joseph Phelps steps aside. He has served as a circuit judge in Montgomery County since 1976, and has earned a reputation over the years as being thorough, fair-minded, and tough, all hallmarks of an outstanding jurist.

Judge Phelps was an outstanding leader in Alabama's judicial reform movement in the 1970's. His leadership in securing support for the passage of the Judicial Article and its implementing legislation was significant. He played a pivotal role in the educational effort of getting judges and lawyers, court clerks, registrars, and all court-related personnel to understand the new system. His planning, explanation, and leadership brought about a smooth transition from the old antiquated system to the new one. Alabama will always be indebted to him for his many contributions to a vastly improved judicial system.

I ask unanimous consent that an article summarizing Judge Phelps' life and career appearing in the March 9, 1994 edition of the Montgomery Advertiser be printed in the RECORD following my remarks. I extend my best wishes to Judge Phelps on a happy and healthy retirement, and, as he promises, one that finds him active in the community and in legal circles.

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

[From the Montgomery Advertiser, Mar. 9, 1994]

PHELPS RETIRING AFTER 17 YEARS ON BENCH

(By Matt Smith)

After more than 17 years on the bench here, Montgomery Circuit Judge Joseph Phelps said Tuesday that he will step down at the end of his term in January.

"I think I've concluded that it's time for sort of a change," said the 50-year-old jurist, who has served as a circuit judge in Montgomery County since 1976. "I'm not tired, I'm not going to retire as such. I'm just going to be available, looking for ways to continue to serve our community."

Judge Phelps and his wife, Peggy, have a farm in south Montgomery County, but "I'm not looking to do a lot of playing," he said. "I'm going to continue to work. I don't believe I'd be happy not working."

Judge Phelps announced his retirement in a brief statement "after much thought and prayer."

"He will be missed," Montgomery County Court Administrator Bob Merrill said. Since retired judges are often pressed into service for special dockets, "He may not be gone for long," Mr. Merrill said.

Judge Phelps was appointed as a special circuit judge in 1976, then elected in his own right later that year. During his tenure, he earned a reputation as a tough but fair judge; said Montgomery City Attorney Thomas Tankersley, who spent a year as Judge Phelps' law clerk.

"They all respected him because—good or bad—he would make a fair decision and

make it right down the line," Mr. Tankersley said. "That's what you have to ask from a judge.

"I know he ought to look forward to this," Mr. Tankersley said. "I know he did a great job on the bench and has served the citizens of this county well."

Judge Phelps is known around the courthouse for handing down stiff sentences in cases involving violent crimes, but said he would like to work with plans to develop community corrections programs in the state.

With the increasing caseload state judges face, "We have to be sensitive to alternatives to incarceration for nonviolent offenders," he said.

Violent offenders "need to be dealt with swiftly and surely. But with your nonviolent property offenders, we need to look for ways to deal with them more effectively than we do now."

Other projects he would like to take on include alternative dispute resolution programs and law-related education. He helped found law awareness programs in Montgomery schools and served as dean of the Jones School of Law from 1968 to 1972.

He said the increasing number of cases, both civil and criminal, is the single biggest change he has seen during his three terms in office. "It's changed a lot since we came to the unified court system (in 1976). It's gotten more efficient, more businesslike . . . with a volume that seems to be ever-increasing."

Judge Phelps said he made the announcement Tuesday in order to give candidates considering a run for his seat a chance to qualify. The announcement surprised many in the courthouse, where one regular noted Tuesday that Judge Phelps' planned department could be the first of several openings on the Montgomery County bench;

Circuit Judge Gene Reese is a candidate for a seat on the Alabama Supreme Court, and Circuit Judge Richard Dorrough has announced his candidacy for a seat on the Alabama Court of Civil Appeals.

Circuit Judge Charles Price repeatedly has been mentioned as a possible nominee for a planned federal judgeship.

Two other circuit judges, Randall Thomas and John Davis, and two district judges, Sally Greenshaw and Craig Miller, face reelection this year.

Judicial turnover here would be significant because Montgomery County, as the seat of state government, is where government agencies bring their grievances to court.

A 1958 graduate of the University of Alabama law school, Judge Phelps served as an assistant attorney general from 1958 to 1961, as an assistant city attorney from 1969 to 1973, and as acting dean of the state's judicial college from 1978 to 1979.

GREEK INDEPENDENCE DAY—A CELEBRATION OF AMERICAN AND GREEK DEMOCRACY

Mr. HEFLIN. Mr. President, I am pleased to rise today in recognition of Greek Independence Day, which will be celebrated March 25, 1994. This is a special day set aside to reflect upon not only the liberation of Greece from the Ottoman Empire, but also the unique contributions Greek Americans have made to our culture and democratic political system.

I had the opportunity to visit Athens for the first time the weekend of March 18–20 for the Standing Committee meeting of the North Atlantic Assembly. Being in Greece—even briefly—provides one with a sense of appreciation for the important role this country has played in developing the societies of the United States and all the western world. As Percy Bysshe Sheeley once said, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

March 25 marks the 173d anniversary of the beginning of the revolution which freed the Greeks from the Ottoman Empire. For the past 7 years, the Congress has passed and the President has signed into law a resolution establishing a national day of celebration and remembrance of Greek independence.

The unique experiment in democracy known as the United States of America served as the role model for Greek independence. The American Revolution became one of the models for the Greeks as they fought for their own independence in the 1820's. Greek intellectuals translated the American Declaration of Independence and used it as their own declaration. In this century, Greece is one of only three nations, beyond the former British Empire, to have been allied with the United States in every major international conflict. Over 600,000 Greeks died fighting with the allies during World War II—9 percent of the entire population of Greece at that time.

I am proud to join my colleagues in recognizing Greek Independence Day and all the valuable contributions of Greek Americans like Senator SARBANES, former Senator and Presidential candidate Paul Tsongas, Presidential Adviser George Stephanopoulos, and former Massachusetts Governor and Presidential candidate Michael Dukakis. These are only a few of the distinguished Greek American leaders who have come to symbolize the rich heritage of their ancestors.

TRIBUTE TO ROBERT CHAPMAN

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of South Carolina's leading citizens, Mr. Robert Chapman, Jr., who recently passed away.

Mr. Chapman was a widely respected leader in our State's textile industry, historically a very important part of South Carolina's economy. During his career as a business executive, Mr. Chapman served as vice chairman of Inman Mills and director of First Savings Bank. He also took a very active role in promoting the textile industry through his involvement with a number of trade associations, many of which he headed, including the South Carolina Textile Manufacturers Association and the National Cotton Council.

Not only was Mr. Chapman a successful businessman, he was also a pillar of his community. Among the many activities in which he participated, he served as a deacon at the First Presbyterian Church of Spartanburg and as a trustee of the Spartanburg Day School.

While we will all miss Mr. Chapman, South Carolina is a better place thanks to his many efforts. He was a man who never shirked his duties as a citizen, whether it was serving in the Navy during World War II or working to bring business to our State when he was director of the Spartanburg and South Carolina Chambers of Commerce.

My heart goes out to his family, which includes his wife, his sons Robert and John; and his daughter, Sarah.

TRIBUTE TO C. HEYWARD BELSER

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of South Carolina's leading citizens, Mr. C. Heyward Belser, who recently passed away after a long and brave fight against leukemia.

Mr. Belser was a man of incredible talent and energy who contributed to our State in many different ways. He was known for his outstanding skills as an attorney, his concern for the community, and for his passion for tennis. His accomplishments include having served in the South Carolina House of Representatives, on the board of the Columbia Art Association, and having earned a position in the South Carolina Tennis Hall of Fame. Additionally, he served his Nation during World War II as an aviator in the India-China-Burma Theater where he was decorated with the Distinguished Flying Cross.

One of the most significant contributions Mr. Belser made to South Carolina is the role he took in revising the State's Constitution while he served in the Legislature. His actions are credited with having led to the recently completed restructuring of State government, a process that has been commended by observers in government, business, and academia.

Mr. President, Heyward Belser was a unique man who did his best to leave the world a better place. I know that he will be missed by all who knew him and my thoughts and prayers are with those he left behind—his wife, Mrs. Shelvie Belser; his sons, Clinch and Christopher; his stepson, Robert Burnside; his stepdaughter Debra Rentz and Ashley Burnside; and the remainder of his family.

TRIBUTE TO A.Z. YOUNG

Mr. BREAUX. Mr. President, I rise to pay tribute to a great Louisianian, A.Z. Young. I am also proud to announce the establishment of the A.Z. Young's Spirit of Service Alive in a New Scholarship Fund.

Andrew Jackson once observed that "one man with courage makes a major-

ity." That sentiment certainly applies to the late A.Z. Young, a great American and a great Louisianian whose life embodied the notion that certain principles are indeed worth risking your life or your livelihood.

A.Z., who died last year, was that kind of man. In 1968, as the leader of an historic civil rights march from Bogalusa to Baton Rouge, he put shoe leather to his belief that Thomas Jefferson was thinking of someone just like him when he wrote that "all men are created equal."

And because of A.Z. and brave people like him, we are now raising a generating of young Americans—black and white—who can barely comprehend the stories their parents and grandparents tell them about the days of Jim Crow and segregation.

The advance in civil rights that began more than 25 years ago did not simply occur spontaneously. We know that great social changes—like civil rights—don't just happen. Brave, visionary men and woman make them happen.

A.Z. Young made things happen.

He was honest, brave and an inspiration to an entire generation of Louisianians. He was, quite simply, an indispenable man—someone who made a real difference in lives of hundreds of his fellow human beings, black and white.

I was honored last month to join with A.Z.'s wife, Dorothy, at Southern University in Baton Rouge to announce the creation of a scholarship fund in his memory. The A.Z. Young Memorial Scholarship has been established to identify and assist young people who wish to follow the example of his leadership and service to his community, state and nation.

Under its terms, students eligible for the $1,000 scholarship must be full-time students attending Southern University who are majoring in political science, history, journalism, communication, public administration or public policy.

Last month's announcement marks the beginning of our efforts to endow this scholarship in the name of one of Louisiana's greatest citizens.

As someone who knew A.Z. and worked with him over the years, I am proud to be a part of the creation of this scholarship and will work hard to sustain it. A.Z. would be quick to tell us, there's much work left to do in this life. We've passed the laws that guarantee all of us equal rights. But I know A.Z. would remind us that it's now time to ensure that every young person gets the chance to take advantage of the many opportunities guaranteed by law, but often denied in reality.

After all, the young people of today are the ones who'll do tomorrow's work. And so, A.Z. would be proud to know that his work did not end when he left this life.

His spirit will live and thrive for generations to come in the hearts and minds of the young people who will have a better chance in life because of this scholarship in his name.

MRS. REBECCA "POLLY" GUGGENHEIM LOGAN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a very special woman, Mrs. Rebecca "Polly" Guggenheim Logan, who passed away earlier this month at the age of 90.

Mrs. Logan was a prominent Washingtonian and internationally recognized philanthropist whose efforts greatly benefited humanity.

Mr. President, I am not exaggerating when I say that Polly Logan was a woman who was admired and respected by many and that all those who knew her are deeply saddened by her death. It was my pleasure to not only count Mrs. Logan as a friend, but to serve her as her U.S. Senator as she and her husband owned a large plantation just outside Charleston, SC, where they spent their winters. I join her family and friends in mourning the loss of this truly unique and remarkable woman whose work touched the lives of countless individuals. I ask unanimous consent that a copy of Mrs. Logan's obituary from the Washington Post be inserted into the RECORD following my remarks.

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

[From the Washington Post, Mar. 15, 1994]

POLLY GUGGENHEIM LOGAN DIES; ART PATRON, WASHINGTON HOSTESS

(By Bart Barnes)

Rebecca Pollard "Polly" Guggenheim Logan, 90, a philanthropist and prominent Washington hostess who also was an artist and patron of the arts, died of heart ailments March 11 at her home in Washington.

From the 1940s to the mid-1970s, Mrs. Logan was a leading entertainer of high government officials, diplomats and influential figures in the political, business and art communities, holding parties and receptions at Firenze House, her Tudor-style mansion on 22 acres of wooded and landscaped grounds at 4400 Broad Branch Rd. NW.

Among Washington's grandest estates, Firenze House was the setting for charity balls, art shows, scholarship benefits and barbecue fund-raisers for such organizations as the Children's Hearing and Speech Center. In the mid-1970s, it was sold to the government of Italy for the Italian Embassy.

An artist and portrait painter, Mrs. Logan was a serious student of art and a founder and major supporter of the Art Barn in Rock Creek Park, a restored carriage house where the works of painters, sculptors, photographers and artisans are exhibited.

She was the widow of Army Col. M. Robert Guggenheim, the heir to a family fortune in copper, who died in 1959. In 1953 and 1954, he was ambassador to Portugal. She accompanied him to Lisbon, serving as hostess at the U.S. Embassy. In 1962, she married John A. Logan, a Washington management consultant. He died in 1986.

Mrs. Logan was born near Norfolk. She attended Stuart Hall School in Staunton, Va., and Comstock School, a French finishing school in New York. Later, she studied at Grand Central Art School in New York and the School of the Museum of Fine Arts in Boston.

For two years, she operated her own art studio in Boston, then married Dr. William B. Van Lennep. They were divorced in 1937, and the next year, she married Guggenheim aboard his 175-foot yacht, which was docked in Miami.

Shortly before World War II, they settled in Washington, living on the yacht, which was moored in Washington Channel off Maine Avenue SW. They purchased the estate that came to be known as Firenze House during the war, after Guggenheim lent the yacht to the government.

Complete with a swimming pool, a bowling alley, tennis courts and a pipe organ big enough for a cathedral, the 59-room house at one time required an 11-person service and maintenance staff. The Guggenheims converted one of the barns on the estate into an art studio. She painted in oils and water colors, specializing in portraits and still lifes. She did much of her work in the studio at Firenze House and in a studio at Poca Sabo, a 10,000-acre plantation 38-miles south of Charleston, S.C., where they spent part of each winter. Her paintings have been exhibited at the Smithsonian Institution, in Boston and in private collections.

As a young woman, Mrs. Logan was an enthusiastic tennis player, equestrian and wild-fowl hunter. She also enjoyed yachting and deep-sea fishing.

As a Washington hostess, she was known for an easygoing charm and unruffled disposition, but also a sharp and attentive eye for detail. For years, she was hostess of an annual Firenze House Christmas party, featuring special lighting and decorating, caroling and dancing. As her entertaining increased, she found less time for painting, but she continued to raise money for various art scholarships and organizations.

During the presidency of Lyndon Johnson, the two Johnson daughters gave a party for their father at Firenze House featuring the famed Texas barbecue chef Walter Jetton. So successful was the barbecue, that Mrs. Logan made it an annual charity fund-raiser. The Corcoran Gallery of the Art borrowed the estate for its annual tour of private art collections.

Mrs. Logan was a founder and charter member of the Washington chapter of the National Society of Arts and Letters, a member of the women's committee of the Corcoran Gallery of Art, the women's board of the National Symphony and the women's board of the Opera Society of Washington.

Survivors include a son from her first marriage, Richard Van Lennep of Washington.

MIDDLE EAST PEACE PROCESS

Mr. DECONCINI. Mr. President, my 17 years in the Senate have taught me that even on the most difficult issues compromise is often possible and impasses are rarely permanent. Even so, I never dreamed that I would live to see world leaders gathered on the White House lawn to witness and celebrate the signing of the Declaration of Principles by the leaders of the Palestinian Liberation Organization and Israel.

Since that day in September when PLO Chairman Arafat and Israeli

Prime Minister Rabin first shook hands, I have watched the progress of the peace talks with both hope and trepidation. The missed target date for the transfer of Palestinian autonomy in Gaza and Jericho and continued differences on such issues as the size of Jericho and border crossings have caused me concern that this small window of opportunity for peace could be lost. But nothing has stuck me as such a potential turning point in the peace progress as the massacre by a Jewish settler of innocent Arabs praying at the Tomb of the Patriarchs in Hebron.

The vile act which occurred at Hebron and which shamed and horrified all civilized people left leaders of both sides with two options. They could either allow extremists to exploit this terrorist act and kill the peace process or they could reaffirm their rejection of terrorism and recommit themselves to the Declaration of Principles. While I was deeply saddened by the tragedy at Hebron, I was encouraged by the Israelis' denunciation of this unspeakable act of violence. Such a response is required of those who embrace the rule of law over the rule of terror. The Israelis additionally acknowledged the need to provide protection for Palestinians in the West Bank and Gaza and to curb the activities of extremist settler groups and began an investigation into the massacre.

Since last week's passage of the U.N. resolution on the Hebron tragedy, it appears that Arafat may return to the negotiating table. The Palestinians, however, have not reaffirmed their commitment to continued pursuit of peace. By adding further issues and demands at this time to the Declaration of Principles on Jerusalem, the settlements and other matters, they will hinder the prospect for the success of the peace process.

I believe the impasses that have occurred in the negotiations stem from the view of many Palestinians that Palestinian self-rule in Gaza and Jericho represents the last rather than the first step in the peace process. But the Declaration of Principles makes it clear that this is not the case—negotiations on the permanent status issues are to begin during the interim period. It is only by the transfer of authority that Palestinians can begin to take control of local issues and mutual confidence can grow between both sides.

The fact that Arafat faces great political difficulties is certainly a factor in why he is increasing negotiations demands on the Israelis at this point. What is at stake, however, is much larger than any individual's particular political problem. While the achievement of Arafat and Rabin in Oslo was a breakthrough, it will only be a footnote in history if the peace process is allowed to fail. Arafat must return to the negotiating table so that differences which cause the December target date for withdrawal of troops from Gaza and Jericho to be missed can be resolved and the transfer of authority to the Palestinians in Gaza and Jericho can begin. Arafat's choice of whether to return to the negotiating table represents a choice of whether young Palestinians will learn that grievances and differences should be resolved at the bargaining table and with ballots or in the streets with guns and rocks. Rabin has already demonstrated that he wants to continue the pursuit of peace with the Palestinians. Arafat has yet to fully demonstrate that he, too, is committed to peace with Israel.

The pursuit of peace with former enemies is a high risk gamble.The payoff, however, can be historic. Israelis and Palestinians have been given the gift of the opportunity to live at long last in peace and security. To those people who continue to question the viability of the peace talks I would repeat what Prime Minister Rabin told me recently when UI was in the Middle East: "I signed the Egyptian Disengagement in May 1974. Some Likud people said it wouldn't last 6 months. Next May it will be 20 years. There are risks for peace and a responsible government of Isreal should bear the risks." I would add that the Palestinians must also shoulder their responsibility.

I believe Rabin and Arafat face a situation today which is similar to what Israeli and Egyptian leaders faced in 1974. They must join together to pursue the path to a lasting peace. It poses great risks for both sides, but it is a risk worth taking. No peace agreement will erase the memories of tragedies which stand out in their tortured history of their people. But it is only peace which can bring a brighter future to both Palestinian and Israeli children. Palestinian and Israeli leaders both have the responsibility to leave their children and grandchildren with a future of peace and security, not one of conflict and violence.

COMMENDING PAT SMITH AND OKLAHOMA STATE UNIVERSITY

Mr. NICKLES. Mr. President, lasting traditions are built around great people who are dedicated and committed to succeed. Such a tradition exists at Oklahoma State University in collegiate wrestling. It began with the vision of coach Ed Gallagher in 1916, followed by his wrestlers claiming the title at the first NCAA tournament in 1928, and continues today with Pat Smith, the four-time national champion of the 1994 national champion Oklahoma State Cowboys.

Pat's unequalled fourth NCAA championship fueled Oklahoma State, my alma mater, to its 30th national wrestling title, which is far more than any other school.

Pat's distinguished national milestone follows a long list of local, regional, and national achievements. Since losing a match his freshman year, Pat has won each of the 98 times he has taken the mat. In 1990, he became one of only three true freshmen to win NCAA titles. The following year, he claimed first place trophies at the St. Louis Open, the Oklahoma Open, and the Las Vegas Invitational. That same year, Pat also took the gold at the U.S. Olympic Festival in Los Angeles.

In 1992, his streak of NCAA and Big Eight victories continued while taking the titles at the Midlands Tournament and the Fort Hays Open, where he was awarded Outstanding Wrestler honors. This past season, Pat was named Outstanding Wrestler at the St. Louis Open and repeated as a gold medalist at the U.S. Olympic Festival in San Antonio. This year, in route to a 30–1 record, his only loss being a medical forfeit due to a sprained ankle, Pat became the fifth Big Eight wrestler to win four conference titles.

Pat's legacy, brothers Lee Roy and John, have helped fill the trophy case at Oklahoma State University. Each have won NCAA championships at OSU. John, who just won his first title as the head coach of OSU, won two individual championships, in 1987 and 1988, before going on to win four world titles and two Olympic golds. Lee Roy, who now coaches at Arizona State University, won in 1980. Pat's first NCAA championship gave the Smith brothers a record as the only three brothers to win NCAA titles. Pat's younger brother, Mark, a senior at Del City High, is regarded as the Nation's top high school wrestler.

The parents of these outstanding athletes are Lee Roy, a retired processor at the Oklahoma Highway Department, and Madalene Smith. In addition to raising their four sons, the Smiths also have six daughters. The State of Oklahoma shares in the pride the Smiths have in their children.

I know my colleagues join me in congratulating Pat and Oklahoma State University on their outstanding achievements. Together they continue to advance the winning tradition which is so deeply imbedded in the spirit of Oklahoma.

THE 70TH BIRTHDAY OF SARA LEVI

Ms. MIKULSKI. Mr. President, I rise today to recognize the life and accomplishments of Ms. Sara Levi who will be celebrating her 70th birthday Sunday, April 3. Through her energy, compassion and tireless work on behalf of the greater Baltimore community, Ms. Levi has made a difference in the lives of countless area residents. Growing up in Baltimore the daughter of Russian-Jewish immigrant parents, she did not lead a privileged life. Her father, a grocer, and her mother struggled to keep

her and her three siblings clothed and fed. It is from these humble beginnings, however, that she has made very meaningful contributions to Baltimore and the State of Maryland.

Before civil rights was a fashionable cause, Ms. Levi volunteered her time to work for fair housing and equal educational opportunities for minorities and the poor. She also made a difference through active involvement in Maryland politics.

In the late 1960's, after years of raising children, volunteerism and part-time employment in medical research, Ms. Levi began a new career. Despite having never earned a college degree, she became a highly valued employee of the Community Relations Commission, the agency that investigated and mediated complaints of race and sex discrimination in the city of Baltimore. Her performance brought her the praise of others within the agency, and was carried out with such skill that she was often mistaken for one of the commission's attorneys.

In recent years, Ms. Levi has devoted the same energy to the arts, enriching many of Baltimore's institutions with her talent and enthusiasm. Those that have benefited from her support include Baltimore's Art Seminar Group, Print and Drawing Society, and Chamber Music Society.

Mr. President, I salute Sara Levi's contributions to my home city of Baltimore and the State of Maryland. Through her dedicated community service, she has positively affected the lives of many residents across the state. Her spirited activism represents what is best in Maryland and our country. I would like to take this opportunity to send Ms. Levi warm regards on this special occasion, and send her best wishes for many productive years to come.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Wednesday, March 23, the Federal debt stood at $4,559,372,110,731.72, meaning that on a per capita basis, every man, woman, and child in America owes $17,488.22 as his or her share of that debt.

GREEK INDEPENDENCE DAY

Mr. DOLE. Mr. President, I rise today to note that Friday will mark the 173d anniversary of the beginning of the 1821 revolution which freed the Greek people from nearly 400 years of domination by the Ottoman Empire. And I am proud that Congress has designated today as "Greek Independence Day."

It is appropriate that Americans remember this day, because of the important role that the culture and citizens of Greece have played—and continue to play—in our country.

Not only is the beauty of Greece timeless, so, too, are the many ideas and virtues which found their birthplace in Hellenic culture—ideas like democracy, public service, and the importance of family.

Perhaps it is our dedication to democracy which has made our countries allies for so long. It is worth noting that Greece is one of only three nations in the world, beyond the former British Empire, allied with the United States in every major international conflict this century.

As a veteran of World War II, I well know that over 600,000 Greeks died fighting on the side of the allies in World War II—a remarkable 9 percent of the entire population of Greece at that time.

Mr. President, on this Greek Independence Day, I am proud to join with countless others in pledging ourselves to a future relationship with Greece and her people that is truly worthy of our historic past.

THE DUNLOP COMMISSION

Mr. DANFORTH. Mr. President, on April 6, 1994, the Commission for the Future of Worker/Management Relations, or, as it is more commonly known, the Dunlop Commission, will hold hearings to gather information so that it can make recommendations on improvements in labor law reform. The Commission is headed by former Department of Labor Secretary and Harvard professor John Dunlop.

The Commission, which was formed by Secretaries Reich and Brown, has been asked to provide answers to three questions. On April 6 it will hear testimony regarding the following question: What (if anything) should be done to increase the extent to which workplace problems are directly resolved by the parties themselves, rather than through recourse to State and Federal courts and Government regulatory bodies?

A measure which I introduced in the last Congress and intend to reintroduce upon our return from the upcoming recess directly addresses this question. This measure, the Employment Dispute Resolution Act, is designed to provide an alternative to litigating employment discrimination claims. When I first introduced this measure in 1992, it was needed to ease the burden on the already overloaded court system and EEOC. Since that time, the plight of the courts and the EEOC has become steadily worse, and the need for this measure has become even more desperate.

As EEOC Chairman Evan Kemp said in 1992:

> Those who turn to the EEOC for relief will be forced to wait nearly three years before the agency can resolve their charges. A woman who files a charge of pregnancy discrimination, for example, will not see the case resolved until her child is in pre-school. The practical implications of such a delay are horrendous. They are horrendous not only for the charging party who feels his or her rights have been violated, but for the business charged with the alleged violation. An employer would be faced with the administrative nightmare of producing information to justify actions of three or four years earlier.

Chairman Kemp's analysis was corroborated just last month by a GAO report which reviews the EEOC's methods for investigating and litigating discrimination charges. As reported by the GAO, by fiscal year 1996, the processing time for a discrimination claim could more than double. The GAO concluded that this delay can seriously injure complaining parties.

The situation in the courts is also disaster. The Civil Rights Act of 1991 added jury trials for compensatory and punitive damages to both title VII and the Americans with Disabilities Act. These valuable anti-discrimination measures are naturally strong incentives to litigate. Even before the enactment of these amendments, the number of private employment discrimination suits skyrocketed over 2,000 percent between 1970 and 1990.

Increasingly, therefore, the courts are not viable as a responsible enforcement mechanism. Finally, even if there were no problems of overcrowded court dockets and delays, the adversarial nature of a prolonged legal battle is so hostile that it overcomes most prospects of resuming a productive work relationship after resolution of the charge.

I think there is a better way. It is called mediation. In the Winter 1991–92 issue of The Journal of Intergroup Relations, a publication of The National Association of Human Rights Workers, there is an article called "Mediation of Civil Rights Complaints: Win/Win." The author, Clark Field, is a human relations specialist in Evansville, IN. He explains, simply, accurately and compellingly, why mediation is a superior method for resolving employment discrimination claims. I agree. I ask that excerpts of Mr. Field's article be printed in the RECORD following my remarks.

I hold no illusions that mediation will be successful in every case. But under my bill, there really is no downside. This legislation does not compel parties to mediate in all circumstances. However, where either of the parties feels that a settlement can be achieved in mediation, then the parties cannot proceed to litigate in the courts without first trying to work out their differences in mediation.

We are all about to head home for a recess, after spending many long hours in this chamber debating many diverse policy issues. I know that we all look forward to spending time back in our own States and with our families. While I recognize that this is not the time to engage in a full-blown debate

on this legislation, I did want to express my very strong sense that the Dunlop Commission should consider a mediation model, perhaps similar to the one I introduced on October 5, 1992. The original text of my initiative, S. 3356, is in the record of that day.

I also invite my colleagues to join me next month when I reintroduce a slightly modified and improved version of the Employment Dispute Resolution Act with, I expect, support from both sides of the aisle.

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

MEDIATION OF CIVIL RIGHTS COMPLAINTS: WIN/WIN

(By Clark G. Field)

INTRODUCTION

If you are not familiar with Mediation, let me first define it and describe it as a process. Mediation is the coming together of disputants with an unbiased facilitator ("third party neutral"), who will assist both parties—although there can be more than two disputants—in reaching an agreement. The mediator absolutely makes no decisions, but only facilitates consensus decision-making.

Mediation is not: compromise, negotiation, arbitration, conciliation, nor striking a deal.

Mediation is: voluntary, immediate, future oriented, confidential, hard on facts but soft on persons; conducted by an unbiased, trained mediator; and respectful of disputants.

In a few months, I will have been writing "VS" on my letters, questionnaires, fact-finding conference notes, and investigative summaries for eight years. I am a Human Relations Specialist/Investigator for the City of Evansville and Vanderburgh County, Indiana, and I have written that abbreviation "VS" thousands of times. Versus means "against"; it means "doing battle," "overcoming"—"VS" means "win/lose." Our society instinctively thinks of suing, forcing, litigating, winning when it comes to disputes.

When a person comes into our Human Relations office to file a discrimination charge (ninety-five times out of one hundred, it will be in the area of employment), the common procedure is adversarial—only lately am I explaining the mediation option. If both parties should be amendable, we work out an informal resolution and, if the Complainant is found to have made a good case for him/herself (received a "Probable Cause" ruling), there is a time set (maybe twenty days) for reconciliation—these efforts I term "hit and miss" affairs.

There is an inherent flaw in our system, in our adversarial approach, and it is this. Typically, when the Complainant "wins" his/her case—proves discrimination because of race, sex, color, religion, national origin, age, or handicap—she/he will choose not to return to work for the same employer (Respondent). The feeling is that things will not be the same, that he/she will be picked on, or treated worse. Both Respondent and Complainant are reminded that retaliation is illegal, but Complainant still will be afraid to return to the old position. Therefore, we can say that Complainant "wins the battle, but loses the war."

It is my experience that more anger and ill will are generated by race discrimination charges than by any other kind. When the Respondent receives the official charge, e.g., "John Jones VS. John Doe Corp," a combination of feelings erupt in many employers, such as: anger, hostility, fear, hurt, bellicosity, indignation, frustration, embarrassment, defensiveness, vindictiveness, and maybe self-righteousness. More than anything else, whites do not like for blacks to point fingers at them and label them as discriminators and racists. Maybe, back in the recesses of our genetic history, guilt and fear linger as a remnant of slavery.

Is there a better way? Another route, other than "VS"? A win/win method of dealing with discrimination charges, where the relationship of employer and employee may be maintained? Maybe so. With Mediation, everyone wins.

* * * * *

PROBLEMATIC AREAS

1. The Motivation to Mediate

My experience has been that Complainant will usually consent to Mediation, while Respondent is much more hesitant. The reasons are pretty obvious, namely: Complainant has a lot to gain, such as an immediate resolution of the complaint and the repairing of the employer/employee relationship, while the Respondent must deal with a number of obstacles, including: fear of the unknown; fear of giving up power; fear of compromising their position; and the traditional dependence on legal counsel in such matters.

One of the challenges facing the mediator is that of balancing the power. In a Title VII (employment) charge, the power imbalance can be more pronounced than in any other setting—a large corporation facing an unemployed, and sometimes uneducated, ex-employee. But the more employers realize that not only valuable time, energy, and expense can be saved, but also valuable, trained employees can be "kept on board," the more they may choose the Mediation option.

In some Mediations, both parties, after they are familiar with the "Rules and Regulations of Mediation," are required to sign an agreement "to begin Mediation." This can be an important tool for successful Mediation.

2. That Impartiality Be Ensured

The most important attribute of any mediator is impartiality. If the investigator also serves as the mediator, there may be a conflict of interest should no agreement be mediated. For instance, if one of the participants proves to be very difficult, later this may bias the mediator/investigator.

In one of my mediations, I realized that Complainant, a white woman, was prejudiced against her black co-workers. She also appeared to have an emotional problem. As the Mediation progressed she backed off, and no agreement was reached. Because of this experience, I felt that she had no legitimate discrimination charge—she was claiming handicap discrimination. As it happened, we went to Mediation before she filed a discrimination charge. Had she later returned to file such a charge, I would have had to refer her to another investigator.

Generally, the mediator and the investigator should be different persons. In small offices, where there is only one investigator, something would have to be worked out. Where there is only an executive director and a secretary and where the Human Relations Commission does not have the force of law, as is the case in some rural Kentucky offices, Mediation could be extremely expedient, if properly promoted.

3. Timeliness

There is always a time limit, usually well defined, for filing discrimination charges. In Indiana, it is ninety days from the last date of harm for local and state commissions, and usually one hundred and eighty days for the Equal Employment Opportunity Commission (EEOC). Since Mediation is voluntary and unofficial, it is better for Complainant's charge to be filed initially, in order to preserve the timeliness. Then, when Mediation results in an agreement, Complainant can withdraw his/her charge. Otherwise, Complainant's timely filing could be compromised.

CONCLUSION

At a time in the United States when cities and states are experiencing a financial crunch and as we move into 1992, when the Americans with Disabilities Act (ADA) will "kick in" for handicapped persons—thus presenting enforcement agencies with perhaps 30 percent more complaints—Mediation can be a very "timely" process. With Mediation, the possibilities are almost limitless. It empowers both employer and employee to sit down together and solve their problems—this way, both win.

While we have been focusing on discrimination in employment in this paper, Mediation will serve a similar purpose in other discrimination charges—housing, education, finance, and public accommodations. In housing especially, Complainants need immediate action, and the survey showed that some offices use Mediation exclusively for housing discrimination charges.

FAREWELL, KATHY DECOSTER

Mr. COHEN. Mr. President, I want to take a moment to recognize the departure of a valuable member of my staff, Kathy DeCoster, who is leaving the Hill after many years of outstanding service.

Kathy first joined my staff in 1983 and has, over the years, handled a multitude of legislative issues, ranging from housing and energy policy to welfare reform and aging issues. A special area of her expertise has been environmental issues, where she was actively involved in the Senate consideration of the Clean Air Act, Clean Water Act, Superfund legislation, the Caribou Speckled Wilderness bill, and many other environmental initiatives. She has also helped bring the environmental issues to a more personal level to the people of Maine, through coordinating activities as an Earth Day Contest, where school-aged children from all over Maine submitted art work, poems—and even a hand-made quilt, on what helping the environment means to them. To each of these tasks, she has brought knowledge, good judgment, humor, and a very strong dash of common sense.

In addition to a keen grasp of the legislative process, Kathy has provided the valuable service of recognizing and understanding the needs of Maine and its people. For example, she has been persistent in her efforts to seek adequate funding for the Low Income Home Energy Assistance Program [LIHEAP], which is so vital to individuals, especially the elderly, who often have to choose between heating their

homes or buying their medicines during the bitterly cold winters in Maine. In recent years, she has been deeply involved in the Maine delegation's efforts to assist the Loring Air Force Base community as it deals with the devastating prospect of base closure.

Kathy will truly be missed by both my staff and many others in the Senate. She has been very active in the Senate community, by lending her talent to our softball team, being an active parent and board member of the Senate Employees Child Care Center, and always being willing to pitch in to help a colleague in need.

Happiness, according to Aristotle, resides in activity, both physical and mental, and in doing things that one can take pride in doing well. By this measure, Kathy DeCoster has brought happiness to both herself, her family, and to those who have worked closely with her for years. On behalf of the people of Maine, I thank her for her outstanding service, and we wish her the very best of luck in all her future endeavors.

UNIVERSITY OF SOUTH DAKOTA COYOTES

Mr. PRESSLER. Mr. President, with all the hype and attention being focused on the National Collegiate Athletic Association [NCAA] Division I men's and women's basketball tournaments, let me take a moment to remind my colleagues there is yet another game in town. The NCAA Division II men's basketball tournament has brought the best small-college basketball teams around the country to Springfield, Massachusetts. One of the teams in that field is my alma mater, the University of South Dakota Coyotes.

This year, the USD men's basketball squad earned a trip to the elite eight for the second year in a row. Last night, the Coyotes met the University of Southern Indiana Screaming Eagles. Unfortunately, the Coyotes' bid fell short. However, they still have plenty of reasons to be proud of their season.

On the road to Springfield, the Coyotes mounted an impressive record of 24 wins and only 5 losses—an effort that earned them their second straight North Central Conference Championship and North Central Region Championship. The Coyotes' basketball success has not come overnight. From 1977 to 1988, USD only managed a .383 winning percentage. However, since 1989, the Coyotes have achieved a winning percentage of almost .700, primarily under the direction of coach Dave Boots.

Recently, I visited with students, faculty, staff, and administrators on the USD campus in Vermillion, SD. While this visit brought back many fond memories of my days as an undergraduate student there, I also saw how the university has continued to prosper in other ways under the leadership of President Betty Turner Asher. The University of South Dakota excels academically, as well as athletically.

Again, I salute the University of South Dakota Coyotes men's basketball squad for their success in the NCAA Division II men's basketball tournament. I ask unanimous consent that materials concerning the Coyotes' season be included in the RECORD immediately following my remarks.

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

SOUTH DAKOTA IN NCAA ELITE 8 TOURNAMENT

South Dakota	PPG	RPG	Percent FG	Percent FT
G–10 John Hemenway, 6–1, 160, So., Rockton, IL	6.0	1.7	.409	.828
G–32 Randy Rosenquist, 6–4, 220, Sr., Sioux City, IA	16.1	4.5	.432	.531
C–54 Mike Kloth, 6–9, 240, Sr., Wisner, NE	3.5	6.4	.539	.552
F–22 Troy Terronez, 6–5, 200, Sr., Cedar Rapids, IA	12.7	4.3	.493	.768
F–52 Shane Murphy, 6–8, 205, Sr., Harlan, IA	14.6	5.1	.540	.810
Reserves				
F–44 Loren Dekruyf, 6–5, 200, Jr., Boyden, IA	12.8	4.7	.543	.852
G–34 Mike Koehler, 6–2, 200, Fr., Elkhart Lake, WI	4.0	1.6	.554	.667
G–30 Mark Andres, 6–2, 185, Sr., Rhinelander, WI	3.1	1.4	.429	.778
G–12 Brian Marso, 6–0, 175, So., Gillette, WY	2.8	0.6	.500	.842
F–20 Monte Hess, 6–6, 215, So., LeMars, IA	2.1	1.6	.560	.538
F–50 Mike Hanzel, 6–7, 215, So., Jordan, MN	1.5	1.4	.444	.750
G–14 Tyson Theeler, 6–4, Fr., Mitchell, SD	1.6	0.7	.381	1.000
South Dakota total	85.2	39.1	.505	.704
Opponents	69.6	33.7	.418	.675

NCAA DIVISION II ELITE 8 NATIONAL TOURNAMENT

Quarterfinals, March 23

1 p.m.—Norfolk State (27–5) vs. Washburn (28–3).

3 p.m.—Cal State Bakersfield (24–6) vs. Indiana, PA (25–2).

6:30 p.m.—South Dakota (24–5) vs. Southern Indiana (26–3).

8:30 p.m.—Alabama A&M (27–4) vs. New Hampshire (27–4).

Semifinals, March 24

6:30 p.m.—Norfolk State/Washburn vs. Cal St.-Bakersfield/Indiana, PA.

8:30 p.m.—South Dakota/Southern Indiana vs. Alabama A&M/New Hampshire.

Championship, March 26

1 p.m.—CBS.

1993–94 SOUTH DAKOTA INDIVIDUAL STATISTICS

[Season record: 24–5 (Home: 13–1/Away: 11–4)—North Central Conference: 15–3 (Home: 8–1; Away: 7–2)]

Name	G–GS	FG	FGA	PCT	3pt FG	3pt FGA	PCT	FT	FTA	PCT	REB	PTS	PF	AVE. PTS	AVE. REB	ST	BS	A	TO	MIN
Rosenquist	29–29	169	391	.432	60	201	.299	69	130	.531	131	467	68	16.1	4.5	61	7	130	69	873
Murphy	29–10	150	278	.540	30	66	.455	94	116	.810	148	424	93	14.6	5.1	15	12	46	37	651
DeKruyf	29–4	121	223	.543	36	71	.507	92	108	.852	135	370	37	12.8	4.7	17	2	28	25	687
Terrouez	29–29	112	227	.493	47	111	.473	96	125	.768	126	367	53	12.7	4.3	20	5	63	35	864
Jones	19–19	95	133	.714	0	1	.000	45	89	.506	126	235	48	12.4	6.6	23	8	28	46	478
Hemenway	29–29	56	137	.409	15	47	.319	48	58	.828	49	175	33	6.0	1.7	23	3	90	37	595
Koehler	24–0	36	65	.554	5	12	.444	20	30	.667	39	97	16	4.0	1.6	5	0	8	12	183
Kloth	29–25	41	76	.539	0	0	.000	16	29	.552	187	102	82	3.5	6.4	10	36	16	18	566
Andres	29–0	27	63	.429	9	26	.346	28	36	.778	41	91	51	3.1	1.4	9	0	42	28	447
Marso	21–0	15	30	.500	13	23	.565	16	19	.842	12	59	12	2.8	0.6	8	0	23	13	141
Hess	17–0	14	25	.560	0	2	.000	7	13	.538	27	35	7	2.1	1.6	1	0	7	5	76
Hanzel	17–0	8	18	.444	0	0	.000	9	12	.750	24	25	13	1.5	1.4	0	2	4	1	80
Theeler	18–0	8	21	.381	5	11	455	8	8	1.000	13	29	6	1.6	0.7	3	0	6	4	65
Team											72									
USD total	29	852	1,687	.505	220	570	.386	541	769	.704	1,135	2,472	525	85.2	39.1	195	74	490	331	
Opponents	29	737	1,764	.418	151	440	.343	394	584	.675	977	2,019	635	69.6	33.7	167	56	373	366	

COYOTE TEAM SEASON HIGHS

Points: 114 vs. Grand View & Nebraska-Omaha (2).

Rebounds: 54 vs. Teikyo-Westmar.

Assists: 35 vs. Nebraska-Omaha (2).

Steals: 15 vs. Mount Mary.

Blocked shots: 6 vs. South Dakota State.

Field goals: 42 vs. Nebraska-Omaha (2).

Field goal attempts: 72 vs. Teikyo-Westmar.

FG percentage: .654 (34–52) vs. Augustana (2).

Three-point field goals: 13 vs. Morningside.

Three-point FG attempts: 31 vs. North Dakota State.

3 pt. FG percentage: 625 (10–16) vs. Nebraska-Omaha (2).

Free throws: 31 vs. Northern Colorado (2).

Free throw attempts: 41 vs. Northern Colorado (2).

FT percentage: 917 (22–24) vs. Mount Mary.

COYOTE INDIVIDUAL SEASON HIGHS

Points: 28, Loren DeKruyl vs. North Dakota (3).

Rebounds: 14, Mike Kloth vs. Morningside.

Assists: 11, Randy Rosenquist vs. Nebraska-Omaha.

Steals: 5, Randy Rosenquist vs. Mount Mary & South Dakota State.

Blocked shots: 5, Mike Kloth vs. St. Cloud State.

Field goals: 11, Shane Murphy vs. Nebraska-Omaha (1); 11, Shane Murphy vs. Nebraska-Omaha (2).

Field goal attempts: 18, Randy Rosenquist vs. Grand Canyon & South Dakota State (2) & North Dakota (3) & North Dakota State (3).

FG percentage: 1,000, Chris Jones (7–7) vs. St. Cloud State.

Three-point field goals: 5, Troy Terronez vs. North Dakota State; 5, Loren DeKruyl vs. North Dakota State (3).

Free throws: 11, Shane Murphy vs. North Dakota State (3).

FT percentage: 1,000, Loren DeKruyl (8–8) vs. Northern Colorado (2); 1,000, Troy Terronez (8–8) vs. Northern Colorado (3); 1,000, Troy Terronez (8–8) vs North Dakota (3).

1994 NCC STANDINGS

Team	NCC	All
South Dakota	15–3	24–5
North Dakota State	14–4	21–9
North Dakota	11–7	23–9
South Dakota State	11–7	19–8
Mankato State	10–8	14–13
St. Cloud State	7–11	13–16
Morningside	7–11	13–16
Northern Colorado	7–11	11–18
Augustana	6–12	14–12
Nebraska-Omaha	2–16	4–22

COYOTE TRACKS

From the 11-year period from 1977 to 1988, South Dakota won 113 games and lost 182 for a .383 winning percentage. Over the last six years starting with the 1989 season, the Coyotes have won 127 and lost 54 for a .702 winning percentage.

The Coyotes have put together six consecutive winning seasons from 1988–89 to 1993–94. South Dakota has not had six straight since the turn of the century when the Coyotes had seven in a row from 1909 to 1915.

Of the top-eight seasons in South Dakota history, Dave Boots has five of them. He ranks third on the all-time coaching win list with 127. The school's all-time leader in Carl "Rube" Hoy, who won 167 (lost 189) in 24 years from 1927–49 and 1952–54. Dwane Clodfelter is second with 149 wins (153 loses) in 13 years from 1954–67.

South Dakota has lost only 12 games at home during the Dave Boots' era and has finished in the upper division of the North Central Conference in each of the last six years, including the last two NCC championships.

The Coyotes have won 57 of their last 71 games for an .803 winning percentage.

South Dakota has had four 20-win seasons in the last six years (22 in 1990, 20 in 1991, 25 in 1993 and 24 this season).

In USD's championship season last year, the Coyotes outshot their opponents for the field in 21 games and held a rebounding advantage in 20 games. This season, USD has outshot the opposition 25 times and outrebounded opposing teams 20 times.

USD returns 85.1 percent of its scoring this season and 81.4 percent of its rebounding

COYOTE TIDBITS

Shane Murphy has been North Central Conference Player of the Week two times this season. Randy Rosenquist has been named Player of the Week once. Rosenquist won the NCC steals title (2.33), and Murphy won the three-point shooting title (.564).

The Coyotes captured three NCC team statistical departments this season; scoring offense (84.1), field goal percentage (.513) and rebounding margin (+3.22). USD was second in scoring defend (69.2), third in assists (16.6) and seventh in free throw shooting (.696).

Randy Rosenquist has scored 20 or more point nine times. Shane Murphy has done it eight times and Loren DeKruyf four times.

PLAYER PLAUDITS

Senior Randy Rosequist, a two-time all-North Central Conference selection, ranks fourth on the school's all-time scoring list with 1,586 points. Rosenquist is the sixth player in school history to reach 1,500 career points. Rosenquist also ranks sixth in career assists (351), second in career three-point field goals (206) and third in career steal (205).

Senior Troy Terronez ranks 8th on the career scoring list with 1,322 points.

Senior Mike Kloth ranks second in career blocked shots with 116 and he ranks 11th in career rebounds with 602. Kloth has 36 blocked shots this season which is the 6th-best single-seasons total in school history.

The Coyotes are an experienced squad. The four players who have been with the team the longest (Randy Rosenquist, Troy Terronez, Mike Kloth, Loren DeKruyf) have combined for 428 games played since 1990–91.

Rosenquist, Terronez scoring watch

[USD's all-time leaders]

Tim Hatchett (1986–90)	2280
Jeff Nannen (1976–80)	1782
Mike Graves (1986–90)	1746
Randy Rosenquist (1990–present)	1586
Jack Theeler (1965–68)	1573
Chuck Iverson (1969–73)	1536
Rick Nissen (1972–76)	1452
Troy Terronez (1990–present)	1322
Kyle Collins (1985–89)	1306

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:56 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 bill, with amendments, in which it requests the concurrence of the Senate:

S. 1299. An Act to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes.

At 7:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4122. An Act to temporarily extend certain provisions of the Marine Mammal Protection Act.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 232. Concurrent Resolution providing for an adjournment of the two Houses.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4122. An Act to temporarily extend certain provisions of the Marine Mammal Protection Act; to the Committee on Commerce, Science, and Transportation.

The Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following measure which was referred to the Committee on Labor and Human Resources:

S. 1937. A bill to amend the Community Services Block Grant Act to establish a new Community Initiative Program to carry out economic development activities in economically distressed communities, to make other amendments to the Act, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–414. A resolution adopted by the Commission of the City of Key West, Florida relative to the Save Our Everglades Initiative; to the Committee on Energy and Natural Resources.

POM–415. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"Legislative Resolve No. 19

"Whereas the Alaska tourism industry recognizes Denali National Park as Alaska's premier visitor attraction because of the majestic view of Mt. McKinley, the opportunity to enjoy a wilderness experience, the chance to encounter wildlife in its natural habitat, and the relative solitude of the area; and

"Whereas enhancing the Mt. McKinley experience for visitors would enhance the tourist industry statewide through tourist satisfaction and expanded seasons; and

"Whereas insufficient access to premier viewing areas and lack of facilities at these areas are major obstacles to enhancing the wilderness experience; and

"Whereas the state is uniquely able to obtain rights-of-way into Kantishna through leases, land exchanges, assertion of rights under RS 2477, application for transportation utility corridors under Title XI of the Alaska National Interest Lands Conservation Act (ANILCA), and other legal claims to rights-of-way, and can monitor negotiations that would allow private sector development to occur; and

"Whereas the Kantishna area, with its dry interior climate and long daylight hours, offers splendid viewing opportunities and a high potential to promote both summer and winter activities; and

"Whereas access to Kantishna would provide the Alaska private sector with the opportunity to meet the increased demand for tourism facilities while taking advantage of a historical transportation route and restricting potentially deleterious environmental effects to areas historically used by the mining industry; and

"Whereas it is necessary to design and construct these facilities and transportation systems so that they have the least possible negative effect on the environment, the area's wildlife, and the state's fiscal resources;

"*Be it resolved*, That the Alaska State Legislature respectfully urges the Governor and the executive branch to be aggressive in their resolve to enhance the Mt. McKinley experience for our visitors by developing new environmentally sound access routes into Kantishna and a Kantishna visitor activity area; and be it

"*Further resolved*, That appropriate state agencies should work with the National Park Service and interested members of the public and private sectors to thoroughly investigate the potential of establishing a rail utility corridor into Kantishna in which the private sector could construct and operate a transportation system and other facilities that would serve the public needs; and be it

"*Further resolved*, That the Alaska State Legislature strongly supports the efforts of the Governor of Alaska, the Alaska delegation to the U.S. Congress, and the President of the United States in pursuit of the necessary studies, land acquisitions processes, and other necessary permits that would allow new environmentally sound routes into Kantishna and a Kantishna visitor activity area.

"Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Robert C. Byrd, president Pro Tempore of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; Roger Kennedy, Director of the National Park Service; Jack Morhead, Regional Director for Alaska, National Park Service; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM–416. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Energy and Natural Resources.

"HOUSE JOINT RESOLUTION 94–1013

"Whereas, in 1976, the United States Congress enacted the Payments-In-Lieu-Taxes (PILT) program administered by the United States Bureau of Land Management to compensate county governments for the tax-exempt nature of and costs associated with maintaining federal lands; and

"Whereas, the PILT program provides payments to over 1700 counties in 49 states to compensate for taxes lost through federal ownership of open space lands; and

"Whereas, PILT payments are spent by local governments for programs and services such as emergency search and rescue, law enforcement, fire and emergency medical services, solid waste disposal, road maintenance, and health and human services, all of which are necessary to support the vast system of national parks, national forests, fish and wildlife refuges, and reclamation areas; and

"Whereas, the Consumer Price Index has skyrocketed over 120% since 1976, while the amount of PILT payments has not been increased, causing the purchasing power of the payments to be worth less than half of the original value; and

"Whereas, restrictions on the economic uses of federal lands, such as mining, logging, and grazing, have a direct impact on county governments and threaten the stability of communities serving federal lands; and

"Whereas, shared natural resource payments to counties from certain economic uses of federal lands are absolutely vital to the financial stability of many county governments, and the importance of PILT payments has increased dramatically as natural resource payments to county governments decline; and

"Whereas, counties continue to relay on property taxes to fund the operation of local government, and statewide tax limitation measures have constrained the growth of local property taxes; and

"Whereas, under the current formula there is an inequity whereby low-population counties in western states do not receive the annual minimum per acre payment; and

"Whereas, the United States Congress is presently considering legislation that will increase the amount of PILT payments by adjusting for changes in the Consumer Price Index each year; now, therefore,

"*Be it resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:*

"That we, the members of the General Assembly, urge that consideration be given to correcting any formula inequities for low-population counties and support the adoption of S. 455, sponsored by Senator Mark Hatfield of Oregon, and H.R. 1181, sponsored by Representative Pat Williams of Montana, in order to aid county governments with their burden of maintaining federal lands.

"*Be it further resolved*, That copies of this Resolution be sent to the President of the United States, the Secretary of the Interior, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Colorado Congressional Delegation."

POM–417. A resolution adopted by the Municipal Council of the Township of Woodbridge, New Jersey; to the Committee on Environment and Public Works.

POM–418 A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT RESOLUTION NO. 5030

"Whereas, the protection of the public health and welfare is the primary concern of public water supply systems; and

"Whereas, the ability of public water supply systems to protect the health and welfare of its citizenry has been greatly reduced by unfunded federal mandates contained in the Safe Drinking Water Act; and

"Whereas, public water supply systems cannot afford to commit limited resources on federal mandates which provide little or no benefit to public health, but must rather be permitted to focus their resources on protections which ensure the highest safety for public health; and

"Whereas, H.R. 3392, the Safe Drinking Water Act Amendments of 1993, introduced by Representatives Jim Slattery of Kansas and Representative Thomas Bliley of Virginia, would amend the Safe Drinking Water Act to allow public water supply systems greater ability to effectively protect the public health and welfare by ensuring that limited public resources can be sensibly focused on the most serious risks presented by contaminants in drinking water: Now, therefore

"*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:*

"That the legislature urges Congress to amend the Safe Drinking Water Act in such a manner as will permit public water supply systems to focus their resources on issues which threaten public health and which will provide flexibility in meeting the real health needs of its citizenry; and

"*Be it further resolved*, That the Secretary of State be directed to send enrolled copies of this resolution to the speaker of the United States House of Representatives, the President of the United States Senate, all members of the congressional delegation from the State of Kansas, the Administrator of the United States Environmental Protection Agency and the Regional Administrator, Region VII of the United States Environmental Protection Agency."

POM–419. A resolution adopted by the House of the Legislature of the State of Iowa; to the Committee on Environment and Public Works.

"HOUSE RESOLUTION NO. 102

"Whereas, members of the Iowa House of Representatives, including members serving on the Committee On Agriculture, the Committee on Energy and Environmental Protection, and the Committee on Small Business, Economic Development and Trade, have supported the ethanol production industry as a vital component in promoting clean air and water and revitalizing the state's economy by reducing imported nonrenewable energy sources; and

"Whereas, persons involved in the production and processing of corn in Iowa significantly contribute to the wealth of this nation supported by the production of agricultural commodities and value-added products; and

"Whereas, the ethanol market in Iowa has been developed by the valiant efforts of the Iowa Corn Promotion Board, through its producer-members who are committed to this renewable resource; and

"Whereas, more than 416,000 bushels of corn, representing the average harvest of corn on more than 3,400 acres of Iowa land, are processed each day into ethanol; and

"Whereas, economic activity generated in Iowa from ethanol production equals $1.5 billion; and

"Whereas, ethanol production has added an estimated $190 million to the value of the 1992 Iowa corn crop, creating approximately $14.50 per acre additional income to Iowa corn producers; and

"Whereas, the production of ethanol creates a high protein livestock feed which has proven to be an excellent nutritional source for cattle and poultry; and

"Whereas, more than 12,000 Iowa jobs are affected by Iowa ethanol production, including 2,500 jobs in the corn processing industry associated with ethanol production, with the average annual wage for persons employed in the wet corn milling industry in Iowa equaling $37,000; and

"Whereas, over 500 million gallons of ethanol-blended fuel were sold in Iowa in 1992, representing a 52 million gallon increase over 1991; and

"Whereas, the United States produced more than 1.5 billion gallons of ethanol which reduced foreign oil imports by more than 58 million barrels; and

"Whereas, motor vehicle fuel which includes a blend of 10 percent ethanol enhances octane levels and provides more oxygen for fuel combustion resulting in reduced levels of carbon monoxide; and

"Whereas, if only one-half of this nation's mass transit diesel buses used ethanol fuels, new markets for 100 million bushels of corn each year would be produced; and

"Whereas, blending 10 percent ethanol with all gasoline sold in the United States would require four billion bushels of corn; and

"Whereas, the United States Environmental Protection Agency in implementing amendments to the federal Clean Air Act, 42 U.S.C. §7401 et seq., is establishing standards for reformulating motor vehicle fuel used in nonattainment areas designated in the United States; and

"Whereas, the United States Environmental Protection Agency has proposed a renewable oxygenate standard which requires the use of renewable oxygenates in reformulated gasoline; and

"Whereas, ethanol is a renewable oxygenate and the proposed standard could increase demand for corn used in ethanol production; and

"Whereas, ethanol's full market potential can be realized under the renewable oxygenate standard if the rules are finalized as scheduled in June 1994: Now therefore,

"*Be it resolved by the House of Representatives*, That the Iowa House of Representatives, including members serving on the Committee on Agriculture, the Committee on Energy and Environmental Protection, and the Committee on Small Business, Economic Development and Trade, urge that the United States Environmental Protection Agency adopt the proposed renewable oxygenate standard in a manner and form which allows ethanol to fully compete in the marketplace; and

"*Be it further resolved*, That copies of this Resolution be delivered to the Governor; and

"*Be it further resolved*, That a copy of this Resolution be delivered to the United States Environmental Protection Agency for inclusion within the record, Docket A-93-49; and

"*Be it further resolved*, That copies of this Resolution be delivered to the President of the United States, the Administrator of the United States Environmental Protection Agency, the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairperson of the Committee on Agriculture, Nutrition, and Forestry of the United States Senate, the Chairperson of the Committee on Agriculture of the United States House of Representatives, and members of Iowa's congressional delegation.

"We, Harold Van Maanen, Speaker of the House and Elizabeth Isaacson, Chief Clerk of the House, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives of the Seventy-fifth General Assembly."

POM-420. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works.

POM-421. A resolution adopted by the Senate of the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"SENATE RESOLUTION NO. 4

"Whereas, industrial and agricultural growth and development are necessary for the continued economic viability and security of the state and its citizens; and

"Whereas, the health, welfare, and socioeconomic condition of these citizens can be irreparably and significantly affected by unnecessary infringement on industrial growth and development, and on liberty and property rights; and

"Whereas, the interests of industrial and agricultural progress can be effectuated in concert with the protection and maintenance of natural resources; and

"Whereas, the protection of wildlife species should be accomplished in conformance with an appropriately designed plan which recognizes, addresses, and accommodates all social and economic benefits and adverse effects; and

"Whereas, the implementation of governmental programs should be undertaken in a manner to prevent or minimize infringement on constitutional rights of property and liberty; and

"Whereas, on January 7, 1992 the United States Department of Interior, Fish and Wildlife Service determined the Louisiana black bear (Ursus americanus luteolus) to be a threatened species within its historic range, including southern Mississippi, Louisiana, and east Texas; and

"Whereas, the designation of the Louisiana black bear as a threatened species is based upon questionably reliable taxonomic and morphological distinctiveness; and

"Whereas, population estimates for the Louisiana black bear are acknowledged by federal agencies to range in accuracy from crude to little more than intuition; and

"Whereas, the United States has proposed to designate as habitat for the Louisiana black bear an area comprised of some three million acres, including one million two hundred and fifty thousand acres of critical habitat in Avoyelles, Concordia, East Carroll, Franklin, Iberia, Iberville, Pointe Coupee, Richland, St. Landry, St. Martin, St. Mary, Tensas, and West Carroll parishes; and

"Whereas, the designation of said lands as a habitat for a threatened species will effectively remove said lands from commerce, and prevent, preclude, or prohibit the use of such lands for economic growth and development, including silvicultural and agricultural activities; and

"Whereas, the designation of habitat in the Atchafalaya Basin may significantly and detrimentally affect ongoing conservation programs of the state of Louisiana related to this and other species; and

"Whereas, the United States has pursued this designation of critical habitat prematurely on an inadequate scientific basis without thorough and complete investigation and evaluation of the short and long term cumulative and synergistic effect of the proposed habitat designation; and

"Whereas, the proposed designation of critical habitat poses an immediate and direct threat to the rights and liberties of the citizens of the state.

"*Therefore, be it resolved*, That the Senate of the Legislature of Louisiana hereby memorializes the United States Congress, the secretary of the Department of Interior, and the director of the United States Fish and Wildlife Service to oppose the designation of critical habitat for the Louisiana black bear in certain portions of south Louisiana, as proposed by the United States Fish and Wildlife Service on December 2, 1993.

"*Be it further resolved*, That the Senate of the Legislature of Louisiana opposes the designation of any habitat for the Louisiana black bear which designation is not based on sound fundamental scientific principles and findings regarding the criticality of any areas so designated to the survival of a unique species.

"*Be it further resolved*, That the Senate of the Legislature of Louisiana hereby urges and requests that an environmental impact statement be prepared by the Department of Interior, Fish and Wildlife Service on all phases of the proposed designation of habitat for the Louisiana black bear, including consideration of the designation of the Louisiana black bear as a threatened species and all socio-economic consequences of the proposed habitat designation.

"*Be it further resolved*, That a copy of this Resolution be transmitted to the Congress of the United States of America, the secretary of the Department of Interior, and the director of the United States Fish and Wildlife Service."

POM-422. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 5

"Whereas, much consideration is being given to the enhancement of the nation's federal highway system; and

"Whereas, the mission of this effort is to enhance commerce and highway safety; and

"Whereas, Interstate 73 would enhance southwestern West Virginia's economic development by serving the communities of Bluefield, Welch, Williamson, Logan and Huntington; and

"Whereas, the continued growth of the state in the southwestern zone is being threatened by lack of sufficient highways serving the region; therefore, be it

"*Resolved by the Legislature of West Virginia:*

"That the state of West Virginia gives full support to the construction of the I-73 linkage from Detroit, Michigan, to Charleston, South Carolina; and, be it

"*Further resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Senator Robert C. Byrd and the United States Senate."

POM-423. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT MEMORIAL 2002

"Whereas, Arizona's public/private partnerships support the concept of multistate collaboration in the planning of the national highway system and intermodal transportation systems as prescribed by the Intermodal Surface Transportation Efficiency Act of 1991; and

"Whereas, negotiations on the proposed North American Free Trade Agreement (NAFTA) were completed in August of 1992, President George Bush signed the agreement in December of 1992 and ratification of the NAFTA by the United States Congress is expected in the near future; and

"Whereas, the NAFTA will pull together a market of approximately three hundred sixty million consumers in the United States, Canada and Mexico; and

"Whereas, the competitive position of the individual states and the nation in international trade is directly related to the quality of the transportation system; and

"Whereas, several existing and emerging trade corridors will be needed to serve the increased trade resulting from the NAFTA; and

"Whereas, significant corridor opportunities exist to provide continuous trade routes traversing over two thousand miles from the port at Guaymas, Mexico through the state of Arizona to the major cities of the Pacific northwest and western Canada; and

"Whereas, among these corridors there is a three hundred mile segment between Interstate 17 in Flagstaff, Arizona and Interstate 15 in southern Utah that needs to be upgraded to interstate standards; and

"Whereas, upgrading of this three hundred mile corridor segment and other possible

corridors through the state of Arizona will positively impact the economies of at least six western states.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the United States Congress approve the concept of extending Interstate 17 north from Flagstaff, Arizona to a connection with Interstate 15 in southern Utah.

"2. That the United States Congress provide funding for Arizona and Utah to study the economic and environmental feasibility of this proposed extension and connection.

"3. That the United States Congress authorize funds for the development of national trade corridors and trade routes west of the Mississippi River, including the extension of Interstate 17 and improvements to other possible trade routes through Arizona, to serve the economic opportunities created by the NAFTA.

"4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation."

POM-424. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

"SENATE CONCURRENT MEMORIAL 1003

"Whereas, Arizona's public and private partnerships support the concept of multistate collaboration in the planning of the national highway system and intermodal transportation systems as prescribed by the Intermodal Surface Transportation Efficiency Act of 1991; and

"Whereas, negotiations on the proposed North American Free Trade Agreement (NAFTA) were completed in August of 1992, President George Bush signed the agreement in December of 1992 and ratification of the NAFTA by the United States Congress is expected in the near future; and

"Whereas, the North American Free Trade Agreement will pull together a market of approximately three hundred sixty million consumers in the United States, Canada and Mexico; and

"Whereas, the competitive position of the individual states and the nation in international trade is directly related to the quality of the transportation system; and

"Whereas, several existing and emerging trade corridors will be needed to serve the increased trade resulting from the NAFTA; and

"Whereas, a significant corridor opportunity exists to provide a continuous trade route traversing over two thousand miles from the port at Guaymas, Mexico to the major cities of the Pacific Northwest and Western Canada; and

"Whereas, within this corridor there is a three hundred mile segment between Interstate 17 in Flagstaff, Arizona and Interstate 15 in southern Utah that needs to be upgraded to interstate standards; and

"Whereas, within this corridor there is a one hundred fifty mile segment of US 93 from Sun City, Arizona to Interstate 40 in northwest Arizona that needs to be upgraded to interstate standards; and

"Whereas, upgrading of this three hundred mile corridor segment, as well as state routes and primary arterials that connect with the interstate systems along the continuous trade route from the port at Guaymas, Mexico to western Canada, will positively impact the economies of at least six western states.

"Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

"1. That the United States Congress approve the concept of establishing a north-south trade corridor through the states of Arizona and Utah to facilitate international trade with the countries of Mexico and Canada.

"2. That the United States Congress provide funding for Arizona and Utah to study the economic and environmental feasibility of this proposed corridor.

"3. That the United States Congress authorize monies for the development of national trade corridors and trade routes west of the Mississippi River, including the extension of Interstate 17 and the upgrading of US 93 to interstate standards, to serve the economic opportunities created by the NAFTA.

"4. That the United States Congress authorize monies for improvements to state routes and primary arterials that connect with the interstate systems that will have to handle the influx of commercial traffic along the proposed trade route from the port at Guaymas, Mexico to western Canada.

"5. That the United States Congress establish procedures to ensure that federal and state transportation planning efforts properly consider existing and emerging transportation systems in Canada and Mexico.

"6. That the United States Congress establish procedures to ensure that federal and state transportation departments consult and cooperate with the Bureau of Indian Affairs and the appropriate tribal leadership regarding the NAFTA—related transportation projects that pass through an Indian Reservation.

"7. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1970. An original bill to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes (Rept. No. 103-241).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Raymond E. Vickery, Jr., of Virginia, to be an Assistant Secretary of Commerce, vice James D. Jameson, resigned.

William Alan Reinsch, of Maryland, to be Under Secretary of Commerce for Export Administration, vice Dennis Edward Kloske, resigned.

Maria Luisa Mabilangan Haley, of Arkansas, to be a Member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1995, vice Constance Bastine Harriman.

Elaine A. McReynolds, of Tennessee, to be Federal Insurance Administrator, Federal Emergency Management Agency, vice C. M. Schauerte, resigned.

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. GRAHAM:

S. 1965. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of law enforcement applicants; to the Committee on the Judiciary.

By Mr. WOFFORD:

S. 1966. A bill to amend the Internal Revenue Code of 1986 to allow the joint ownership of individual retirement accounts; to the Committee on Finance.

By Mr. METZENBAUM:

S. 1967. A bill to require providers of home infusion therapy services to be licensed; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1968. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free rollover of certain payments made by employers to separated employees; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. SIMON, Ms. MIKULSKI, Mr. PELL, Mr. WELLSTONE, Mr. RIEGLE, and Mr. FEINGOLD):

S. 1969. A bill to amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes; read the first time.

By Mr. LEAHY:

S. 1970. An original bill to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

By Mr. McCAIN:

S. 1971. A bill to require the reauthorization of executive reporting requirements at least every 5 years; to the Committee on Governmental Affairs.

By Mr. BINGAMAN:

S. 1972. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize inclusion in a community policing grant of funds to pay 25 percent of the cost of providing bulletproof vests for 100,000 police officers; to the Committee on the Judiciary.

S. 1973. A bill to authorize funds to pay a portion of the startup costs of local handgun exchange programs; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. MURKOWSKI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. THURMOND, Mr. JEFFORDS, Mr. LEAHY, and Mrs. MURRAY):

S. 1974. A bill to authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform; to the Committee on Veterans' Affairs.

By Ms. MOSELEY-BRAUN (for herself, Mr. KENNEDY, Mr. SASSER, Mr.

MATHEWS, Mr. SARBANES, Mr. MOYNIHAN, and Mr. COCHRAN):

S. 1975. A bill to establish a grant program to restore and preserve historic buildings at historically black colleges and universities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. DORGAN, Mr. DOMENICI, Ms. MIKULSKI, Mr. JOHNSTON, and Mr. FAIRCLOTH):

S. 1976. A bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself, Mr. KENNEDY, and Ms. MIKULSKI):

S. 1977. A bill to amend title IV of the Social Security Act to reform child support enforcement procedures, and for other purposes; to the Committee on Finance.

By Mr. ROTH:

S. 1978. A bill to amend part III of title 5, United States Code, to provide for participation by non-Federal employees in health benefits plans under the Federal Employees Health Benefits Program, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. KENNEDY, and Mr. DURENBERGER):

S. 1979. A bill to require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 1980. A bill to establish the Cane River Creole National Historical Park and the Cane River National Heritage Area in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. KASSEBAUM (for herself, Mr. METZENBAUM, and Mr. KENNEDY):

S. 1981. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act to revise the provisions of such Acts relating to orphan drugs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself and Mr. COHEN):

S. 1982. A bill to modernize and streamline Federal acquisition management and procedures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRYOR:

S.J. Res. 176. A joint resolution to designate the month of May 1994 as "Older Americans Month"; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. AKAKA, Mrs. BOXER, Mr. COCHRAN, Mr. DOMENICI, Mr. FORD, Mr. GRASSLEY, Mr. HELMS, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. MATHEWS, Mr. METZENBAUM, Mr. MITCHELL, Mr. REID, Mr. SARBANES, Mr. SHELBY, Mr. SIMPSON, Mr. WELLSTONE, Mr. WOFFORD, Mr. CONRAD, and Mr. DASCHLE):

S.J. Res. 177. A joint resolution to designate the period of October 2, 1994, through October 8, 1994, as "Mental Illness Awareness Week"; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. NUNN, Mr. DODD, Mr. DANFORTH, Ms. MIKULSKI, Mr. COCHRAN, Mr. LIEBERMAN, Mr. BENNETT, Mr. DORGAN, and Mr. CONRAD):

S.J. Res. 178. A joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAHAM (for himself, Mr. BIDEN, Mr. LIEBERMAN, Mr. JEFFORDS, and Mr. BRYAN):

S. Res. 193. A resolution to encourage the development of an international convention to establish international standards for nuclear power plant safety; to the Committee on Foreign Relations.

By Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. BROWN, Mr. MITCHELL, and Mr. DOLE):

S. Res. 194. A resolution commending Israel and Egypt on the fifteenth anniversary of the signing of the historic Treaty of Peace between the Arab Republic of Egypt and the State of Israel; considered and agreed to.

By Mr. SPECTER:

S. Res. 195. A resolution expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of authority without awaiting the enactment of additional authorization; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Mr. JEFFORDS, and Ms. MOSELEY-BRAUN):

S. Con. Res. 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; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. Con. Res. 65. A concurrent resolution to express the sense of Congress that any health care reform legislation passed by Congress include guaranteed full funding for the special supplemental food program for women, infants, and children (WIC) so that all eligible women, infants, and children who apply could be served by the end of fiscal year 1996 and full funding could be maintained through fiscal year 2000, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM:

S. 1965. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of law enforcement applicants; to the Committee on the Judiciary.

LAW ENFORCEMENT AND CORRECTIONAL OFFICERS EMPLOYMENT REGISTRATION ACT OF 1994

• Mr. GRAHAM. Mr. President, today I am introducing the Law Enforcement and Correctional Officers Employment Registration Act of 1994, which will establish a national clearinghouse to assist in background checks on law enforcement applicants. The bill is a companion to H.R. 3272, introduced by Florida Congressman HARRY A. JOHNSTON.

This legislation would establish a national data bank that would provide quick, accurate, and prior officer employment history on all applicants for law enforcement agencies to access. This clearinghouse has been called a Pointer File and simply maintains basic information of all certified officers, including names, dates of birth, Social Security numbers, and dates of employment.

The intent of my legislation is to help prevent what "Dateline NBC" has referred to as Gypsy Cops. These are police officers who have been dismissed or have been forced to resign from previous positions but conceal prior employment history in future job applications.

In the case of the beating death of Bobby Jewett on November 24, 1990, in West Palm Beach, FL, "Dateline NBC" was able to subsequently trace the prior employment histories of the two officers involved in the case through four States and eight different law enforcement agencies. Much of this had been concealed in their job applications.

As noted in a Tampa Tribune editorial on June 29, 1993, in support of the establishment of a clearinghouse, "Few agencies, particularly those in rural areas and smaller towns, have the personnel and resources to conduct thorough background checks on police applicants. Not even the largest agencies always succeed in finding an officer's past if he or she is determined to hide it."

Florida Department of Law Enforcement Commissioner James T. Moore adds, "Experience has shown that, after being found guilty of misconduct, many problem officers resign or are fired, only to seek police jobs elsewhere. The clearinghouse system would allow a law enforcement agency to review each officer applicant's prior history as an officer."

Of importance, the clearinghouse would not contain information relating to causes of dismissal in order to protect the rights of officers. The law enforcement agency would remain responsible to conduct a thorough background check, but it would ensure that police officers could no longer conceal their prior history simply by moving from one State to another.

Thomas J. O'Loughlin, Chief of Police of Wellesley, notes, "The safety of the citizens of this Commonwealth and this Nation is either weakened or solidified by the character of the individuals that we entrust with the responsibility to protect. This legislation provides society with the necessary tools to ensure that individuals who have violated this trust do not simply relocate and once again commit grievous offenses against the public good, and it ensures that a complete and thorough

background investigation will be completed prior to an individual assuming the public's trust to be a protector of society."

I would like to thank Commissioner Moore, Joe White at the Florida Department of Law Enforcement, Florida's Criminal Justice Standards and Training Commission and the International Association of Chiefs of Police for their initiative in this area to protect the effectiveness and professionalism in law enforcement and the public's safety.

I urge my colleagues to join me in support of this legislation. Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1965

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 "Law Enforcement and Correctional Officers Employment Registration Act of 1994."

SEC. 2. FINDINGS.

The Congress finds that—

(1) law enforcement officials, including members of the International Association of Chiefs of Police recognize that violent crime represents the greatest threat to the safety and security of citizens and that dedicated, ethical law enforcement professionals and lawful community initiatives with participation by members of the community represent the best hope of responding to the challenges of violent crime;

(2) the International Association of Chiefs of Police acknowledges that a few officers choose to violate the public trust by abusing their authority or by breaking the law. Such officers should not be able to seek police employment in another state or jurisdiction with the expectation that they will be able to conceal their history of misconduct;

(3) there have been numerous documented cases of officers who have obtained officer employment and certification in a state after revocation of officer certification or dishonorable discharge in another state;

(4) a national clearinghouse of officer employment histories would enable each criminal justice agency to conduct thorough background checks on officer applicants and to assure that only honest ethical officers are permitted to serve; and

(5) Federal legislation is needed that would require Federal registration of employment termination data of law enforcement officers and correctional officers.

SEC. 3. REGISTRATION.

Subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following;

"REGISTRATION OF EMPLOYMENT DATA OF LAW ENFORCEMENT AND CORRECTIONAL OFFICERS.

"SEC. 509a. a(1) The Governor of each state, or chief executive of each Territory of the United States, the District of Columbia or a Native American Indian tribe or band that receives funds under section 506 in a fiscal year shall designate the state peace officer standards board or its equivalent which shall submit a list, maintained electronically, of all law enforcement and correctional officers who held such office in such State or territory, the District of Columbia or a Native American Indian tribe or band on or since January 1, 1994, in accordance with paragraph (2). The list shall be submitted to an officer or agency designated by the Attorney General of the United States. The head of each department, agency, or other entity in the executive branch of the United States Government that employs law enforcement or correctional officers shall submit a list of all such personnel employed on or after January 1, 1994. Such list shall be updated and supplemented by agencies or officials responsible for submission of employment data in accordance with subsection (b).

"(2) Such list shall include the names (and any former names), dates of birth, social security numbers, Federal Bureau of Investigation fingerprint identification numbers if known, the dates of appointment as officers if known, the names and addresses or National Crime Information Center numbers of the appointing or employing agencies, and if applicable, the dates such service ended for such officers.

"(b) The agency or official responsible for submission of such employment data shall, not later than 90 days after an officer's employment, appointment, or separation from employment or appointment, notify the agency or officer designated by the Attorney General of the United States to receive such employment data, that a law enforcement officer or correctional officer has been appointed or employed as an officer, or that a registered officer is no longer empowered or employed as such. If the former officer has had officer certification revoked for cause, that fact shall be reported.

"(c) For purposes of this section—

"(1) The term 'law enforcement officer' means a federal law enforcement officer, or an individual who is elected or appointed by a State or territory, or a political subdivision thereof, by the District of Columbia or by a Native American Indian tribe or band, to conserve the peace, or to make arrests or serve warrants, or to otherwise possess or exercise the authority of a peace officer. In the case of law enforcement officers elected or appointed by a State or a political subdivision thereof, 'law enforcement officer' only includes those required by the applicable law of the State to be licensed or certified. "(2) The term 'correctional officer' means a federal correctional officer, or an individual who is elected or appointed by a State or territory, or a political subdivision thereof, by the District of Columbia or by a Native American Indian tribe or band to guard or supervise prisoners or inmates of jails or other detention, penal or correctional facilities. In the case of correctional officers elected or appointed by a State or a political subdivision thereof, 'correctional officer' only includes those required by the applicable law of the state to be licensed or certified.

(3) "The term 'certification revoked for cause' means cancellation or revocation of an individual's law enforcement officer or correctional officer state professional license by a state peace officer standards board or its equivalent after administrative due process has been afforded the officer."

A 'law enforcement officer' or 'correctional officer' includes an individual whether compensated for services or not, whether full-or part-time, and whether appointment, election or term of office is temporary or permanent. Such terms do not include citizens who are called to assist an officer in the performance of the officer's duties, unless such citizen received a deputation or commission of appointment lasting longer than 30 days.

"(d)(1) As a condition of employment, each State, territory, or political subdivision thereof, the District of Columbia, each Native American Indian tribe or band and each Federal agency that employs law enforcement officers or correctional officers shall require all applicants for appointment to or employment in such positions before beginning employment—

"(A) to disclose all prior service or employment as a law enforcement or correctional officer, and

"(B) to submit a "written authorization and request for release of information", on a form prescribed by the Attorney General or designee,

"(2) When a prospective law enforcement or correctional employer obtains an officer's required "written authorization and request for release of information," the Attorney General (or designee) is directed ro release all data collected under subsections (a) and (b) of this section to such prospective employer.

"(3) Upon receipt of completed "written authorization and request for release of information and not later than 30 days after such officer is first appointed or employed or at any time prior to the appointment or employment of an applicant, each State, territory, and political subdivision thereof, the District of Columbia, each Native American Indian tribe or band and each Federal agency that employs law enforcement or correctional officers shall notify the Attorney General (or designee).

"(e) The Attorney General shall issue regulations for the implementation of this section and the operation of the employment data clearinghouse.

"(f) Agencies or agency administrators who submit employment or officer certification data pursuant to this section are presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, are immune from civil liability for such disclosure or its consequences. The presumption of good faith is rebutted upon a showing that the data was submitted with knowledge of its falsity or was submitted with the malicious intent to deliberately mislead."

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect October 1, 1994.

(b) INFORMATION COMPLIANCE.—Lists required under section 509a (a) of the Omnibus Crime Control and Safe Streets Act of 1968 shall be submitted not later than 180 days after the enactment of this Act. Not later than 180 days after the enactment of this Act, each State, territory, or political subdivision thereof, the District of Columbia, each Native American Indian tribe or band and each federal agency employing law enforcement and correctional officers shall comply with the requirements described in subsection (d) of section 509a of the Omnibus Crime Control and Safe Streets Act of 1968. The Director of the Bureau of Justice assistance may authorize grants to agencies to assist in their compliance with Subsection (1) of this Act.

SEC. 5. REPORTS.

Not later than 2 years after the date of the enactment of this Act, the Attorney General, upon consultation with the Director of the Bureau of Justice Sssistance, shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate evaluating the compliance with the require-

ments of section 509a of the Omnibus Crime Control and Safe Streets Act of 1968, and listing each State, territory, or political subdivision thereof, the District of Columbia, each Native American Indian tribe or band and each Federal agency employing law enforcement or correctional officers that has failed materially to comply with the requirements of this section. Such subsequent reports shall be presented as are deemed appropriate by the Attorney General.•

By Mr. METZENBAUM:

S. 1967. A bill to require providers of home infusion therapy services to be licensed; to the Committee on Labor and Human Resources.

SARAH WEBER HOME INFUSION CONSUMER PROTECTION ACT OF 1994

• Mr. METZENBAUM: Mr. President, I introduce the Sarah Weber Home Infusion Protection Act. This legislation will provide badly needed regulation of the home infusion therapy industry.

Home infusion therapy is one of the cutting edge health care delivery services in the United States. Theoretically, home infusion therapies are offered to patients as a means of reducing exorbitant hospital fees by transferring the patient from the hospital to the comfort of their own home where infusion therapy can be administered by a family member.

However, in practice, the home infusion industry has used home treatment as an opportunity for price gouging. The fees charged by the companies that deliver home infusion services have exceeded the cost of providing home infusion therapies in the hospital. According to Scripps Howard newspaper reporters Lisa Hoffman and Andrew Schneider, some home infusion companies have charged patients fees that were 2,000 percent higher then the fees charged at the hospital.

And yet, the exorbitant fees charged by the home infusion companies is simply the tip of the iceberg. The Office of the Inspector General at the Department of Health and Human Services has uncovered "kick back" schemes between home infusion therapy companies and doctors. In several instances, the Inspector General discovered direct payment for referrals, stock bonuses based on the amount of referrals, and payment for falsifying papers declaring a patient demonstrating need for home infusion therapies.

While the Scripps Howard reporters have documented abuses in home infusion therapy industry all across the country, the Inspector General has uncovered unscrupulous practices, and the television news program 20/20 has exposed the blatant practices of the home infusion industry, I have found the story of one mother and daughter in Cleveland particularly compelling.

When Marie Kostos-Weber from Cleveland, Ohio was faced with the decision to remove her 7-year old daughter stricken with cerebral palsy from the hospital after a grueling six-month stay, she assumed that treatment would be less expensive and more humane within her own home. Ms. Kostos-Weber, a divorced, single working mother opted for home infusion therapy to reduce her medical costs, and spend more time at home with her 6 other children. Little did she know what she was about to encounter.

After a year of therapy, Ms. Kostos-Weber's insurance company notified her that she had reached the $1 million limit on two insurance policies. Up until that time, she did not know of the exorbitant prices charged for her daughter's home medical treatment because the home infusion therapy company that provided Sarah's care sent bills only to the insurance company, and not to Marie.

Marie discovered that Sarah's home infusion therapy cost was $100,000 a month, $1,000 more per day than at the hospital with 24 hour nurses. She also determined that she was being over charged for certain drugs. In one case, the home infusion company's own cost for her daughter's medication was $3.50 per unit, yet when sold to the patient the price escalated to $122.81 per unit of medication, a mark-up of over 3000 percent.

Not only was Sarah's family severely over charged for medical equipment and services, but unnecessary medication was added to her medical regime. Ms. Kostos-Weber recalls spotting "fentanyl", a foreign drug delivered to her home as part of the medication to be administered to her daughter. Luckily, she phoned her pharmacist who informed her that fentanyl is a deadly drug used to immobilize a patient before surgery. Sarah could have died from this "slight oversight".

In the end, Ms. Kostos-Weber was forced to quit her job to qualify for Ohio medicaid to assist with the astronomical costs of home infusion therapies—a method originally intended to save people from inflated hospital costs. Sadly, Sarah Weber's young life ended last August. However, her mother has not given up the fight and today Congressman BROWN and I are introducing legislation in memory of Sarah.

The bill I am introducing today will require licensing of providers of home infusion therapy services. The Secretary of Health and Human Services, shall establish standards for licensing to ensure that home infusion services are provided in a safe, high quality manner at a reasonable cost. In addition, this legislation will prohibit a physician from making a referral to a home infusion therapy service with which the physician has a financial relationship.

The President's health care plan contains language on the delivery of home infusion therapies similar to the legislation I am introducing today. I am hopeful that we will be able to adopt this language in the President's health care package so that families will not endure the same frustration that Sarah Weber's family did.

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. 1967

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 "Sarah Weber Home Infusion Consumer Protection Act of 1994".

SEC. 2. LICENSING OF PROVIDERS OF HOME INFUSION THERAPY SERVICES.

(a) REQUIREMENT.—No person shall provide (or arrange for the provision of) home infusion therapy services in a State unless the person is licensed by the State in accordance with this section to provide (or arrange for the provision of) such services. No State shall license such a person unless the State finds that the person meets the standards for licensing established under this section.

(b) STANDARDS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish standards for the licensing of persons providing (or arranging for the provision of) home infusion therapy services consistent with this subsection.

(2) SUPERVISION.—A person licensed under this section shall only provide (or arrange for the provision of) home infusion therapy services to an individual who is under the care of a physician and under a plan established and periodically reviewed by a physician.

(3) PROVIDER QUALIFICATIONS.—A person shall not be licensed consistent with this section unless the person—

(A) has been determined to be capable of providing, or arranging for the provision of, home infusion therapy services;

(B) maintains clinical records on all individuals for whom the person provides (or arranges for the provision of) such services;

(C) adheres to written protocols and policies with respect to the provision (or arrangement for the provision) of services;

(D) makes services available (as needed) 7 days a week on a 24-hour basis;

(E) coordinates all home infusion therapy services with the patient's physician;

(F) conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care;

(G) assures that only trained (or licensed if necessary) personnel provide infusion products (and any other service for which training is required to safely provide the service);

(H) assumes responsibility for the quality of services provided by others under arrangements with such person;

(I) establishes appropriate protocols and explains such protocols clearly to patients before the initiation of a treatment plan; and

(J) meets such other requirements as the Secretary may determine are necessary (A) to assure the safe and effective provision of home infusion therapy services, and (B) respecting the quality of the provision of such services and the charges for such services.

A protocol referred to in subparagraph (I) shall include a provision for appropriate notification of individuals receiving home infusion therapy services in the event of the cancellation of the provision of those services.

(4) FEE.—A person shall not be licensed consistent with this section unless the person assures that charges for the provision of home infusion therapy services by the person (or under arrangements made by the person) shall not exceed such a fee as the Secretary by regulation may establish to assure that the charge for such services is reasonably related to the services actually provided.

(c) ENFORCEMENT.—Compliance with the requirements of subsection (a) shall be enforced under the Federal Trade Commission Act by the Secretary of Health and Human Services. A violation of any such requirement shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of such Act irrespective of whether the person who committed such violation is engaged in commerce or meets any other jurisdictional test in such Act. The Secretary shall have such procedural, investigative, and enforcement powers in enforcing compliance with such requirements and may require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms of such Act were part of this section.

SEC. 3. LIMITATION ON PHYSICIAN REFERRALS.

(a) GENERAL RULE.—Except as provided in this section, if a physician (or an immediate family member of such physician) has a financial relationship with an entity described in section 1877(a)(2) of the Social Security Act, then the physician may not make a referral to the entity for the furnishing of home infusion therapy services.

(b) INCORPORATION OF MEDICARE PHYSICIAN OWNERSHIP AND REFERRAL PROVISIONS.—The provisions of subsections (b) through (h) of section 1877 of the Social Security Act (other than subsections (f) and (g)(1)) shall apply with respect to subsection (a) of this section in the same manner as they apply to section 1877(a) of such Act. In applying the previous sentence, any reference to a "designated health service" is deemed to be a reference to home infusion therapy services.

(c) ADDITIONAL EXCEPTION FOR COMPENSATION ARRANGEMENT FOR MANAGEMENT OF PATIENT AND COORDINATION OF CARE.—In applying subsection (b), in addition to the exceptions described in section 1877(e) of the Social Security Act, payment of reasonable compensation to a physician for the management of patient and coordination of care shall not be considered to be a compensation arrangement described in section 1877(a)(2)(B) of such Act.

(d) TREATMENT OF PRESCRIPTION AS A REFERRAL.—In applying subsection (b) and in addition to section 1877(h)(5) of the Social Security Act, the prescription of a drug to be administered through home infusion constitutes a "referral" by a "referring physician".

SEC. 4. HOME INFUSION THERAPY SERVICES DEFINED.

For purposes of this Act, the term "home infusion therapy services" means the nursing, pharmacy, and related services, including medical supplies, intravenous fluids, delivery, and equipment, required for the provision of therapeutic agents to patients by parenteral administration, including intravenous, intra-arterial, subcutaneous, epidural, intrathecal, intramuscular, and peritoneal infusion, by an enteral feeding tube for the purpose of improving or maintaining an individual's health condition in the individual's residence.

SEC. 5. EFFECTIVE DATES.

(a) LICENSING REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 3(a) shall apply to home infusion therapy services provided on or after the first day of the first month that begins more than 90 days after the date of the enactment of this Act, without regard to whether or not the Secretary of Health and Human Services issues final regulations to carry out such section have been promulgated by such date.

(2) STATE LEGISLATION.—In the case of a State which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the State to provide for the licensing required under section 3(a), section 3(a) shall not apply in the State for home infusion therapy services provided before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(b) LIMITATION ON REFERRALS.—Section 4 shall apply to referrals made after December 31, 1994.●

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1968. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free rollover of certain payments made by employers to separated employees; to the Committee on Finance.

INTERNAL REVENUE CODE OF 1986 AMENDMENT ACT

● Mr. BREAUX. Mr. President, in most of our States, we have seen employers reduce their work forces to remain competitive in this increasingly worldwide economy. Many of these employers have chosen to offer early retirement packages as a measure to help the employees that choose or are forced into early retirement. Many of the packages include lump sum payments that are not from qualified retirement plans. Because they are not from qualified retirement plans, these payments cannot be rolled over immediately into an Individual Retirement Account or other qualified retirement plan without being subject to taxation first.

Instead, the employee is required to pay tax on the lump sum at tax rates that are much higher than the marginal tax rate their income would normally be subject to. In many cases, these employees will turn over 40 to 50 percent of their early retirement benefit as tax payments to the Government.

These employees are losing their jobs. It adds insult to injury that the Government takes such a large bite of these early retirement payments. Moreover, these funds are intended to be early retirement payments. Our tax policy should not prevent taxpayers from saving the entire amount for when they ultimately retire.

Mr. President, I believe that this current tax treatment needs changing. Therefore, the bill I am introducing today will allow employees, that lose their job as a result of significant downsizing and that receive a separation payment, to roll those funds over into an Individual Retirement Account—without paying taxes first. When the funds are ultimately withdrawn income taxes will be paid.

Mr. President, times are changing and our policies must change with the times. There was a time when employees could rely on keeping their jobs for life so long as they did a good job. With the economy becoming more international, job stability is uncertain. Employers must be more competitive. Therefore, I expect we will see more downsizing and more severance payments offered. In light of all of this uncertainty let's make sure the employees can have at least some security for their futures, let's let these employees, not the Federal treasury, keep their early retirement funds.

I urge my colleagues to cosponsor this legislation.●

By Mr. McCAIN:

S. 1971. A bill to require the reauthorization of executive reporting requirements at least every 5 years; to the Committee on Governmental Affairs.

THE REPORTING REQUIREMENT SUNSET ACT OF 1994

● Mr. McCAIN. Mr. President, I introduce a bill which will help bring about the demise of thousands of unnecessary reports that are required by the Congress each year, and force the Congress to reexamine the merits of the remainder.

I am dedicated to reducing the thousands of burdensome and costly reports that are mandated by the Congress. This legislation, the Reporting Requirement Sunset Act of 1994 will achieve some very important results in this regard. This legislation will sunset in 5 years all reports required by law, except for those related to financial accountability. This proposal will permit the President to submit any reports one additional time after that 5 year period if he determines it to be necessary. I would point out that any Federal agency or the White House, of course, can continue to provide whatever information it deems necessary and appropriate to the Congress at any time, regardless of any legislative mandates from the Congress.

Furthermore, this legislation will require the President to include a list of reporting requirements he feels are wasteful or unnecessary in his next budget submission to the Congress.

This is a very basic piece of legislation, but one I feel will be extremely valuable if we are truly to embark upon a process of reinventing government. A good start would be to deinvent some of the unnecessary reporting requirements that the Congress has continued to foist upon Federal agencies.

In his "National Performance Review," which commented at length on many of the unproductive tendencies of the Congress, Vice President GORE said: "Over the past decades, we have thrown layer upon layer of reporting requirements on Federal agencies, creating an almost endless series of required audits, (and) reports * * * ", and he noted that the executive branch's "calendar is jammed with report deadlines."

Vice President GORE's report found that, "In Fiscal year 1993, Congress required executive branch agencies to prepare 5,348 reports," and expressed dismay that these duplicative burdens "trapped agencies in a blizzard of paperwork."

The Congress's habit of burdening Federal agencies with unnecessary reporting requirements is quite serious, and it is getting worse. The General Accounting Office [GAO] found that one House committee alone received over 800 reports from Federal agencies in response to mandatory reporting requirements in just the 101st Congress. Another 600 reports were sent to the same committee in the following Congress.

To demonstrate just how heavy this burden can be, the Office of Management and Budget [OMB] had to submit 38 reports to one single House committee to comply with a single piece of legislation—the 1990 Budget Reconciliation Act.

Furthermore, the GAO also has stated that the "Congress imposes about 300 new requirements on Federal agencies each year. As of March 1992, there were 3,719 requirements and 3,331 communications in the 102d Congress database."

Ironically, "reducing congressional reports" is an issue that the GAO itself has reported on to Congress at least 15 times. I think we would be wise to finally begin to address this mandate malady in a substantive manner, and the passage of this bill would be a decisive first step.

This legislation is broad in its reach, but in no way will stop the Congress from being properly and routinely informed about important issues. Under this bill, the Congress will have 5 years in which to reauthorize any reports it deems are truly necessary.

Sunsetting all congressionally mandated reports, except for those dealing with financial accountability, will force the Congress to address just what are legitimate reporting requirements. I think it is clear that many of the thousands of reports that are currently required by Federal law will not meet any reasonable standard of merit, and should therefore be done away with.

The Senate should act vigorously to begin the long-term process that is necessary to unburden the executive branch and the American people from the morass of congressional micromanagement. That means cutting out wasteful pork-barrel spending and unjustified earmarks in appropriations bills, reducing red tape and costly regulations, and terminating thousands of mandated reports. By "sunsetting" all mandated reports which have not been reauthorized by the Congress, as called for in this legislation, we will be empowering Federal agencies to work better and cost less, and we'll be on our way to reinventing government.

By excluding reporting requirements that relate to financial accountability, my objective is to safeguard the continuation of important financial data to be conveyed to the Congress under such legislation as the Financial Integrity Act and the Inspector General Act. In reducing unnecessary reporting requirements, we must also ensure that the Congress fully meets its responsibility to monitor how taxpayer funds are being spent by Federal agencies.

The administration's proposals to alleviate the burden of reporting requirements on the executive branch, as reported out of the Senate's Governmental Affairs Committee, are well-intentioned but inadequate. This legislation, H.R. 3400, merely says that the Director of OMB "may adjust the frequency and due dates" of mandatory reports, and only for a certain period of time. In addition, that bill states that the President "may publish a list" of unnecessary reporting requirements in his annual budget submission to Congress. The President should be required to make this recommendation, and this legislation will require that.

Let me emphasize, Mr. President, that this legislation will not cause any important report to be terminated. The Congress can and will authorize every report that is necessary at the appropriate time. I have authored legislation that required reports, as have most of my colleagues. Due to the massive accumulation of paperwork requirements we have forced upon the executive branch, however, every Member of Congress should bear the responsibility of deciding which reports are essential, as opposed to being of momentary interest.

Forcing the Congress to make judgments about the practical value of mandatory reports is one of the objectives of this proposal. It should be our job to do so, and it's time we focus on what's really important, and stop suffocating the executive branch with layers upon layers of wasteful paperwork requirements.

I highly commend Senator LEVIN and Senator COHEN, the chairman and ranking member of the Government Affairs Committee's Oversight Subcommittee for their considerable efforts to eliminate specific mandatory reports. I strongly believe that my legislation will build upon their ongoing work in this area. I intend to offer this legislation as an amendment to a relevant government reform initiative that may be brought before the Senate, and I hope my colleagues will support it to sweep away many of the reporting mandates the Congress has placed upon Federal agencies over the years.•

By Mr. BINGAMAN:

S. 1972. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize inclusion in a community policing grant of funds to pay 25 percent of the cost of providing bulletproof vests for 100,000 police officers; to the Committee on the Judiciary.

THE BULLETPROOF VEST POLICE SAFETY ACT OF 1994

• Mr. BINGAMAN. Mr. President, I offer legislation that will help provide bulletproof vests for the 100,000 officer positions created in the Senate crime bill.

In the mid-1970's, law enforcement officers began to wear bulletproof vests. Since this time period, it is estimated that more than 1,650 officers have been saved by wearing the vests. Today, our officers are exposed to greater danger than ever before. Today's weapons cause more destruction and the criminals who utilize these weapons have become very sophisticated in their techniques. In an effort to make our communities safer, Congress is currently considering a companion crime bill. Specifically, there is a provision in the Senate passed version that will place 100,000 officers on the streets of American communities over the next 5 years. Once the crime bill becomes law, we will ask those 100,000 officers to protect society.

Today, I am offering a bill that asks society to help protect 100,000 officers.

Under this bill, the Federal Government, under the authority of the Attorney General, will pay 25 percent of the cost of a bulletproof vest for each of the 100,000 officer positions created in the crime bill. Also, the language in this bill takes into account that the new position being created may not necessarily expose the officer to the danger of gunfire. In this circumstance, the police agency being awarded the position may receive the 25-percent subsidy for another officer who is exposed to potential gunfire.

There is strong public policy for this bill. According to Craig W. Floyd, chairman of the National Law Enforcement Officers Memorial Fund, he states "the increased use of bullet-resistant vests by police officers appears to be the single biggest reason for the decline in death." The Federal Government owes a duty to help protect these officers that it is putting on the streets. By creating the 100,000 new positions, Congress created and assumed a new responsibility to help provide the safety for these individuals. This bill will demonstrate and establish that the officer's safety is a priority.

If this bill did not exist, I believe that most local law enforcement agencies will still equip these new officers with the vests. What this bill will do is free-up money for the local law enforcement agency to spend on other needed equipment. For instance, the cost of patrol vehicles, uniforms and weapons stretch the already extended budgets.

In my calculations, I estimated that the average cost of a vest is $550 dollars, 25 percent of this figure, the Federal Governments' contribution, is $138 per vest. the total cost would be about $14,000,000—$13,800,000. For this reason I am asking that $14,000,000 be authorized for this program. This figure will be spread across 5 years as the new officer positions are awarded.

This bill has the support of the Fraternal Order of Police, the National Sheriffs' Association, International Union of Police Association and the Federal Law Enforcement Officers Association. Dewey R. Stokes, National President of the Fraternal Order of Police, states "With the congressional passage of this legislation, the Congress is, in fact, stating they are concerned about the protection of law enforcement officers, as well as recognizing the dangers we face on the violent streets of today's America." He further states "The 25-percent contribution by the Federal Government toward the purchase of these vests will surely encourage some of the more financially distressed police departments to make these purchases and thus save some additional officers' lives and prevent many possible serious injuries."

Although Federal officers would not benefit by this bill, this bill has the support of the Federal Law Enforcement Officers Association. Victor O'Boyski, president of the Federal Law Enforcement Officers Association, states "we are endorsing this legislation as Federal Law Enforcement officers because we want safety ensured for the local officers who we work side-by-side with." Mr. President, this bill will make safety a priority.

In summary, this bill allows us to fulfill an obligation. An obligation that was assumed when we created the 100,000 new officer positions in the crime bill. We must help our local law enforcement agencies provide protection for our officers. For these reasons, I ask colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BULLETPROOF VESTS FOR 100,000 POLICE OFFICERS.

(a) SHORT TITLE.—This Act may be cited as the "Bulletproof Vest Police Safety Act of 1994".

(b) GRANT AUTHORIZATION.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 103(a) of the Violent Crime Control and Law Enforcement Act of 1993, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) pay 25 percent of the cost of providing a number of bulletproof vests equal to the number of law enforcement officers hired or rehired with grant monies (for use by those officers or other officers whose duties may expose them to gunfire).".

(c) ALLOCATION OF APPROPRIATIONS.—Section 1001(a)(11)(B) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 103(c) of the Violent Crime Control and Safe Streets Act of 1993, is amended in the third sentence by inserting "(of which funds $14,000,000 shall be available to provide assistance in purchasing bulletproof vests under section 1701(b)(3))" after "specified in section 1701(b)".

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, March 24, 1994.

Hon. JEFF BINGAMAN,
U.S. Senate, 110 Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the 22,000 members of the National Sheriffs' Association (NSA), I am writing in support of proposed legislation that would authorize grant funds to pay for the cost of bulletproof vests for 100,000 police officers. The sheriffs of this nation applaud your stand and commend you for your efforts. As always, NSA is prepared to support legislation in the best interest of law enforcement and the public.

I would be grateful if you would keep me informed of any progress regarding this proposal. Thank you for your endeavors.

Sincerely,

CHARLES "BUD" MEEKS,
Executive Director.

FRATERNAL ORDER OF POLICE,
Columbus, OH, March 22, 1994.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: Your proposed legislation to assist with the purchase of 100,000 vests for law enforcement officers is a proposal that the National Fraternal Order of Police would gladly support. With the Congressional passage of this legislation, the Congress is, in fact, stating they are concerned about the protection of law enforcement officers, as well as recognizing the dangers we face on the violent streets of today's America. The twenty-five percent contribution by the Federal government toward the purchase of these vests will surely encourage some of the more financially distressed police departments to make these purchases and thus save some additional officers' lives and prevent many possible serious injuries.

On behalf of our 248,000-plus members made up of full-time law enforcement officers, we encourage you to pursue this legislation and we thank you for your thoughtfulness and consideration of our plight.

Sincerely,

DEWEY R. STOKES,
National President.●

By Mr. BINGAMAN:

S. 1973. A bill to authorize funds to pay a portion of the startup costs of local handgun exchange programs; to the Committee on the Judiciary.

HANDGUN EXCHANGE PROGRAM ACT OF 1994

● Mr. BINGAMAN. Mr. President, today, I introduce legislation that will provide money for communities to start handgun exchange programs.

The continuing question is how do we stop our youth from committing senseless acts of violence with handguns? There are no simple answers. Currently, in the fight against crime, Congress is faced with the difficult task of choosing between programs that show results in future decades or choosing programs that have more immediate impact. It has become clear that Government does not have all the answers and that is why there is currently greater emphasis placed on partnerships between the community, business, and Government.

Today, I am offering legislation that strengthens the partnership between Government, business, and the community in taking handguns off the streets.

This legislation will authorize the Attorney General to provide 50 percent of the startup costs of a handgun exchange program in a community. Each State will be entitled to 2 percent of the total funds allocated for this program. This legislation will not pay for administration costs once the exchange program is under way and does not authorize funds to buy back handguns.

The language in this bill defines a startup cost as pertaining to: First, informing the community of the program; second, getting businesses involved in the program and/or; third, securing a safe handgun exchange location. The Attorney General is authorized to determine whether the specific requests from the local communities abide by the intent of this definition.

The purpose of this program is to get handguns off the street. Although there are current handgun exchange programs that do not have Government involvement, this legislation is intended to aid those communities that need help with coordination or information in developing their own programs.

Let me illustrate to you what I mean by a Handgun Exchange Program. In my home State of New Mexico, Barry Finkenberg, a local business person who is president of Ticketmaster, started his own handgun exchange program. This program will exchange two tickets to an upcoming concert for one handgun. By January, in less than 3 months, the program had collected 130 guns. Mr. Finkenberg's example has inspired other programs to start in other States such as California and New York.

This example demonstrates a successful partnership between the business sector and community in taking handguns off the streets. It also dem-

onstrates that the Government does not have to buy back the handguns. Instead, a business person donates an item that can then be traded for the handguns. Concert tickets are only one of the incentives which have been donated. In other parts of the county, the business sector has donated toys, meals, certificates for clothing, tickets for sporting events, and even ski lift tickets.

It is my belief, that there are communities that would create their own successful exchange programs such as that of Mr. Finkenberg if given the chance. It is for those areas of this country that this program is intended. This program will provide those communities with 50 percent of the necessary funds needed to start their own programs. And as stated earlier, once the program is under way, the Department of Justice will stop any type of financial assistance. It is at this point that the success of the program depends upon the support and goodwill of the community to succeed.

I am asking that $1 million be appropriated for both fiscal year 1994 and 1995. No later than December 31, 1995, the Attorney General will submit a report to Congress that will assess the success of the program.

In summary, this legislation will affect those communities that need help or aid in establishing their own handgun exchange programs. A partnership is forged that places more responsibility on the different partners at different times. In the beginning, Government has a significant role in creating the handgun exchange program. Once the program has started, business and the community assume the responsibility of the program's future success. For these reasons, I ask my colleagues to support this legislation.

Mr. President I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STARTUP OR "SEED MONEY" FOR LOCAL HANDGUN EXCHANGE PROGRAMS.

(a) FEDERAL CONTRIBUTION.—The Attorney General shall establish a program under which the Attorney General will enter into agreements to contribute, and will contribute, up to 50 percent of the funds needed to pay startup costs of handgun exchange programs operated by local governments or private entities in which merchandise or services (including entertainment), tickets or certificates that may be used to acquire merchandise or services, or other non-cash incentives are given in exchange for handguns.

(b) QUALIFICATIONS, TERMS, AND CONDITIONS.—In an agreement under subsection (a), the Attorney General—

(1) may agree to contribute to the startup costs of a handgun exchange an amount that is not greater than the amount of State and local public funds and private funds committed to the program at the time of the agreement;

(2) shall require that the place at which exchanges are to be made allows anonymity for a person who exchanges a handgun;

(3) shall require that all firearms that are turned in to the program will be destroyed;

(4) shall require that the program agree to provide only merchandise or services (including entertainment), tickets or certificates that may be used to acquire merchandise, or other incentives other than cash to persons who turn in firearms and that such incentives be provided by donations from private entities;

(5) shall require that startup costs must pertain to—

(A) informing the community of the program;

(B) getting businesses involved in the program; or

(C) securing a safe handgun exchange location; and

(6)(A) may set such other qualifications, terms, and conditions as may be appropriate to ensure that the program is operated in an efficient and bona fide manner consistent with the interests of law enforcement; but

(B) may not prescribe the terms under which the program will accept firearms in exchange for any offered incentive.

(c) TERMINATION.—The program under subsection (a) shall terminate on September 30, 1995.

(d) ALLOCATION.—

(1) MAXIMUM AMOUNT.—Not more than 2 percent of the total amount appropriated to carry out this Act for a fiscal year may be allocated to the making of contributions in any 1 State.

(2) PRIORITY.—Within each State—

(A) the Attorney General shall give to priority to creating handgun exchange programs in areas that are experiencing high rates of crime in which handguns are used; but

(B) urban and rural areas shall each receive an appropriate amount of assistance.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Violent Crime Reduction Trust Fund to be established under section 1115 of title 31, United States Code, as proposed to be added by section 1353 of the Violent Crime Control and Law Enforcement Act of 1993, $1,000,000 for each of fiscal years 1994 and 1995.

(f) REPORT.—Not later than December 31, 1995, the Attorney General shall submit to Congress a report assessing the effect that operation of the handgun exchange programs funded under this Act has had in reducing the incidence of crime in the jurisdictions in which the programs were operated.•

By Mr. ROCKEFELLER (for himself, Mr. MURKOWSKI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. THURMOND, Mr. JEFFORDS, Mr. LEAHY, and Mrs. MURRAY):

S. 1974. A bill to authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform; to the Committee on Veterans' Affairs.

VA STATE HEALTH CARE REFORM

• Mr. ROCKEFELLER. Mr. President, even as the Congress carries on the debate on national health care reform, many States have already enacted reform legislation. These States have taken the first, important steps on the road to universal coverage. I applaud the efforts of these courageous legislators. They are giving their citizens health care security. These State plans provide Congress with the perfect opportunity to learn from their successes and to study the effects of reform on existing Federal medical programs, including the VA medical system.

The VA medical system—the Nation's largest health care system—cannot participate fully in health care reform efforts in specific States, because current Federal law makes it impossible for VA facilities to do so. This deprives VA of the kinds of experiences and information it needs to thrive under national health care reform. If this situation continues, we will miss a valuable opportunity to study the effects of reform.

At a February 9, 1994, Senate Committee on Veterans' Affairs' hearing on VA participation in state health care reform programs, Acting Deputy Under Secretary of Health, Elwood Headley, M.D., stated that as a public health care system, VA lacks experience in participating in a competitive environment.

Mr. President, I believe VA will do well in a national plan under which costs are controlled and coverage is expanded for all Americans, because VA already operates within a fixed budget. VA must, however, have the opportunity to learn what kinds of changes are needed in the VA medical system as a whole.

It is in the spirit of improving VA medical services for veterans that I am today introducing a bill that would require VA to conduct a pilot health care reform program. This VA State Health Care Reform Pilot Program would enable VA to participate in the health care reform programs of several States. I am delighted to be joined in sponsoring this bill by Committee members FRANK MURKOWSKI, BOB GRAHAM, DANIEL AKAKA, TOM DASCHLE, STROM THURMOND, and JAMES JEFFORDS, and by Senators PATRICK LEAHY and PATTY MURRAY.

At the February 9 hearing, John Bollinger, Deputy Executive Director, Paralyzed Veterans of America, testified that "the pilot programs will give VA in those States the opportunity to become a full participant in the health care system. It will also provide valuable experience to draw upon when the full VA system faces the same challenges in the context of national health care reform." I agree wholeheartedly.

SUMMARY OF PROVISIONS

Mr. President, this legislation would enable VA to evaluate the most appropriate means of participating in reformed State health care system, providing invaluable information to help

them prepare for national health care reform.

The bill would give VA the authority to select up to five States with comprehensive health benefit plans in place, or where such plans are imminent, to participate in the pilot program for a period of 2 years. The bill would authorize that VA facilities in the selected States offer free comprehensive care to all compensable service-connected veterans and to all veterans with incomes below the current levels that apply to inpatient care.

The legislation would grant the Secretary authority to waive certain laws and regulations that could interfere with the ability of VA facilities to participate in State health care reform activities.

This legislation would give VA medical center directors flexibility in allocating their resources, except with respect to regional programs, such as spinal cord injury services, post traumatic stress disorder, blind rehabilitation, and substance abuse programs, which are funded from Central Office.

The bill would give the head of the VA in selected States—the VA health system director—the authority to contract out for medical services without prior review from VA Central Office. For other services, VA facilities within the State would have the authority to enter into contracts below $250,000 without prior review by Central Office. Contracts above $250,000 would be reviewed by Central Office, but would be automatically approved if Central Office did not make a decision within 30 days. This would give local VA facilities the autonomy they need to increase their number of providers in a timely manner.

This bill would also give local VA facilities more flexibility in the hiring process, by extending authority that is currently available for hiring certain title 38 personnel to the hiring of all staff. This is intended to help VA facilities hire the best possible employees in a timely manner.

The bill would exempt VA facilities in the pilot program from FTE cuts. Arbitrary FTE cuts could make it impossible for VA facilities to compete under health care reform.

The legislation would give the participating VA facilities the authority to carry leftover funding over from 1 year to the next. Again, this would help VA facilities make better use of limited funds.

Finally, this legislation would give VA the authority to collect employer contributions and other third-party payments for noncore veterans who choose VA health care. These payments would enable VA facilities to provide care for all veterans who choose VA health care, not just core veterans.

CONCLUSION

Mr. President, VA needs legislative relief from restrictions in current law which, although enacted for good and appropriate reasons, could prevent VA facilities from competing as providers in certain States. The major obstacle which must be overcome is that VA facilities cannot qualify as providers under some State plans because of current eligibility requirements. Under various State proposals, all citizens would be eligible to choose a provider, and all providers must provide the same basic package of services. In most States, VA could not be considered a provider for several reasons, including the restrictions which limit preventive and primary care.

Mr. President, the VA State Health Care Reform Pilot Program would provide VA with invaluable experience regarding how it needs to change in order to survive and thrive under health care reform. The VA State Health Care Reform Pilot Program will help us meet our obligation to the brave men and women who served in every branch of the armed forces, by improving the VA medical system that serves them.

I am looking forward to working with Senator MURKOWSKI and all the members on the Senate Committee on Veterans' Affairs, as well as my counterpart on the House Committee on Veterans' Affairs, Chairman SONNY MONTGOMERY, and chairman of the House Subcommittee on Hospitals and Health Care ROY ROWLAND.

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. 1974

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 "VA State Health Care Reform Pilot Program Act".

SEC. 2. PURPOSE OF PILOT PROGRAMS.

The purpose of this Act is to authorize the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform in order to evaluate the most appropriate means of enabling the Department health care system to participate in such systems and in the National health care system contemplated under any plans for National health care reform.

SEC. 3. HEALTH CARE PILOT PROGRAMS.

(a) IN GENERAL.—The Secretary may carry out pilot programs on the participation of the Department of Veterans Affairs health care system in the health care systems of States that have adopted comprehensive health benefit plans. The Secretary shall carry out any pilot program under this Act in accordance with the provisions of this Act.

(b) STATES ELIGIBLE FOR DESIGNATION.—(1) The Secretary shall designate each of not more than five States as a location for a pilot program under this Act. The Secretary shall complete the designation of States as locations for pilot programs not later than 30 days after the date of the enactment of this Act.

(2) The Secretary may designate a State as a location for a pilot program under this Act if the Secretary determines that—

(A) the State has enacted, or will soon enact, a statute establishing or providing for a comprehensive health benefit plan; and

(B) the participation of the health care system of the Department under the plan is feasible and appropriate in light of the purpose of this Act.

(c) DEPARTMENT PARTICIPATION IN STATE HEALTH BENEFIT PLANS—(1) To the maximum extent practicable, the Secretary shall provide eligible persons under each pilot program under this Act with the comprehensive package of basic health care benefits that would otherwise be available to such persons under the comprehensive health benefit plan of the State in which the pilot program is carried out. The Secretary shall provide such benefits through the health care system of the Department in such State as if such system were a provider of such benefits under such plan.

(2) Notwithstanding any other provision of law, a State may not prohibit the participation of the Department under the comprehensive health benefit plan of the State under a pilot program unless the chief executive officer of the State certifies to the Secretary that—

(A) the benefits to be provided by the Department under the pilot program do not meet requirements for quality of benefits established by or provided under the plan; or

(B) the location of Department facilities (including facilities providing services by contract or agreement with the Secretary) in the State is such that the proximity of eligible persons to such facilities does not meet requirements so established for such proximity.

(3) To the maximum extent practicable, the Secretary shall provide health care benefits under a pilot program under this Act in accordance with the statutory requirements and regulatory requirements imposed with respect to the provision and availability of such benefits under the comprehensive health benefit plan of the State in which the pilot program is carried out.

(4) Not later than 30 days after the designation of a State as a location for a pilot program under this Act, the Secretary and the health system director for that State shall jointly determine the Federal regulations the waiver or modification of which is necessary in order to facilitate the carrying out of the pilot program. Upon such determination, the Secretary shall waive or modify the application of such regulations to the pilot program.

(5) The Secretary shall furnish any eligible person living in a State in which a pilot program is carried out (including any eligible person electing to receive benefits under the pilot program and any eligible person not electing to receive benefits under the pilot program) with the health care benefits for which such person is eligible under chapter 17 of title 38, United States Code, notwithstanding that the comprehensive package of basic health care benefits provided under the comprehensive health benefit plan of the State does not otherwise include such health care benefits. The Secretary shall furnish any health care benefits under this paragraph in accordance with the provisions of that chapter.

(d) HEALTH SYSTEM DIRECTOR.—The Secretary shall designate a health system direc-

tor for each State in which a pilot program is carried out under this Act. The health system director of a State shall be the director or chief of staff of a Department medical center located in the State in which the pilot program is carried out. To the maximum extent practicable, the Secretary shall delegate to the health system directors the responsibilities of the Secretary under this Act.

(e) ADMINISTRATIVE REORGANIZATION.—The Secretary may carry out any administrative reorganization of an office, facility, activity, or function of the health care system of the Department in a State in which a pilot program is carried out that the Secretary and the health system director jointly determine to be necessary in order to facilitate the carrying out of the pilot program. Section 510(b) of title 38, United States Code, shall not apply to any such administrative reorganization.

(f) PROVISION OF BENEFITS.—(1)(A) Except as provided in subparagraph (B), the Secretary shall provide health care benefits under a pilot program—

(i) through the direct provision of such services by the health care system of the Department in the State in which the pilot program is carried out; or

(ii) in the event that such services cannot be provided directly by such system, by contract or other agreement in accordance with paragraph (2).

(B) The Secretary may exclude facilities of the Department from participation in a pilot program. Any facilities so excluded shall continue to provide health care benefits to veterans and other persons eligible for such benefits in accordance with the provisions of title 38, United States Code.

(2) The health system director of a pilot program may enter into contracts and agreements for the provision of health care services and contracts and agreements for other services with respect to the pilot program under paragraph (1)(A)(ii). Any such contract or agreement (including any lease) shall not be subject to the following provisions of law:

(A) Section 8110(c) of title 38, United States Code, relating to contracting of services at Department health-care facilities.

(B) Section 8122(a)(1) of such title, relating to the lease of Department property.

(C) Section 8125 of such title, relating to local contracts for the procurement of health-care items.

(D) Section 702 of title 5, United States Code, relating to the right of review of agency wrongs by courts of the United States.

(E) Sections 1346(a)(2) and 1491 of title 28, United States Code, relating to the jurisdiction of the district courts of the United States and the United States Court of Federal Claims, respectively, for the actions enumerated in such sections.

(F) Subchapter V of chapter 35 of title 31, United States Code, relating to adjudication of protests of violations of procurement statutes and regulations.

(G) Sections 3526 and 3702 of such title, relating to the settlement of accounts and claims, respectively, of the United States.

(H) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637(b)(7), (e), (f), (g), and (h)), relating to requirements with respect to small businesses for contracts for property and services.

(I) The provisions of law assembled for purposes of codification of the United States Code as section 471 through 544 of title 40 that relate to the authority of the Administrator of General Services over the lease and disposal of Federal Government property.

(J) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), relating to the procurement of property and services by the Federal Government.

(K) Chapter 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), relating to the procurement of property and services by the Federal Government.

(L) Office of Management and Budget Circular A-76.

(3)(A) Notwithstanding any other provision of law, contracts and agreements for the provision of health care services under this subsection shall include contracts and other agreements with insurers, health care providers, or other individuals or entities that provide health care services in order to obtain health-care resources for eligible persons under a pilot program or to furnish health care benefits to such persons.

(B) A health system director of a pilot program may enter into a contract or agreement under this paragraph only if the director determines that the contract or agreement is necessary in order to ensure the provision of health care services of an acceptable level and quality under the pilot program.

(C) Contracts and agreements under this paragraph may be entered into without prior review by the Central Office of the Department.

(4)(A) Contracts and agreements under this subsection for services other than the services referred to in paragraph (3) (including contracts and agreements for procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) shall not be subject to review by the Central Office if the amount of such contracts or agreements is less than $250,000.

(B) Contracts and agreements for services under this paragraph shall be subject to review by the Central Office if the amount of such contracts or agreements is $250,000 or greater. If the Central Office fails to approve or reject a contract or agreement under this clause within 30 days of its submittal to the Central Office, such contract or agreement shall be deemed approved by the Central Office.

(g) DEPARTMENT PERSONNEL.—(1) Notwithstanding any other provision of law and to the extent necessary to carry out the purpose of a pilot program, the Secretary may—

(A) appoint health care personnel to positions in the health care system of the Department in the State in which the pilot program is carried out in accordance with such qualifications for such positions as the Secretary may establish; and

(B) promote and advance personnel serving in such positions in accordance with such qualifications as the Secretary may establish.

(2) Not later than 60 days after the designation of a State as a location for a pilot program under this Act, or at such other time as the Secretary may determine, the Secretary shall request authority from the Director of the Office of Management and Budget to permit the Secretary to employ a number of full time equivalent employees in the health care system of the Department in that State which exceeds the number of such employees that would otherwise be authorized for such employment by the Director.

(3) Notwithstanding any other provision of law, employees of the Department at facilities of the Department under a pilot program shall not, during the carrying out of the pilot program, be subject to any reduction in the number of full time employees of the Department or as a result of a reduction in the number of full time employees of the Federal Government.

(h) ELIGIBLE PERSONS.—(1) A person eligible for health care benefits under a pilot program is any person residing in a State in which a pilot program is carried out as follows:

(A) Any veteran.

(B) Any spouse or child of a veteran.

(C) Any individual eligible for care under paragraph (2) or (3) of section 1713(a) of title 38, United States Code.

(2) Notwithstanding any other provision of law, a State may not require that any person other than a person referred to in paragraph (1) be eligible for health care benefits through the Department under a pilot program.

(i) COPAYMENTS AND OTHER CHARGES.—(1) Except as provided in paragraph (2), the Secretary may collect from or on behalf of any individual receiving health care benefits from the Secretary under a pilot program under this Act a premium, deductible, copayment, or other charge with respect to the provision of a benefit under the pilot program. The amount of the premium, deductible, copayment, or other charge collected with respect to a benefit provided under a pilot program may not exceed the maximum amount otherwise permitted for a premium, deductible, copayment, or other charge with respect to that benefit under the comprehensive health benefits plan of the State in which the pilot program is carried out.

(2)(A) Except as provided in subparagraph (B), the Secretary shall waive the collection under the pilot programs of premiums, deductibles, copayments, and other charges with respect to the benefits provided by the Department to the following:

(i) Veterans with compensable service-connected disabilities.

(ii) Veterans whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty.

(iii) Veterans who are in receipt of, or who, but for a suspension pursuant to section 1151 of title 38, United States Code (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veterans' continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

(iv) Veterans who are a former prisoners of war.

(v) Veterans of the Mexican border period or of World War I.

(vi) Veterans who are unable to defray the expenses of necessary care, as determined in accordance with section 1722(a) of such title.

(B) The Secretary may collect premiums, deductibles, copayments, and other charges with respect to benefits provided under a pilot program to veterans referred to in subparagraph (A) from any third party obligated to provide, or to pay the expenses of, such benefits to or for such veterans under the comprehensive health benefits plan of the State in which the pilot program is carried out.

(j) FUNDING.—(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Health Care Reform Fund (hereafter referred to in this subsection as the "Fund").

(2)(A) Notwithstanding any other provision of law, amounts shall be deposited in the Fund as follows:

(i) Amounts made available to a pilot program based upon a determination under paragraph (3).

(ii) Amounts collected under a pilot program in accordance with subsection (i).

(iii) Amounts determined with respect to a pilot program under paragraph (4).

(iv) Such other amounts as the Secretary and the health system directors of the pilot programs jointly determine to be necessary in order to carry out the pilot programs.

(v) Such other amounts as may be appropriated to the pilot programs.

(B) The Secretary shall make available amounts under clauses (i) and (iv) of subparagraph (A) from amounts appropriated to the Department of Veterans Affairs for the provision of health care services.

(C) The Secretary shall establish and maintain a separate account under the Fund for each pilot program carried out under this Act. Any deposits and expenditures with respect to a pilot program shall be made to or from the account established and maintained with respect to that pilot program.

(3)(A) For each year of the operation of a pilot program under this Act, the Secretary shall deposit in account of the Fund for the pilot program an amount (as determined by the Secretary) equal to the amount that would otherwise be made available to the health care system of the Department in the State in which the pilot program is carried out for the payment of the cost of health care services by such system in that State in that year. The Secretary shall deposit such amount at the beginning of such year.

(B) The costs referred to in subparagraph (A) shall not include costs relating to the provision by the Secretary of the following services:

(i) Services relating to post-traumatic stress disorder.

(ii) Services relating to spinal-cord injuries.

(iii) Services relating to substance abuse.

(iv) Services relating to the rehabilitation of blind veterans.

(4)(A) In each year of the operation of a pilot program under this Act, the Secretary shall deposit into the account of the Fund for the pilot program an amount with respect to the pilot program that is equal to the portion of the amount referred to in subparagraph (B) that is allocable to the medical-care cost recovery activities of the Department under section 1729(g)(4) of title 38, United States Code, in the State in which the pilot program is carried out.

(B) The amount referred to in subparagraph (A) is the amount by which the unobligated balance in the Department of Veterans Affairs Medical-Care Cost Recovery Fund for the year preceding the date of the deposit under this paragraph exceeds the estimated amount of such unobligated balance at the commencement of such preceding year.

(C) The Secretary shall make deposits under this paragraph at the same time as the deposit under such section.

(5)(A) Notwithstanding any other provision of law, the health system director for a State in which a pilot program is carried out shall determine the costs for which amounts in the Fund may be expended in carrying out the pilot program.

(B)(i) Except as provided in clause (ii), the costs of carrying out a pilot program under this paragraph shall include any costs of marketing and advertising under the program and costs relating to acquisition (including acquisition of land), construction, repair, or renovation of facilities.

(ii) Costs under this subparagraph shall not include any costs relating to a major medical facility project or a major medical facility lease as such terms are defined in subparagraphs (A) and (B) of section 8104(a)(3) of title 38, United States Code, respectively.

(C) Amounts in the Fund for the payment of costs of a pilot program under this subsection shall be available for such purpose without fiscal year limitation.

(k) TERMINATION.—A pilot program carried out under this Act shall terminate not later than 2 years after the date of the commencement of provision of benefits under the pilot program.

SEC. 4. REPORTS ON PILOT PROGRAMS.

(a) COLLECTION OF INFORMATION.—(1) The Secretary shall collect such information with respect to the provision of health care benefits under each pilot program as is necessary to permit the Secretary to evaluate the pilot program in light of the purpose of the pilot program under this Act.

(2) The information collected by the Secretary under paragraph (1) shall include aggregated data on the following:

(A) The number of persons participating in each pilot program, including the age, sex, health status, disability ratings (if any), employment status, and incomes of such persons.

(B) The nature of benefits sought by such persons under each pilot program.

(C) The nature and quantity of benefits provided to such persons under each pilot program.

(D) The cost to the Department of providing such benefits under each pilot program.

(b) REPORTS.—(1) Not later than 14 months after the date of the completion of the designation of States as locations for pilot programs under this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the progress of the Secretary in carrying out the pilot programs. Such report shall include the information referred to in subsection (a)(2) on the date of the report.

(2) Not later than November 30 of the year of the termination of the final pilot program under this Act, the Secretary shall submit to the committees referred to in paragraph (1) a report on the pilot programs carried out under this Act. The report shall include the following:

(A) The information referred to in subsection (a)(2), together with the comments and conclusions of the Secretary with respect to such information.

(B) An assessment by the Secretary of the utility of each pilot program for carrying out the purpose of this Act.

(C) An assessment by the Secretary of appropriate means of integrating the health care system of the Department into the health care systems of States that have enacted health care reform and into the National health care system contemplated under any plans for National health care reform.

(D) Such other information, assessments, and conclusions as the Secretary considers appropriate.

SEC. 5. DEFINITIONS.

For the purposes of this Act—

(1) The terms "Secretary", "Department", "veteran", "child" and "spouse" have the meanings given such terms in paragraphs (1), (2), (4), and (31) of section 101 of title 38, United States Code, respectively.

(2) The term "comprehensive health benefit plan", in the case of a State, means a plan or system established under the law of the State that—

(A) ensures the access of all residents of the State to a comprehensive package of basic health care benefits; and

(B) ensures such access by providing that such benefits shall be provided directly or by contract by public and private entities.

(3) The term "comprehensive package of basic health care benefits" means the health care benefits provided for by a State under the comprehensive health benefit plan of the State.

(4) The term "health care system of the Department", in the case of a State designated as a location for a pilot program, means the facilities and personnel of the Department located in that State that provide health care services under chapter 17 of title 38, United States Code.●

● Mr. LEAHY. Mr. President, I would like to thank Senator ROCKEFELLER and the other members of the Senate Veterans' Committee for their foresight in understanding that the VA will need to change to survive under health care reform.

Last fall, President Clinton announced his plan to guarantee private insurance coverage to every American. This marked the beginning of a continuing debate on how all Americans receive health care in the future.

The President's plan offers the VA a great opportunity to improve its services to America's veterans and compete in the next century. However, as our country continues the debate on health care reform, it is important that we not forget that some States have already passed health care reform legislation and others are on the verge of doing so. This bill addresses a very big concern that VA hospitals not be left behind as States move ahead.

For example, my home State of Vermont has been a national leader in health care reform. Just yesterday, the Vermont House passed and sent to the Senate its health care reform legislation. I believe that the VA hospital in White River Junction, VT, needs to be able to work with the State before the final legislation is set. It should be in on the ground floor of this State legislation so that it can participate fully and compete with other health care providers in the State, rather than as an afterthought, when national health care reform is passed.

This bill will give VA facilities in States that are ahead of the health care curve the flexibility to participate in State health care reform. This flexibility not only is important to the VA hospitals in these States, but it also is important to the VA hospital systems as a whole. By doing this we will be able to learn how the VA needs to change to survive under health care reform.●

By Ms. MOSELEY-BRAUN (for herself, Mr. KENNEDY, Mr. SASSER, Mr. MATHEWS, Mr. SARBANES, Mr. MOYNIHAN, and Mr. COCHRAN):

S. 1975. A bill to establish a grant program to restore and preserve historic buildings at historically black colleges and universities, and for other purposes; to the Committee on Energy and Natural Resources.

HISTORICALLY BLACK COLLEGES BUILDING PRESERVATION ACT

Ms. MOSELEY-BRAUN. Mr. President, I rise today to introduce the Historically Black Colleges and Universities Historic Building Restoration and Preservation Act, legislation designed to protect some of our Nation's most important historic landmarks which are at risk of being lost forever.

Mr. President, this legislation is cosponsored by Senators KENNEDY, SASSER, MATHEWS, SARBANES, MOYNIHAN, and COCHRAN, and endorsed by the United Negro College Fund.

Our Nation's historically black colleges and universities have promoted academic excellence for over 130 years.

As stated so eloquently in Fisk University's original charter, historically black colleges and universities have measured themselves by the highest standards, not of Negro education, but of American education at its best.

Throughout their history, historically black colleges and universities have produced some of our Nation's most distinguished leaders including: Dr. Martin Luther King Jr., 17 current Members of Congress, and my colleague from Pennsylvania, Senator HARRIS WOFFORD.

Yet, these institutions have distinguished themselves in the field of higher education over the years by maintaining the highest academic standards while increasing educational opportunities for economically and socially disadvantaged Americans—including tens of thousands of African-Americans.

Although they only represent 3 percent of all U.S. institutions of higher learning, historically black colleges and universities graduate 33 percent of all African-Americans with bachelor's degrees and 43 percent of all African-Americans who go on to earn their Ph.D.'s.

Nonetheless, in order to meet the educational needs of these promising individuals, these schools have had to keep their tuition and fees well below those at comparable institutions.

In 1990–91, for example, the average tuition and fees charged by private historically black colleges and universities was $4,657—less than half the $9,351 average charged by private colleges nationwide.

Moreover, historically black colleges and universities have also had to keep their costs low in order to increase financial aid for their students, who are disproportionately more dependent on financial aid than students at other U.S. colleges.

A study conducted by the United Negro College Fund [UNCF] found that 90 percent of students at private historically black colleges and universities require financial aid compared with 65 percent of private college students nationally.

The study also found that nearly one-half of these students come from families earning under $25,000.

Mr. President, given that historically black colleges and universities have found it increasingly difficult to support student aid, it should not be surprising that they are unable to restore and preserve the historic landmarks which sit on their campuses.

The Historically Black Colleges and Universities Historic Preservation and Restoration Act I am introducing today addresses this problem by authorizing the Secretary of the Interior to allocate $20 million in fiscal year 1995 and $15 million in fiscal years 1996 through 1998 for the restoration and preservation of historic buildings on the campuses of historically black colleges and universities.

More specifically, this legislation would support the Department of the Interior's Historically Black Colleges and Universities Historic Preservation initiative.

In 1992, the Department of the Interior along with the National Park Service and the American Gas Association began a campaign to identify the most significant and physically threatened historic landmarks at historically black colleges and universities.

After a comprehensive review, the Interior Department selected 11 architecturally and culturally significant historic landmarks for its historic preservation initiative. These historic landmarks include:

Walter B. Hill at Savannah State College, Which served as a library for blacks when they were denied access to the public library; Virginia Hall, the first permanent structure at Hampton University, which was established to educate newly freed slaves; and Loockerman Hall at Delaware State College, which is widely believed to have been a stop on the underground railroad.

Mr. President, this legislation would also support the restoration of the Administration Building at Fisk University in Nashville, TN, which was designed by Moses and Calvin McKissack, two of America's earliest black architects, and which houses a series of murals painted by Harlem renaissance painter Arron Douglas.

Mr. President, the United Negro College Fund has agreed to supplement these Federal funds in order to protect these historic landmarks that symbolize the hope of the civil rights struggle and the contributions that historically black colleges and universities have in the education of our Nation's citizens.

Mr. President, I would like to conclude my remarks by urging my colleagues to support the Historically Black Colleges and Universities Historic Building Restoration and Preservation Act and by reminding them that when Thurgood Marshall was refused admittance to the University of Maryland Law School because of the color of his skin, it was an historically black university that prepared him for the Supreme Court.

Mr. President. I ask unanimous consent that a copy of the Historically Black Colleges and Universities Historic Building Restoration and Preservation Act be included in the RECORD.

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

S. 1975

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 "Historically Black Colleges and Universities Historic Building Restoration and Preservation Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "historically black colleges and universities" has the same meaning given the term "part B institution" in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

(2) the term "historic building and structures" means a building or structure that is listed on the National Register of Historic Places or is designated as a National Historic Landmark.

SEC. 3. FINDINGS.

Congress finds that—

(1) the Nation's historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for African-American, low-income, and educationally disadvantaged Americans;

(2) over the course of our Nation's history, the Federal Government and the States have discriminated in the allocation of land and financial resources to support the institutions, forcing them to rely on the generous support of private individuals and other charitable organizations;

(3) the development of private and charitable financial support for historically black colleges and universities has resulted in structures and buildings of historic importance and architecturally unique design on the campuses of these institutions; and

(4) many of the structures and buildings at historically black colleges and universities are national treasures worthy of preservation and restoration for future generations of all Americans and for the students and faculty of the institutions.

SEC. 4. PRESERVATION AND RESTORATION GRANTS FOR HISTORIC BUILDINGS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) AUTHORITY TO MAKE GRANTS.—In fiscal years 1995 through 1998, the Secretary of the Interior (referred to in this Act as the "Secretary") shall make grants in accordance with this section to historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of the institutions.

(b) GRANT CONDITIONS.—Grants made pursuant to this section shall be subject to the condition that the grantee covenants, for a period of time specified by the Secretary that—

(1) no alteration shall be made to the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made shall be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of a grant under this section for a building or structure listed on the National Register of Historic Places shall be not more than 50 percent of the cost of the grant project.

(2) EXCEPTION.—The Secretary may waive the cost-sharing requirement for a grant under this subsection if the Secretary determines that an extreme emergency exists or that a waiver is in the public interest to ensure the preservation of historically significant resources.

(d) FUNDING.—

(1) SOURCE.—The Secretary shall make grants pursuant to this section from amounts made available to carry out the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.)

(2) LIMITATIONS.—

(A) FISCAL YEAR 1995.—For fiscal year 1995—

(i) not more than $20,000,000 may be made available for a grant under this section; and

(ii) of such amounts—

(I) $5,000,000 shall be made available for grants to Fisk University; and

(II) $10,000,000 shall be made available for grants to historically black colleges and universities identified for inclusion in the Department of the Interior Historically Black College and University Historic Preservation Initiative.

(B) SUBSEQUENT YEARS.—For each of fiscal years 1996, 1997, and 1998, not more than $15,000,000 may be made available for grants under this section.

(e) REGULATIONS.—The Secretary shall develop and implement regulations to carry out this Act.

By Mr. DODD (for himself, Mr. DORGAN, Mr. DOMENICI, Ms. MIKULSKI, Mr. JOHNSTON and Mr. FAIRCLOTH):

S. 1976. A bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; to the Committee on Banking, Housing, and Urban Affairs.

PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. DODD. Mr. President, I rise today to introduce the Private Securities Litigation Reform Act of 1994. I am joined by my colleague Senator DOMENICI who has worked closely with me in crafting this important initiative.

Securities lawsuits brought by private individuals are critical to ensuring the integrity of our capital markets. As an important back-up to Government enforcement actions, these private actions help deter wrongdoing. When the system is working well, it helps to ensure that corporate officers, auditors, directors, lawyers and others properly perform their jobs. Private litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely on Government action.

By performing these functions, private lawsuits should promote investor confidence and capital formation. The success of the American securities markets is due to the fact that investors here and abroad trust out markets to be fundamentally clean and fair. That trust stems in part from the SEC's role and in part from defrauded investors' ability to take direct action.

Private securities litigation has evolved over the years mainly as a result of court decisions rather than legislative action. For example, the most important private right of action for defrauded investors has long been section 10(B) of the Securities Exchange Act. Private actions under that provision were never expressly set out by Congress, but have been construed and refined by courts, with the tacit consent of Congress.

This lack of congressional involvement in shaping the contours of private litigation has created uncertainty about legal standards and unwarranted opportunities for abuse of investors and companies. Last summer, my securities subcommittee had several days of hearing. These hearings documented a number of glaring problems with the current system.

First, securities class action cases are vulnerable to abuses by entrepreneurial lawyers who put their own interests ahead of their clients. Many critics charge that plaintiffs' attorneys appear to control the settlement of the case with little or no influence from either the named plaintiffs or the larger class of investors.

For example, in one case which was cited to the subcommittee by a lawyer as a showcase of how the system works, the case was settled before trial for $33 million. The lawyers asked the court for more than $20 million of that amount in fees and costs. The court awarded the plaintiffs' lawyers over $11 million and lawyers for the company $3 million. Investors recovered only 6.5 percent of their recoverable damages. In a case which is now pending, the plaintiffs' lawyers are seeking $11 million from a $33 million settlement for their Federal securities law claims, and another $8 million out of a $12 million settlement of related State law claims.

A second area of abuse is frivolous litigation. We have heard complaints from companies, especially in the high technology sectors, that they face groundless securities litigation days or even hours after adverse earnings announcements. Courts have echoed this concern. As the Supreme Court pointed out in Blue Chip Stamps versus Manor Drug Store:

> [I]n the field of federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial so long as he may prevent the suit from being resolved against him by dismissal or summary judgment. The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

Some have also suggested that the net effect of private litigation under the Federal securities laws has been to weaken the financial disclosure system on which our capital markets depend. The accounting profession, which is at the heart of the financial disclosure system, has warned that because of the doctrine of joint and several liability, accountants face potential liability which could destroy the ability of independent auditors to review financial disclosure by companies.

The position in which the accounting profession now finds itself might be likened to the crisis which civil engineers might face if an epidemic of bridge and building collapses occurred because of a combination of design flaws, inadequate quality control checks and other professional failings, coupled with fraudulent practices by some construction contractors, and if virtually all engineers faced potential personal liability for the role of their firms in these disasters.

It seems clear that the best public policy toward the civil engineering profession in such a situation would be to take steps to develop a better system for identifying and dealing with poor engineering practices and poor engineers, while at the same time taking steps to encourage capable engineers to continue designing bridges and buildings. In my view, it would be poor public policy to strangle the civil engineering profession by threatening many or most civil engineers with personal bankruptcy even if they were personally blameless. The only rational approach would be to insist on major changes in the profession as well as sufficient relief from liability to ensure the profession's future viability.

LEGISLATIVE SOLUTIONS

The bill contains three major initiatives to deal with these problems:

First, it empowers investors so that they—not their lawyers—have greater control over class action cases; it limits opportunities for frivolous litigation; and it rationalizes the professional liability of accountants in exchange for stronger regulation.

In addition, the bill incorporates measures previously proposed in Congress to strengthen the obligation of auditors to search for fraud and to lengthen the statute of limitations for fraud actions.

First, empowering investors: The bill addresses abuses of investors by their lawyers by ensuring that investors, not lawyers, decide whether to bring a case, whether to settle, and how much the lawyers should receive.

The bill requires courts to appoint a plaintiff steering committee or a guardian to directly control lawyers for the class.

The bill requires that notices of settlement agreements sent to investors spell out clearly important facts such as how much investors are giving up by settling, and how much their lawyers will receive in the settlement.

The bill requires that courts tie awards of lawyers' fees directly to how much is recovered by investors, rather than simply how many hours the lawyers billed or how many pages of briefs they filed.

The bill establishes an alternative dispute resolution procedure to make it easier to prosecute a case without the necessity of slow and expensive federal court proceedings. This idea is very similar to a provision in the products liability bill passed by the Commerce Committee last fall, and like that bill it is intended to speed up the recovery process for plaintiffs who have strong cases.

These reform provisions should ensure that defrauded investors are not cheated a second time. It also should help victims of fraud to recover damages more quickly, with less of their recovery drained off in lawyers' fees.

Second, frivolous litigation: The bill requires that in order to bring a securities case as a class action, the plaintiffs in whose name the case is brought must have held either 1 percent of the securities which are the subject of the litigation or $10,000 worth of securities. This should help stop a problem pointed to by several courts, in which professional plaintiffs who own small amounts of stock in many companies try to bring class action lawsuits whenever one of their investments goes down.

The bill clarifies how a lawyer should plead a securities fraud claim. Plaintiffs' lawyers should have no trouble meeting these standards if they have legitimate cases and have looked at the facts.

These and other reforms should end the race to the courthouse by lawyers eager to file a case without investigating the facts or finding a real client.

Third, securities litigation and financial reporting: The accounting profession has argued that accounting firms are unfairly singled out under the current litigation system simply because they are a deep pocket. They claim that their liability exposure under the current system could drive them away from providing auditing services to many companies, especially new companies and high-technology companies.

The bill establishes a liability system for less culpable defendants that is linked to degree of fault. At the same time, the bill establishes a self-disciplinary organization for accountants under the direct supervision of the SEC. This entity would be somewhat like self-regulatory organizations such as the New York Stock Exchange or the National Association of Securities Dealers. The net effect should be a more direct and rational way of dealing with bad apples in the accounting profession without punishing the entire profession.

Fourth, enhancing deterrence of fraud: The bill would extend the statute of limitations for implied actions to 5 years from the date of the violation, or 2 years after the violation was discovered or should have been discovered through the exercise of reasonable diligence. The bill also incorporates pending legislation concerning the responsibility of auditors to search for and report fraud. A similar bill in the house is supported by the SEC and the AICPA.

The U.S. securities markets have achieved an unparalleled success under a blend of Government oversight buttressed by private litigation. However, as we look toward the 21st century, we must not be complacent about that long-running American economic strength. The investing public deserves a system of private remedies which offers better protection to investors rather than promoting a wasteful and ineffective litigation sub-culture. If we can accomplish this, we will strengthen investor confidence and ensure our securities market's continued success.

Mr. President, I ask unanimous consent that this bill and an explanation of selected bill provisions be printed in the RECORD.

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

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PRIVATE SECURITIES LITIGATION

Sec. 101. Elimination of certain abusive practices.
Sec. 102. Alternative dispute resolution procedure; time limitation on private rights of action.
Sec. 103. Plaintiff steering committees.
Sec. 104. Requirements for securities fraud actions.
Sec. 105. Amendment to Racketeer Influenced and Corrupt Organizations Act.

TITLE II—FINANCIAL DISCLOSURE

Sec. 201. Safe harbor for forward-looking statements.
Sec. 202. Fraud detection and disclosure.
Sec. 203. Proportionate liability and joint and several liability.
Sec. 204. Public Auditing Self-Disciplinary Board.

TITLE I—PRIVATE SECURITIES LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) RECEIPT FOR REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(c)) is amended by adding at the end the following new paragraph:

"(7) RECEIPT OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept remuneration for assisting an attorney in obtaining the representation of any customer in any implied private action arising under this title.".

(b) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court, funds disgorged as the result of an action brought by the Commission in Federal court, or of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

(c) ADDITIONAL PROVISIONS APPLICABLE TO CLASS ACTIONS.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsections:

"(i) RECOVERY BY NAMED PLAINTIFFS IN CLASS ACTIONS.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of any final judgment or of any settlement that is awarded to class plaintiffs serving as the representative parties shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this subsection shall be construed to limit the award to any representative parties of reasonable compensation, costs, and expenses (including lost wages) relating to the representation of the class.

"(j) CONFLICTS OF INTEREST.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, if a party is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.

"(k) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the terms and provisions of any settlement agreement between any of the parties shall not be filed under seal, except that on motion of any of the parties to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. Good cause shall only exist if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any person.

"(*l*) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES FROM SETTLEMENT FUNDS.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, attorneys' fees awarded by the court to counsel for the class shall be determined as a percentage of the amount of damages and prejudgment interest actually paid to the class as a result of the attorneys' efforts. In no event shall the amount awarded to counsel for the class exceed a reasonable percentage of the amount recovered by the class plus reasonable expenses.

"(m) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, a proposed settlement agreement that is published or otherwise disseminated to the class shall include

the following statements, which shall not be admissible for purposes of any Federal or State judicial or administrative proceeding:

"(1) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(A) AGREEMENT ON AMOUNT OF DAMAGES AND LIKELIHOOD OF PREVAILING.—If the settling parties agree on the amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title and the likelihood that the plaintiff would prevail—

"(i) a statement concerning the amount of such potential damages; and

"(ii) a statement concerning the probability that the plaintiff would prevail on the claims alleged under this title and a brief explanation of the reasons for that conclusion.

"(B) DISAGREEMENT ON AMOUNT OF DAMAGES OR LIKELIHOOD OF PREVAILING.—If the parties do not agree on the amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title or on the likelihood that the plaintiff would prevail on those claims, or both, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(C) INADMISSIBILITY FOR CERTAIN PURPOSES.—Statements made in accordance with subparagraphs (A) and (B) shall not be admissible for purposes of any Federal or State judicial or administrative proceeding.

"(2) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought, and a brief explanation of the basis for the application.

"(3) IDENTIFICATION OF REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to class members.

"(4) OTHER INFORMATION.—Such other information as may be required by the court, or by any guardian ad litem or plaintiff steering committee appointed by the court pursuant to section 38.

"(n) SPECIAL VERDICTS.—In an implied private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.

"(o) NAMED PLAINTIFF THRESHOLD.—In an implied private action arising under this title, in order for a plaintiff or plaintiffs to obtain certification as representatives of a class of investors pursuant to the Federal Rules of Civil Procedure, the plaintiff or plaintiffs must show that they owned, in the aggregate, during the time period in which violations of this title are alleged to have occurred, not less than the lesser of—

"(1) 1 percent of the securities which are the subject of the litigation; or

"(2) $10,000 (in market value) of such securities.".

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION PROCEDURE; TIME LIMITATION ON PRIVATE RIGHTS OF ACTION.

(a) RECOVERY OF COSTS AND ATTORNEYS' FEES.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.

"(a) IN GENERAL.—

"(1) OFFER TO PROCEED.—Except as provided in paragraph (2), in an implied private action arising under this title, any party may, before the expiration of the period permitted for answering the complaint, deliver to all other parties an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the rules of the court in which the action is maintained.

"(2) PLAINTIFF CLASS ACTIONS.—In an implied private action under this title which is brought as a plaintiff class action, an offer under paragraph (1) shall be made not later than 30 days after a guardian ad litem or plaintiff steering committee is appointed by the court in accordance with section 38.

"(3) RESPONSE.—The recipient of an offer under paragraph (1) or (2) shall file a written notice of acceptance or rejection of the offer with the court not later than 10 days after receipt of the offer. The court may, upon motion by any party made prior to the expiration of such period, extend the period for not more than 90 additional days, during which time discovery may be permitted by the court.

"(4) SELECTION OF TYPE OF ALTERNATIVE DISPUTE RESOLUTION.—For purposes of paragraphs (1) and (2), if the rules of the court establish or recognize more than 1 type of alternative dispute resolution, the parties may stipulate as to the type of alternative dispute resolution to be applied. If the parties are unable to so stipulate, the court shall issue an order not later than 20 days after the date on which the parties agree to the use of alternative dispute resolution, specifying the type of alternative dispute resolution to be applied.

"(5) SANCTIONS FOR DILATORY OR OBSTRUCTIVE CONDUCT.—If the court finds that a party has engaged in dilatory or obstructive conduct in taking or opposing any discovery allowed during the response period described in paragraph (3), the court may—

"(A) extend the period to permit further discovery from that party for a suitable period; and

"(B) deny that party the opportunity to conduct further discovery prior to the expiration of the period.

"(b) PENALTY FOR UNREASONABLE LITIGATION POSITION.—

"(1) AWARD OF COSTS.—In an implied private action arising under this title, upon motion of the prevailing party made prior to final judgment, the court shall award costs, including reasonable attorneys' fees, against a party or parties or their attorneys, if—

"(A) the party unreasonably refuses to proceed pursuant to an alternative dispute resolution procedure, or refuses to accept the result of an alternative dispute resolution procedure;

"(B) final judgment is entered against the party; and

"(C) the party asserted a claim or defense in the action which was not substantially justified.

"(2) DETERMINATION OF JUSTIFICATION.—For purposes of paragraph (1)(C), whether a position is 'substantially justified' shall be determined in the same manner as under section 2412(d)(1)(B) of title 28, United States Code.

"(3) LIMITED USE.—Fees and costs awarded under this paragraph shall not be applied to any named plaintiff in any action certified as a class action under the Federal Rules of Civil Procedure if such plaintiff has never owned more than $1,000,000 of the securities which are the subject of the litigation.".

(b) LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 37. LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.

"(a) IN GENERAL.—Except as otherwise provided in this title, an implied private right of action arising under this title shall be brought not later than the earlier of—

"(1) 5 years after the date on which the alleged violation occurred; or

"(2) 2 years after the date on which the alleged violation was discovered or should have been discovered through the exercise of reasonable diligence.

"(b) EFFECTIVE DATE.—The limitations period provided by this section shall apply to all proceedings pending on or commenced after the date of enactment of this section.".

SEC. 103. PLAINTIFF STEERING COMMITTEES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 38. GUARDIAN AD LITEM AND CLASS ACTION STEERING COMMITTEES.

"(a) GUARDIAN AD LITEM.—Except as provided in subsection (b), not later than 10 days after certifying a plaintiff class in an implied private action brought under this title, the court shall appoint a guardian ad litem for the plaintiff class from a list or lists provided by the parties or their counsel. The guardian ad litem shall direct counsel for the class and perform such other functions as the court may specify. The court shall apportion the reasonable fees and expenses of the guardian ad litem among the parties. Court appointment of a guardian ad litem shall not be subject to interlocutory review.

"(b) CLASS ACTION STEERING COMMITTEE.—Subsection (a) shall not apply if, not later than 10 days after certifying a plaintiff class, on its own motion or on motion of a member of the class, the court appoints a committee of class members to direct counsel for the class (hereafter in this section referred to as the 'plaintiff steering committee') and to perform such other functions as the court may specify. Court appointment of a plaintiff steering committee shall not be subject to interlocutory review.

"(c) MEMBERSHIP OF PLAINTIFF STEERING COMMITTEE.—

"(1) QUALIFICATIONS.—

"(A) NUMBER.—A plaintiff steering committee shall consist of not less than 5 class members, willing to serve, who the court believes will fairly represent the class.

"(B) OWNERSHIP INTERESTS.—Members of the plaintiff steering committee shall have cumulatively held during the class period not less than—

"(i) the lesser of 5 percent of the securities which are the subject matter of the litigation or securities which are the subject matter of the litigation with a market value of $10,000,000; or

"(ii) such smaller percentage or dollar amount as the court finds appropriate under the circumstances.

"(2) NAMED PLAINTIFFS.—Class members who are named plaintiffs in the litigation may serve on the plaintiff steering committee, but shall not comprise a majority of the committee.

"(3) NONCOMPENSATION OF MEMBERS.—Members of the plaintiff steering committee shall

serve without compensation, except that any member may apply to the court for reimbursement of reasonable out-of-pocket expenses from any common fund established for the class.

"(4) MEETINGS.—The plaintiff steering committee shall conduct its business at one or more previously scheduled meetings of the committee at which a majority of its members are present in person or by electronic communication. The plaintiff steering committee shall decide all matters within its authority by a majority vote of all members, except that the committee may determine that decisions other than to accept or reject a settlement offer or to employ or dismiss counsel for the class may be delegated to one or more members of the committee, or may be voted upon by committee members seriatim, without a meeting.

"(5) RIGHT OF NONMEMBERS TO BE HEARD.—A class member who is not a member of the plaintiff steering committee may appear and be heard by the court on any issue in the action, to the same extent as any other party.

"(d) FUNCTIONS OF GUARDIAN AD LITEM AND PLAINTIFF STEERING COMMITTEE.—

"(1) DIRECT COUNSEL.—The authority of the guardian ad litem or the plaintiff steering committee to direct counsel for the class shall include all powers normally permitted to an attorney's client in litigation, including the authority to retain or dismiss counsel and to reject offers of settlement, and the preliminary authority to accept an offer of settlement, subject to the restrictions specified in paragraph (2). Dismissal of counsel other than for cause shall not limit the ability of counsel to enforce any contractual fee agreement or to apply to the court for a fee award from any common fund established for the class.

"(2) SETTLEMENT OFFERS.—If a guardian ad litem or a plaintiff steering committee gives preliminary approval to an offer of settlement, the guardian ad litem or the plaintiff steering committee may seek approval of the offer by a majority of class members if the committee determines that the benefit of seeking such approval outweighs the cost of soliciting the approval of class members.

"(e) IMMUNITY FROM LIABILITY; REMOVAL.—Any person serving as a guardian ad litem or as a member of a plaintiff steering committee shall be immune from any liability arising from such service. The court may remove a guardian ad litem or a member of a plaintiff steering committee for good cause shown.

"(f) EFFECT ON OTHER LAW.—This section does not affect any other provision of law concerning class actions or the authority of the court to give final approval to any offer of settlement.".

SEC. 104. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 39. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

"(a) INTENT.—In an implied private action arising under this title in which the plaintiff may recover money damages from a defendant only on proof that the defendant acted with some level of intent, the plaintiff's complaint shall allege specific facts demonstrating the state of mind of each defendant at the time the alleged violation occurred.

"(b) MISLEADING STATEMENTS AND OMISSIONS.—In an implied action arising under this title in which the plaintiff alleges that the defendant—

"(1) made an untrue statement of a material fact; or

"(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the plaintiff shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the plaintiff shall set forth all information on which that belief is formed.

"(c) BURDEN OF PROOF.—In an implied private action arising under this title based on a material misstatement or omission concerning a security, and in which the plaintiff claims to have bought or sold the security based on a reasonable belief that the market value of the security reflected all publicly available information, the plaintiff shall have the burden of proving that the misstatement or omission caused any loss incurred by the plaintiff.

"(d) DAMAGES.—In an implied private action arising under this title based on a material misstatement or omission concerning a security, and in which the plaintiff claims to have bought or sold the security based on a reasonable belief that the market value of the security reflected all publicly available information, the plaintiff's damages shall not exceed the lesser of—

"(1) the difference between the price paid by the plaintiff for the security and the market value of the security immediately after dissemination to the market of information which corrects the misstatement or omission; and

"(2) the difference between the price paid by the plaintiff for the security and the price at which the plaintiff sold the security after dissemination of information correcting the misstatement or omission.".

SEC. 105. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting ", except that no person may bring an action under this provision if the racketeering activity, as defined in section 1961(1)(D), involves fraud in the sale of securities" before the period.

TITLE II—FINANCIAL DISCLOSURE

SEC. 201. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) CONSIDERATION OF REGULATORY OR LEGISLATIVE CHANGES.—In consultation with investors and issuers of securities, the Securities and Exchange Commission shall consider adopting or amending its rules and regulations, or making legislative recommendations, concerning—

(1) criteria that the Commission finds appropriate for the protection of investors by which forward-looking statements concerning the future economic performance of an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 will be deemed not to be in violation of section 10(b) of that Act; and

(2) procedures by which courts shall timely dismiss claims against such issuers of securities based on such forward-looking statements if such statements are in accordance with any criteria under paragraph (1).

(b) COMMISSION CONSIDERATIONS.—In developing rules or legislative recommendations in accordance with subsection (a), the Commission shall consider—

(1) appropriate limits to liability for forward-looking statements;

(2) procedures for making a summary determination of the applicability of any Commission rule for forward-looking statements early in a judicial proceeding to limit protracted litigation and expansive discovery;

(3) incorporating and reflecting the scienter requirements applicable to implied private actions under section 10(b); and

(4) providing clear guidance to issuers of securities and the judiciary.

(c) SECURITIES ACT AMENDMENT.—The Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.), is amended by adding at the end the following new section:

"SEC. 40. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) IN GENERAL.—In any implied private action arising under this title that alleges that a forward-looking statement concerning the future economic performance of an issuer registered under section 12 was materially false or misleading, if a party making a motion in accordance with subsection (b) requests a stay of discovery concerning the claims or defenses of that party, the court shall grant such a stay until it has ruled on any such motion.

"(b) SUMMARY JUDGMENT MOTIONS.—Subsection (a) shall apply to any motion for summary judgment made by a defendant asserting that the forward-looking statement was within the coverage of any rule which the Commission may have adopted concerning such predictive statements, if such motion is made not less than 60 days after the plaintiff commences discovery in the action.

"(c) DILATORY CONDUCT; DUPLICATIVE DISCOVERY.—Notwithstanding subsection (a) or (b), the time permitted for a plaintiff to conduct discovery under subsection (b) may be extended, or a stay of the proceedings may be denied, if the court finds that—

"(1) the defendant making a motion described in subsection (b) engaged in dilatory or obstructive conduct in taking or opposing any discovery; or

"(2) a stay of discovery pending a ruling on a motion under subsection (b) would be substantially unfair to the plaintiff or other parties to the action.".

SEC. 202. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

"SEC. 10A. AUDIT REQUIREMENTS.

"(a) IN GENERAL.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern during the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial

statements) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred; and

"(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable, inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or have otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(A) the illegal act has a material effect on the financial statements of the issuer;

"(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard auditor's report, when made, or warrant resignation from the audit engagement;

the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rules promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

"(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—With respect to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K of the Securities and Exchange Commission (17 CFR 229.302(a)), the amendments made by subsection (a) shall apply to any annual report for any period beginning on or after January 1, 1994. With respect to any other registrant, the amendment shall apply for any period beginning on or after January 1, 1995.

SEC. 203. PROPORTIONATE LIABILITY AND JOINT AND SEVERAL LIABILITY.

(a) SECURITIES ACT AMENDMENT.—The Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 41. PROPORTIONATE LIABILITY AND JOINT AND SEVERAL LIABILITY IN IMPLIED ACTIONS.

"(a) APPLICABILITY.—This section shall apply only to the allocation of damages among persons who are, or who may become, liable for damages in an implied private action arising under this title. Nothing in this section shall affect the standards for liability associated with an implied private action arising under this title.

"(b) APPLICATION OF JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—A person against whom a judgment is entered in an implied private action arising under this title shall be liable jointly and severally for any recoverable damages on such judgment if the person is found to have—

"(A) been a primary wrongdoer;

"(B) committed knowing securities fraud; or

"(C) controlled any primary wrongdoer or person who committed knowing securities fraud.

"(2) PRIMARY WRONGDOER.—As used in this subsection—

"(A) the term 'primary wrongdoer' means—

"(i) any—

"(I) issuer, registrant, purchaser, seller, or underwriter of securities;

"(II) marketmaker or specialist in securities; or

"(III) clearing agency, securities information processor, or government securities dealer;

if such person breached a direct statutory or regulatory obligation or if such person otherwise had a principal role in the conduct that is the basis for the implied right of action; or

"(ii) any person who intentionally rendered substantial assistance to the fraudulent conduct of any person described in clause (i), with actual knowledge of such person's fraudulent conduct or fraudulent purpose, and with knowledge that such conduct was wrongful; and

"(B) a defendant engages in 'knowing securities fraud' if such defendant—

"(i) makes a material representation with actual knowledge that the representation is false, or omits to make a statement with actual knowledge that, as a result of the omission, one of the defendant's material representations is false and knows that other persons are likely to rely on that misrepresentation or omission, except that reckless conduct by the defendant shall not be construed to constitute 'knowing securities fraud'; or

"(ii) intentionally rendered substantial assistance to the fraudulent conduct of any person described in clause (i), with actual knowledge of such person's fraudulent conduct or fraudulent purpose, and with knowledge that such conduct was wrongful.

"(c) DETERMINATION OF RESPONSIBILITY.—In an implied private action in which more than 1 person contributed to a violation of this title, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, concerning the degree of responsibility of each person alleged to have caused or contributed to the violation of this title, including persons who have entered into settlements with the plaintiff. The interrogatories or findings shall specify the amount of damages the plaintiff is entitled to recover and the degree of responsibility, measured as a percentage of the total fault of all persons involved in the violation, of each person found to have caused or contributed to the damages incurred by the plaintiff or plaintiffs. In determining the degree of responsibility, the trier of fact shall consider—

"(1) the nature of the conduct of each person; and

"(2) the nature and extent of the causal relationship between that conduct and the damage claimed by the plaintiff.

"(d) APPLICATION OF PROPORTIONATE LIABILITY.—Except as provided in subsection (b), the amount of liability of a person who is, or may through right of contribution become, liable for damages based on an implied private action arising under this title shall be determined as follows:

"(1) DEGREE OF RESPONSIBILITY.—Except as provided in paragraph (2), each liable party shall only be liable for the portion of the judgment that corresponds to that party's degree of responsibility, as determined under subsection (c).

"(2) UNCOLLECTIBLE SHARES.—If, upon motion made not later than 6 months after a final judgment is entered, the court determines that all or part of a defendant's share of the obligation is uncollectible—

"(A) the remaining defendants shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

"(i) the plaintiff is an individual whose recoverable damages under a final judgment are equal to more than 10 percent of the plaintiff's net financial worth; and

"(ii) the plaintiff's net financial worth is less than $200,000; and

"(B) the amount paid by each of the remaining defendants to all other plaintiffs shall be, in total, not more than the greater of—

"(i) that remaining defendant's percentage of fault for the uncollectible share; or

"(ii) 5 times—

"(I) the amount which the defendant gained from the conduct that gave rise to its liability; or

"(II) if a defendant did not obtain a direct financial gain from the conduct that gave rise to the liability and the conduct consisted of the provision of deficient services to an entity involved in the violation, the defendant's gross revenues received for the provision of all services to the other entity involved in the violation during the calendar years in which deficient services were provided.

"(3) OVERALL LIMIT.—In no event shall the total payments required pursuant to paragraph (2) exceed the amount of the uncollectible share.

"(4) DEFENDANTS SUBJECT TO CONTRIBUTION.—A defendant whose liability is reallocated pursuant to paragraph (2) shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

"(5) RIGHT OF CONTRIBUTION.—To the extent that a defendant is required to make an additional payment pursuant to paragraph (2), that defendant may recover contribution—

"(A) from the defendant originally liable to make the payment;

"(B) from any defendant liable jointly and severally pursuant to subsection (b)(1);

"(C) from any defendant held proportionately liable pursuant to this subsection who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

"(D) from any other person responsible for the conduct giving rise to the payment who would have been liable to make the same payment.

"(e) NONDISCLOSURE TO JURY.—The standard for allocation of damages under subsections (b)(1) and (c) and the procedure for reallocation of uncollectible shares under subsection (d)(2) shall not be disclosed to members of the jury.

"(f) SETTLEMENT DISCHARGE.—

"(1) IN GENERAL.—A defendant who settles an implied private action brought under this title at any time before verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution or indemnity arising out of the action—

"(A) by nonsettling persons against the settling defendant; and

"(B) by the settling defendant against any nonsettling defendants.

"(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to verdict or judgment, the verdict or judgment shall be reduced by the greater of—

"(A) an amount that corresponds to the degree of responsibility of that person; or

"(B) the amount paid to the plaintiff by that person.

"(g) CONTRIBUTION.—A person who becomes liable for damages in an implied private action arising under this title may recover contribution from any other person who, if joined in the original suit, would have been liable for the same damages. A claim for contribution shall be determined based on the degree of responsibility of the claimant and of each person against whom a claim for contribution is made.

"(h) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in an implied private action arising under this title determining liability, an action for contribution must be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a defendant who was required to make an additional payment pursuant to subsection (d)(2) may be brought not later than 6 months after the date on which such payment was made.".

(b) EFFECTIVE DATE.—Section 41 of the Securities Exchange Act of 1934, as added by subsection (a), shall only apply to implied private actions commenced after the date of enactment of this Act.

SEC. 204. PUBLIC AUDITING SELF-DISCIPLINARY BOARD.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 13 the following new section:

"SEC. 13A. PUBLIC AUDITING SELF-DISCIPLINARY BOARD.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) PUBLIC ACCOUNTING FIRM.—The term 'public accounting firm' means a sole proprietorship, unincorporated association, partnership, corporation, or other legal entity that is engaged in the practice of public accounting.

"(2) BOARD.—The term 'Board' means the Public Auditing Self-Disciplinary Board designated by the Commission pursuant to subsection (b).

"(3) ACCOUNTANT'S REPORT.—The term 'accountant's report' means a document in which a public accounting firm identifies a financial statement, report, or other document and sets forth the firm's opinion regarding such financial statement, report, or other document, or an assertion that an opinion cannot be expressed.

"(4) PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.—The term 'person associated with a public accounting firm' means a natural person who—

"(A) is a partner, shareholder, employee, or individual proprietor of a public accounting firm, or who shares in the profits of a public accounting firm; and

"(B) engages in any conduct or practice in connection with the preparation of an accountant's report on any financial statement, report, or other document required to be filed with the Commission under any securities law.

"(5) PROFESSIONAL STANDARDS.—The term 'professional standards' means generally accepted auditing standards, generally accepted accounting principles, generally accepted standards for attestation engagements, and any other standards related to the preparation of financial statements or accountant's reports promulgated by the Commission or a standard-setting body recognized by the Board.

"(b) ESTABLISHMENT OF BOARD.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Commission shall establish a Public Auditing Self-Disciplinary Board to perform the duties set forth in this section. The Commission shall designate an entity to serve as the Board if the Commission finds that—

"(A) such entity is sponsored by an existing national organization of certified public accountants that—

"(i) is most representative of certified public accountants covered by this title; and

"(ii) has demonstrated its commitment to improving the quality of practice before the Commission; and

"(B) control over such entity is vested in the members of the Board selected pursuant to subsection (c).

"(2) ALTERNATIVE ELECTION OF MEMBERS.—If the Commission designates an entity to serve as the Board pursuant to paragraph (1), the entity shall conduct the election of initial Board members in accordance with subsection (c)(1)(B)(i).

"(c) MEMBERSHIP OF BOARD.—

"(1) IN GENERAL.—The Board shall be composed of 3 appointed members and 4 elected members, as follows:

"(A) APPOINTED MEMBERS.—Three members of the Board shall be appointed in accordance with the following:

"(i) INITIAL APPOINTMENTS.—The Chairman of the Commission shall make the initial appointments, in consultation with the other members of the Commission, not later than 90 days after the date of enactment of this section.

"(ii) SUBSEQUENT APPOINTMENTS.—After the initial appointments under clause (i), members of the Board appointed to fill vacancies of appointed members of the Board shall be appointed in accordance with the rules adopted pursuant to paragraph (5). Such rules shall provide that such members shall be appointed by the Board, subject to the approval of the Commission.

"(B) ELECTED MEMBERS.—Four members, including the member who shall serve as the chairperson of the Board, shall be elected in accordance with the following:

"(i) INITIAL ELECTION.—Not later than 120 days after the date on which the Chairman of the Commission makes appointments under subparagraph (A)(i), an entity designated by the Commission pursuant to subsection (b) shall conduct an election of 4 initial elected members pursuant to interim election rules proposed by the entity and approved by the 3 interim members of the Board and the Commission. If the Commission is unable to designate an entity meeting the criteria set forth in subsection (b)(1), the members of the Board appointed under subparagraph (A)(i) shall adopt interim rules, subject to approval by the Commission, providing for the election of the 4 initial elected members. Such rules shall provide that such members of the Board shall be elected—

"(I) not later than 120 days after the date on which members are initially appointed under subparagraph (A)(i);

"(II) by persons who are associated with public accounting firms and who are certified public accountants under the laws of any State; and

"(III) subject to the approval of the Commission.

"(ii) SUBSEQUENT ELECTIONS.—After the initial elections under clause (i), members of the Board elected to fill vacancies of elected members of the Board shall be elected in accordance with the rules adopted pursuant to paragraph (5). Such rules shall provide that such members of the Board shall be elected—

"(I) by persons who are associated with public accounting firms and who are certified public accountants under the laws of any State; and

"(II) subject to the approval of the Commission.

"(2) QUALIFICATION.—Four members of the Board, including the chairperson of the Board, shall be persons who have not been associated with a public accounting firm during the 10-year period preceding appointment or election to the Board under paragraph (1). Three members of the Board who are elected shall be persons associated with a public accounting firm registered with the Board.

"(3) FULL-TIME BASIS.—The chairperson of the Board shall serve on a full-time basis, severing all business ties with his or her former firms or employers prior to beginning service on the Board.

"(4) TERMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Board shall hold office for a term of 4 years or until a successor is appointed, whichever is later, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

"(B) INITIAL BOARD MEMBERS.—Beginning on the date on which all members of the Board have been selected in accordance with this subsection, the terms of office of the initial Board members shall expire, as determined by the Board, by lottery—

"(i) for 1 member, 1 year after such date;

"(ii) for 2 members, 2 years after such date;

"(iii) for 2 members, 3 years after such date; and

"(iv) for 2 members, 4 years after such date.

"(5) RULES.—Following selection of the 7 initial members of the Board in accordance with subparagraphs (A)(i) and (B)(i) of paragraph (1), the Board shall propose and adopt rules, which shall provide for—

"(A) the operation and administration of the Board, including—

"(i) the appointment of members in accordance with paragraph (1)(A)(ii);

"(ii) the election of members in accordance with paragraph (1)(B)(ii); and

"(iii) the compensation of the members of the Board;

"(B) the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the Board's functions under this title;

"(C) the registration of public accounting firms with the Board pursuant to subsections (d) and (e); and

"(D) the matters described in subsections (f) and (g).

"(d) REGISTRATION AND ANNUAL FEES.—After the date on which all initial members of the Board have been selected in accordance with subsection (c), the Board shall assess and collect a registration fee and annual dues from each public accounting firm registered with the Board. Such fees and dues shall be assessed at a level sufficient to recover the costs and expenses of the Board and to permit the Board to operate on a self-financing basis. The amount of fees and dues for each public accounting firm shall be based upon—

"(1) the annual revenues of such firm from accounting and auditing services;

"(2) the number of persons associated with the public accounting firm;

"(3) the number of clients for which such firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission; and

"(4) such other criteria as the Board may establish.

"(e) REGISTRATION WITH BOARD.—

"(1) REGISTRATION REQUIRED.—Beginning 1 year after the date on which all initial members of the Board have been selected in accordance with subsection (c), it shall be unlawful for a public accounting firm to furnish an accountant's report on any financial statement, report, or other document required to be filed with the Commission under any Federal securities law, unless such firm is registered with the Board.

"(2) APPLICATION FOR REGISTRATION.—A public accounting firm may be registered under this subsection by filing with the Board an application for registration in such form and containing such information as the Board, by rule, may prescribe. Each application shall include—

"(A) the names of all clients of the public accounting firm for which the firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission;

"(B) financial information of the public accounting firm for its most recent fiscal year, including its annual revenues from accounting and auditing services, its assets and its liabilities;

"(C) a statement of the public accounting firm's policies and procedures with respect to quality control of its accounting and auditing practice;

"(D) information relating to criminal, civil, or administrative actions or formal disciplinary proceedings pending against such firm, or any person associated with such firm, in connection with an accountant's report furnished by such firm;

"(E) a list of persons associated with the public accounting firm who are certified public accountants, including any State professional license or certification number for each such person; and

"(F) such other information that is reasonably related to the Board's responsibilities as the Board considers necessary or appropriate.

"(3) PERIODIC REPORTS.—Once in each year, or more frequently as the Board, by rule, may prescribe, each public accounting firm registered with the Board shall submit reports to the Board updating the information contained in its application for registration and containing such additional information that is reasonably related to the Board's responsibilities as the Board, by rule, may prescribe.

"(4) EXEMPTIONS.—The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any public accounting firm or any accountant's report, or any class of public accounting firms or any class of accountant's reports, from any provisions of this section or the rules or regulations issued hereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section.

"(5) CONFIDENTIALITY.—The Board may, by rule, designate portions of the filings required pursuant to paragraphs (2) and (3) as privileged and confidential.

"(f) DUTIES OF BOARD.—After the date on which all initial members of the Board have been selected in accordance with subsection (c), the Board shall have the following duties and powers:

"(1) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—The Board shall establish fair procedures for investigating and disciplining public accounting firms registered with the Board, and persons associated with such firms, for violations of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission.

"(2) INVESTIGATION PROCEDURES.—

"(A) IN GENERAL.—The Board may conduct an investigation of any act, practice, or omission by a public accounting firm registered with the Board, or by any person associated with such firm, in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission that may violate any applicable provision of the Federal securities laws, the rules and regulations issued thereunder, the rules adopted by the Board, or professional standards, whether such act, practice, or omission is the subject of a criminal, civil, or administrative action, or a disciplinary proceeding, or otherwise is brought to the attention of the Board.

"(B) POWERS OF BOARD.—For purposes of an investigation under this paragraph, the Board may, in addition to such other actions as the Board determines to be necessary or appropriate—

"(i) require the testimony of any person associated with a public accounting firm registered with the Board, with respect to any matter which the Board considers relevant or material to the investigation;

"(ii) require the production of audit workpapers and any other document or information in the possession of a public accounting firm registered with the Board, or any person associated with such firm, wherever domiciled, that the Board considers relevant or material to the investigation, and may examine the books and records of such firm to verify the accuracy of any documents or information so supplied; and

"(iii) request the testimony of any person and the production of any document in the possession of any person, including a client of a public accounting firm registered with the Board, that the Board considers relevant or material to the investigation.

"(C) SUSPENSION OR REVOCATION OF REGISTRATION FOR NONCOMPLIANCE.—The refusal of any person associated with a public accounting firm registered with the Board to testify, or the refusal of any such person to produce documents or otherwise cooperate with the Board, in connection with an investigation under this section, shall be cause for suspending or barring such person from associating with a public accounting firm registered with the Board, or such other appropriate sanction as the Board shall determine. The refusal of any public accounting firm registered with the Board to produce documents or otherwise cooperate with the Board, in connection with an investigation under this section, shall be cause for the suspension or revocation of the registration of such firm, or such other appropriate sanction as the Board shall determine.

"(D) REFERRAL TO COMMISSION.—

"(i) IN GENERAL.—If the Board is unable to conduct or complete an investigation under this section because of the refusal of any client of a public accounting firm registered with the Board, or any other person, to testify, produce documents, or otherwise cooperate with the Board in connection with such investigation, the Board shall report such refusal to the Commission.

"(ii) INVESTIGATION.—The Commission may designate the Board or one or more officers of the Board who shall be empowered, in accordance with such procedures as the Commission may adopt, to subpoena witnesses, compel their attendance, and require the production of any books, papers, correspondence, memoranda, or other records relevant to any investigation by the Board. Attendance of witnesses and the production of any records may be required from any place in the United States or any State at any designated place of hearing. Enforcement of a subpoena issued by the Board, or an officer of the Board, pursuant to this subparagraph shall occur in the manner provided for in section 21(c). Examination of witnesses subpoenaed pursuant to this subparagraph shall be conducted before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

"(iii) REFERRALS TO COMMISSION.—The Board may refer any investigation to the Commission, as the Board deems appropriate.

"(E) IMMUNITY FROM CIVIL LIABILITY.—An employee of the Board engaged in carrying out an investigation or disciplinary proceeding under this section shall be immune from any civil liability arising out of such investigation or disciplinary proceeding in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

"(3) DISCIPLINARY PROCEDURES.—

"(A) DECISION TO DISCIPLINE.—In a proceeding by the Board to determine whether a public accounting firm, or a person associated with such firm, should be disciplined, the Board shall bring specific charges, notify such firm or person of the charges, give such firm or person an opportunity to defend against such charges, and keep a record of such actions.

"(B) SANCTIONS.—If the Board finds that a public accounting firm, or a person associated with such firm, has engaged in any act, practice, or omission in violation of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards, the Board may impose such disciplinary sanctions as it deems appropriate, including—

"(i) revocation or suspension of registration under this section;

"(ii) limitation of activities, functions, and operations;

"(iii) fine;

"(iv) censure;

"(v) in the case of a person associated with a public accounting firm, suspension or bar from being associated with a public accounting firm registered with the Board; and

"(vi) any other disciplinary sanction that the Board determines to be appropriate.

"(C) STATEMENT REQUIRED.—A determination by the Board to impose a disciplinary sanction shall be supported by a written statement by the Board setting forth—

"(i) any act or practice in which the public accounting firm or person associated with such firm has been found to have engaged, or which such firm or person has been found to have omitted;

"(ii) the specific provision of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards which any such act, practice, or omission is deemed to violate; and

"(iii) the sanction imposed and the reasons therefor.

"(D) PROHIBITION ON ASSOCIATION.—It shall be unlawful—

"(i) for any person as to whom a suspension or bar is in effect willfully to be or to become associated with a public accounting firm registered with the Board, in connection with the preparation of an accountant's report on any financial statement, report, or other document filed with the Commission, without the consent of the Board or the Commission; and

"(ii) for any public accounting firm registered with the Board to permit such a person to become, or remain, associated with such firm without the consent of the Board or the Commission, if such firm knew or, in the exercise of reasonable care should have known, of such suspension or bar.

"(4) REPORTING OF SANCTIONS.—If the Board imposes a disciplinary sanction against a public accounting firm, or a person associated with such firm, the Board shall report such sanction to the Commission, to the appropriate State or foreign licensing board or boards with which such firm or such person is licensed or certified to practice public accounting, and to the public. The information reported shall include—

"(A) the name of the public accounting firm, or person associated with such firm, against whom the sanction is imposed;

"(B) a description of the acts, practices, or omissions upon which the sanction is based;

"(C) the nature of the sanction; and

"(D) such other information respecting the circumstances of the disciplinary action (including the name of any client of such firm affected by such acts, practices, or omissions) as the Board deems appropriate.

"(5) DISCOVERY AND ADMISSIBILITY OF BOARD MATERIAL.—

"(A) DISCOVERABILITY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the Board, and the deliberations and other proceedings of the Board and its employees and agents in connection with an investigation or disciplinary proceeding under this section shall not be subject to any form of civil discovery, including demands for production of documents and for testimony of individuals, in connection with any proceeding in any State or Federal court, or before any State or Federal administrative agency. This subparagraph shall not apply to any information provided to the Board that would have been subject to discovery from the person or entity that provided it to the Board, but is no longer available from that person or entity.

"(ii) EXEMPTION.—Submissions to the Board by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a Board proceeding, including documents generated by the Board itself, shall be exempt from discovery to the same extent as the material described in clause (i), whether in the possession of the Board or any other person, if such submission—

"(I) is prepared specifically for the purpose of the Board proceeding; and

"(II) addresses the merits of the issues under investigation by the Board.

"(iii) CONSTRUCTION.—Nothing in this subparagraph shall limit the authority of the Board to provide appropriate public access to disciplinary hearings of the Board, or to reports or memoranda received by the Board in connection with such proceedings.

"(B) ADMISSIBILITY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the Board, the deliberations and other proceedings of the Board and its employees and agents in connection with an investigation or disciplinary proceeding under this section, the fact that an investigation or disciplinary proceeding has been commenced, and the Board's determination with respect to any investigation or disciplinary proceeding shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

"(ii) TREATMENT OF CERTAIN DOCUMENTS.—Submissions to the Board by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a Board proceeding, including documents generated by the Board itself, shall be inadmissible to the same extent as the material described in clause (i), if such submission—

"(I) is prepared specifically for the purpose of the Board proceedings; and

"(II) addresses the merits of the issues under investigation by the Board.

"(C) AVAILABILITY AND ADMISSIBILITY OF INFORMATION.—

"(i) IN GENERAL.—All information referred to in subparagraphs (A) and (B) shall be—

"(I) available to the Commission and to any other Federal department or agency in connection with the exercise of its regulatory authority to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation;

"(II) available to Federal and State authorities in connection with any criminal investigation or proceeding;

"(III) admissible in any action brought by the Commission or any other Federal department or agency pursuant to its regulatory authority, to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation and in any criminal action; and

"(IV) available to State licensing boards to the extent authorized in paragraph (6).

"(ii) OTHER LIMITATIONS.—Any documents or other information provided to the Commission or other authorities pursuant to clause (i) shall be subject to the limitations on discovery and admissibility set forth in subparagraphs (A) and (B).

"(D) TITLE 5 TREATMENT.—This subsection shall be considered to be a statute described in section 552(b)(3)(B) of title 5, United States Code, for purposes of that section 552.

"(6) PARTICIPATION BY STATE LICENSING BOARDS.—

"(A) NOTICE.—When the Board institutes an investigation pursuant to paragraph (2)(A), it shall notify the State licensing boards in the States in which the public accounting firm or person associated with such firm engaged in the act or failure to act alleged to have violated professional standards, of the pendancy of the investigation, and shall invite the State licensing boards to participate in the investigation.

"(B) ACCEPTANCE BY STATE BOARD.—

"(i) PARTICIPATION.—If a State licensing board elects to join in the investigation, its representatives shall participate, pursuant to rules established by the Board, in investigating the matter and in presenting the evidence justifying the charges in any hearing pursuant to paragraph (3)(A).

"(ii) REVIEW.—In the event that the State licensing board disagrees with the Board's determination with respect to the matter under investigation, it may seek review of that determination by the Commission pursuant to procedures that the Commission shall specify by regulation.

"(C) PROHIBITION ON CONCURRENT INVESTIGATIONS.—A State licensing board shall not institute its own proceeding with respect to a matter referred to in subparagraph (A) until after the Board's determination has become final, including completion of all review by the Commission and the courts.

"(D) STATE SANCTIONS PERMITTED.—If the Board or the Commission imposes a sanction upon a public accounting firm or person associated with such a firm, and that determination either is not subjected to judicial review or is upheld on judicial review, a State licensing board may impose a sanction on the basis of the Board's report pursuant to paragraph (4). Any sanction imposed by the State licensing board under this clause shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency, except to the extent provided in paragraph (5)(D).

"(E) SANCTIONS NOT PERMITTED.—If a sanction is not imposed on a public accounting firm or person associated with such a firm, and—

"(i) a State licensing board elected to participate in an investigation referred to in subparagraph (A), the State licensing board may not impose a sanction with respect to the matter; and

"(ii) a State licensing board elected not to participate in an investigation referred to in subparagraph (A), subparagraphs (A) and (B) of paragraph (5) shall apply with respect to any investigation or proceeding subsequently instituted by the State licensing board and, in particular, the State licensing board shall not have access to the record of the proceeding before the Board and that record shall be inadmissible in any proceeding before the State licensing board.

"(g) ADDITIONAL DUTIES REGARDING QUALITY CONTROL.—After the date on which all initial members of the Board have been selected in accordance with subsection (c), the Board shall have the following duties and powers in addition to those set forth in subsection (f):

"(1) IN GENERAL.—The Board shall seek to promote a high level of professional conduct among public accounting firms registered with the Board, to improve the quality of audit services provided by such firms, and, in general, to protect investors and promote the public interest.

"(2) PROFESSIONAL PEER REVIEW ORGANIZATIONS.—

"(A) MEMBERSHIP REQUIREMENT.—The Board shall require each public accounting firm subject to the disciplinary authority of the Board to be a member of a professional peer review organization certified by the Board pursuant to subparagraph (B).

"(B) CRITERIA FOR CERTIFICATION.—The Board shall, by rule, establish general criteria for the certification of peer review organizations and shall certify organizations that satisfy those criteria, or such amended criteria as the Board may adopt. To be certified, a peer review organization shall, at a minimum—

"(i) require a member public accounting firm to undergo peer review not less than once every 3 years and publish the results of the peer review; and

"(ii) adopt standards that are acceptable to the Board relating to audit service quality control.

"(C) PENALTIES.—Violation by a public accounting firm or a person associated with such a firm of a rule of the peer review organization to which the firm belongs shall constitute grounds for—

"(i) the imposition of disciplinary sanctions by the Board pursuant to subsection (f); and

"(ii) denial to the public accounting firm or person associated with such firm of the privilege of appearing or practicing before the Commission.

"(3) CONFIDENTIALITY.—Except as otherwise provided by this section, all reports, memoranda, and other information provided to the Board solely for purposes of paragraph (2), or to a peer review organization certified by the Board, shall be confidential and privileged, unless such confidentiality and privilege are expressly waived by the person or entity that created or provided the information.

"(h) COMMISSION OVERSIGHT OF THE BOARD.—

"(1) PROPOSED RULE CHANGES.—

"(A) IN GENERAL.—The Board shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of the Board (hereafter in this subsection collectively referred to as a 'proposed rule change') accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning the proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with this subsection.

"(B) APPROVAL OR DISAPPROVAL.—

"(i) IN GENERAL.—Not later than 35 days after the date on which notice of the filing of a proposed rule change is published in accordance with subparagraph (A), or such longer period as the Commission may designate (not to exceed 90 days after such date, if it finds such longer period to be appropriate and publishes its reasons for such finding or as to which the Board consents) the Commission shall—

"(I) by order approve such proposed rule change; or

"(II) institute proceedings to determine whether the proposed rule change should be disapproved.

"(ii) DISAPPROVAL PROCEEDINGS.—Proceedings for disapproval shall include notice of the grounds for disapproval under consideration and opportunity for hearing and shall be concluded not later than 180 days after the date of publication of notice of the filing of the proposed rule change. At the conclusion of the proceedings for disapproval, the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for—

"(I) not more than 60 days, if the Commission finds good cause for such extension and publishes its reasons for such finding; or

"(II) such longer period to which the Board consents.

"(iii) APPROVAL.—The Commission shall approve a proposed rule change if it finds that such proposed rule change is consistent with the requirements of the Federal securities laws, and the rules and regulations issued thereunder, applicable to the Board. The Commission shall disapprove a proposed rule change if it does not make such finding. The Commission shall not approve any proposed rule change prior to the expiration of the 30-day period beginning on the date on which notice of the filing of a proposed rule change is published in accordance with this subparagraph, unless the Commission finds good cause to do so and publishes its reasons for such finding.

"(C) EFFECT OF PROPOSED RULE CHANGE.—

"(i) EFFECTIVE DATE.—Notwithstanding subparagraph (B), a proposed rule change may take effect upon filing with the Commission if designated by the Board as—

"(I) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board;

"(II) establishing or changing a due, fee, or other charge imposed by the Board; or

"(III) concerned solely with the administration of the Board or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify.

"(ii) SUMMARY EFFECT.—Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors. Any proposed rule change put into effect summarily shall be filed promptly thereafter in accordance with this paragraph.

"(iii) ENFORCEMENT.—Any proposed rule change which has taken effect pursuant to clause (i) or (ii) may be enforced by the Board to the extent that it is not inconsistent with the Federal securities laws, the rules and regulations issued thereunder, and applicable Federal and State law. During the 60-day period beginning on the date on which notice of the filing of a proposed rule change if filed in accordance with this paragraph, the Commission may summarily abrogate the change in the rules of the Board made thereby and require that the proposed rule change be refiled in accordance with subparagraph (A) and reviewed in accordance with subparagraph (B), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Federal securities laws. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect and shall not be reviewable under section 25 of this Act nor deemed to be 'final agency action' for purposes of section 704 of title 5, United States Code.

"(2) AMENDMENT BY COMMISSION OF RULES OF THE BOARD.—The Commission, by rule, may abrogate, add to, and delete from (hereafter in this subsection collectively referred to as 'amend') the rules of the Board as the Commission deems necessary or appropriate to ensure the fair administration of the Board, to conform its rules to requirements of the Federal securities laws, and the rules and regulations issued thereunder applicable to the Board, or otherwise in furtherance of the purposes of the Federal securities laws, in the following manner:

"(A) PUBLICATION OF NOTICE.—The Commission shall notify the Board and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the Board and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

"(B) COMMENTS.—The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

"(C) INCORPORATION.—A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the Board and a statement of the Commission's basis for and purpose in so amending such rules. Such statement shall include an identification of any facts on which the Commission considers its determination to so amend the rules of the Board to be based, including the reasons for the Commission's conclusions as to any of the facts that were disputed in the rulemaking.

"(D) REGULATIONS.—

"(i) TITLE 5 APPLICABILITY.—Except as otherwise provided in this paragraph, rulemaking under this paragraph shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

"(ii) CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit

the Commission's power to make, modify, or alter the procedures the Commission may follow in making rules and regulations pursuant to any other authority under the Federal securities laws.

"(iii) INCORPORATION OF AMENDMENTS.—Any amendment to the rules of the Board made by the Commission pursuant to this subsection shall be considered for purposes of the Federal securities laws to be part of the rules of the Board and shall not be considered to be a rule of the Commission.

"(3) NOTICE OF DISCIPLINARY ACTION TAKEN BY THE BOARD; REVIEW OF ACTION BY THE COMMISSION.—

"(A) NOTICE REQUIRED.—If the Board imposes a final disciplinary sanction on a public accounting firm registered with the Board or on any person associated with such a firm, the Board shall promptly file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of the Federal securities laws.

"(B) REVIEW.—An action with respect to which the Board is required by subparagraph (A) to file notice shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby, filed not later than 30 days after the date on which such notice is filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

"(4) DISPOSITION OF REVIEW; CANCELLATION, REDUCTION, OR REMISSION OF SANCTION.—

"(A) IN GENERAL.—In any proceeding to review a final disciplinary sanction imposed by the Board on a public accounting firm registered with the Board or a person associated with such a firm, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the Board and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction)—

"(i) if the Commission finds that—

"(I) such firm or person associated with such a firm has engaged in such acts or practices, or has omitted such acts, as the Board has found them to have engaged in or omitted;

"(II) such acts, practices, or omissions, are in violation of such provisions of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board,, or professional standards as have been specified in the determination of the Board; and

"(III) such provisions were applied in a manner consistent with the purposes of the Federal securities laws;

the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the Board, modify the sanction in accordance with paragraph (2), or remand to the Board for further proceedings; or

"(ii) if the Commission does not make the findings under clause (i), it shall, by order, set aside the sanction imposed by the Board and, if appropriate, remand to the Board for further proceedings.

"(B) CANCELLATION, REDUCTION, OR REMISSION OF SANCTION.—If the Commission, having due regard for the public interest and the protection of investors, finds after a proceeding in accordance with subparagraph (A) that a sanction imposed by the Board upon a firm or person associated with a firm imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Federal securities laws or is excessive or oppressive, the Commission may cancel, reduce, or require the remission of such sanction.

"(5) COMPLIANCE WITH RULES AND REGULATIONS.—

"(A) DUTIES OF BOARD.—The Board shall—

"(i) comply with the Federal securities laws, the rules and regulations issued thereunder, and its own rules; and

"(ii) subject to subparagraph (B) and the rules thereunder, absent reasonable justification or excuse, enforce compliance with such provisions and with professional standards by public accounting firms registered with the Board and persons associated with such firms.

"(B) RELIEF BY COMMISSION.—The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of the Federal securities laws, may relieve the Board of any responsibility under this section to enforce compliance with any specified provision of the Federal securities laws, the rules or regulations issued thereunder, or professional standards by any public accounting firm registered with the Board or person associated with such a firm, or any class of such firms or persons associated with such a firm.

"(6) CENSURE; OTHER SANCTIONS.—

"(A) IN GENERAL.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Federal securities laws, to censure or impose limitations upon the activities, functions, and operations of the Board, if the Commission finds, on the record after notice and opportunity for hearing, that the Board has—

"(i) violated or is unable to comply with any provision of the Federal securities laws, the rules or regulations issued thereunder, or its own rules; or

"(ii) without reasonable justification or excuse, has failed to enforce compliance with any such provision or any professional standard by a public accounting firm registered with the Board or a person associated with such a firm.

"(B) REMOVAL FROM OFFICE.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate, in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Federal securities laws, to remove from office or censure any member of the Board, if the Commission finds, on the record after notice and opportunity for hearing, that such member has—

"(i) willfully violated any provision of the Federal securities laws, the rules or regulations issued thereunder, or the rules of the Board;

"(ii) willfully abused such member's authority; or

"(iii) without reasonable justification or excuse, failed to enforce compliance with any such provision or any professional standard by any public accounting firm registered with the Board or any person associated with such a firm.

"(i) FOREIGN ACCOUNTING FIRMS.—A foreign public accounting firm that furnishes accountant's reports on any financial statement, report, or other document required to be filed with the Commission under any Federal securities law shall, with respect to those reports, be subject to the provisions of this section in the same manner and to the same extent as a domestic public accounting firm. The Commission may, by rule, regulation, or order and as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions, exempt from one or more provisions of this section any foreign public accounting firm. Registration pursuant to this subsection shall not, by itself, provide a basis for subjecting foreign accounting firms to the jurisdiction of the Federal or State courts.

"(j) RELATIONSHIP WITH ANTITRUST LAWS.—

"(1) TREATMENT UNDER ANTITRUST LAWS.—In no case shall the Board, any member thereof, any public accounting firm registered with the Board, or any person associated with such a firm be subject to liability under any antitrust law for any act of the Board or any failure to act by the Board.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust law' means the Federal Trade Commission Act and each statute defined by section 4 thereof as 'Antitrust Acts' and all amendments to such Act and such statutes and any other Federal Acts or State laws in pari materia.

"(k) APPLICABILITY OF AUDITING PRINCIPLES.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall be conducted in accordance with generally accepted auditing standards, as may be modified or supplemented from time-to-time by the Commission. The Commission may defer to professional standards promulgated by private organizations that are generally accepted by the accounting or auditing profession.

"(l) COMMISSION AUTHORITY NOT IMPAIRED.—Nothing in this section shall be construed to impair or limit the Commission's authority—

"(1) over the accounting profession, accounting firms, or any persons associated with such firms;

"(2) to set standards for accounting practices, derived from other provisions of the Federal securities laws or the rules or regulations issued thereunder; or

"(3) to take, on its own initiative, legal, administrative, or disciplinary action against any public accounting firm registered with the Board or any person associated with such a firm.".

SELECTED BILL PROVISIONS

PLAINTIFF STEERING COMMITTEES

The objective: To provide a mechanism for "plaintiff empowerment." Allow plaintiffs to exercise their rightful discretion in the litigation of their cases and to allow them traditional control over their entrepreneurial counsel.

Securities litigation is designed to protect the public and compensate the injured. Increasingly, however, class action securities litigation is dominated by the attorneys and the plaintiffs are treated as merely a means to an end. This bill reasserts plaintiffs' role by:

Establishing a plaintiff steering committee, appointed by the court, with all the powers traditionally held by clients to retain or dismiss counsel, reject settlements, and to seek approval of the class for settlement of-

fers. At the court's discretion, it can appoint a guardian ad litem in lieu of the steering committee.

PROVIDING ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

The objective: To provide an efficient forum with a specialized master to hear securities cases. To reduce time and expense of resolving securities litigation cases. To provide incentives for plaintiffs to use this effective method of dispute resolution.

The bill provides non-binding alternative dispute resolution. Parties who refuse to cooperate with an ADR process could be subject to fee-shifting if their position is found not to have been substantially justified. In no case would an investor who owned less than $1 million be subject to fee shifting.

REQUIRING THAT SCIENTER BE PLED WITH PARTICULARLY

The objective: To provide filter at the pleading stage to screen out allegations that have no factual basis; To provide clearer statement of plaintiffs' claims and scope of the case; To encourage attorneys to use greater care in drafting their complaints; Make it easier to win motion to dismiss frivolous cases by requiring that scienter be pled with particularity. Eliminate the split among Circuits dealing with pleading requirements for scienter. To codify the requirements in the 2nd and 7th Circuits.

A complaint is supposed to outline the facts supporting the law suit. Too often, the complaints are made up of boiler plate legalese and conclusions. A 10b–5 allegation is a very serious charge and the complaint should set forth the facts supporting each of the elements, particularly scienter or intent. "The defendant acted with intent to defraud" is a conclusion that should be insufficient to start a multimillion dollar lawsuit.

Too often, securities class action suits are characterized by the "sue them all and let the judge sort it out" mentality. But before the judge can sort it out, uninvolved defendants are required to spend great deals of time and money to defend against specious claims. This bill corrects that problem by requiring plaintiffs to specify the statements alleged to have been misleading. Again, this is not a novel idea; it is merely bringing securities actions in line with Rule 9(b) of the Federal Rules of Civil Procedure and codifying the requirements enunciated in the 2nd and 7th Circuits.

ATTORNEY FEE REFORM: BAN THE LODESTAR METHOD OF CALCULATING ATTORNEY'S FEES REPLACE WITH A MORE EASILY UNDERSTOOD DISCLOSURE OF ATTORNEYS FEES

The objective: Closer align the interests of the plaintiffs with their entrepreneurial lawyers. Make it easier for the class to understand how the lawyers are being compensated and to challenge attorneys fees. To make ensure that attorney fees do not unnecessarily conflict with the interests of the plaintiffs.

Plaintiff's attorneys fees are often calculated by the "lodestar method." Under this calculation a lodestar amount is determined by multiplying the attorney's hours worked by reasonable hourly fee adjusted by a multiplier to reflect the risk of litigation and other factors. It encourages abuses such as unjustified work and protracted the litigation. From the judicial point of view lodestar adds inefficiency to the process. From the investors' point of view it is difficult to figure out what the lawyers did and how much they are getting paid for doing it.

The lodestar method of calculating an appropriate attorneys' fee in class actions totally eclipses the facts surrounding the legal work done. This bill brings transparency to the topic of legal fees. The bill eliminates the very complicated method of determining attorney's fees. This bill limits attorney's fees in a class action to an easy to understand percentage of the amount actually recovered as a result of the attorney's efforts, rather than allowing them to recover their fees without regard to how well the class does. This is extremely important in ensuring that the attorneys' incentives coincide with those of the class. This bill also provides the class members the information they need to make an informed judgment on attorney fees and settlement offers. This provides better disclosure to the injured parties so they can determine whether they want to challenge their attorneys' claim to their settlement fund.

DISCLOSURE OF SETTLEMENT TERMS

The objective: Replace meaningless legalese and boiler plate conclusions with meaningful information about the per share amount a proposed settlement would provide. To provide information about the fairness of the settlement and an evaluation that more could be obtained if the case went to trial.

The bill would provide class members with information about the potential damages and how they are calculated and a comparison to the settlement.

PROPORTIONATE LIABILITY

The objective: To reduce the pressure to settle frivolous claims. To provide a two-tier liability system which retains joint and several liability for the primary participants in a fraudulent scheme and proportionate liability for those participants who are only incidentally involved.

The Securities Private Enforcement and Integrity in Financial Disclosure Act of 1994 ensures that those primarily responsible for the plaintiff's loss bear the primary burden in making the plaintiff whole. Specifically, this bill:

Requires the courts to determine who is primarily at fault, and holds that person jointly and severally liable for the plaintiff's damages.

Provides a special provision in those situations where there is an insolvent defendant. The bill provides that the co-defendants bear the risk of a co-defendant's insolvency as between the plaintiff or a co-defendant.

The NASCAT submission suggested that of the 66 cases they provided us with information on, 25 percent had an insolvent co-defendant.

CONTRIBUTION REFORM

The objective: To provide uniformity among the Circuits and to ensure that defendants are not unfairly required to pay more than their fair share of damages.

If a plaintiff is unable to recover damages from a defendant, this bill requires the remaining defendants to make up that difference by paying the greater of:

A portion of the outstanding balance proportionate to their fault; or

Five times the defendant's financial gain from the transaction which gave rise to their liability.

Moreover, this bill provides an extra level of protection for the most seriously injured; if a plaintiff has lost a significant portion of his net worth, this bill provides that he is entitled to a full recovery from the defendants, who are in that case jointly and severally liable.

Further, this bill encourages settlement by discharging from liability any defendant who enters into a good faith settlement with the plaintiff before a verdict or judgment.

SAFEHARBOR FOR PREDICTIVE STATEMENTS

The Objective: Encourage disclosure of information by companies, provide a procedural mechanism for companies who make predictive statements in good faith to be protected if their prediction does not materialize. Provide judges with additional procedural tools to deal with frivolous predictions cases.

Forward looking information is of significant value to investors in making informed investment decisions. It is this forward looking information that allows efficient allocation of resources, ensuring that the market prices of publicly traded securities best reflect their intrinsic value. Currently, the SEC's rules discourage issuers from voluntarily disclosing this information. This bill makes it clear that a reasonable basis for such information doesn't have to be a unanimous basis. This bill directs the SEC to consider establishing a system to:

Provide a "safe harbor" so that statements regarding the future economic performance of their companies will not be a basis for a securities lawsuit against them. The SEC has a safeharbor for predictive statements. It requires that there be a "reasonable basis" for the statements.

The Objective: Exposing Fraud before investors lose money.

This bill establishes a clear and immediate duty on the part of auditors to inform company management of any material illegal acts they uncover in their audit. If the auditors fail to take appropriate action promptly they are subject to civil penalty.

This is the Kerry-Wyden bill and we believe it belongs in the package of reforms we are proposing. It is very important for the accounting industry to be vigilant in their public watch dog role.

The Objective: To create an organization that will insure financial statement quality control to provide greater investor confidence. To create a self-disciplining organization to insure that incompetent auditors are weeded out of the profession.

The Securities Private Enforcement and Integrity in Financial Disclosure Act of 1994 institutes a system to establish standards for the accounting profession and to punish individuals and firms who violate those standards. This board would be subject to the oversight of the S.E.C.

The objective: To ensure that named plaintiffs have a bona fide interest in the litigation.

This bill requires that the named plaintiffs as a group own at least 1% or $10,000 worth of the securities before they can bring the lawsuit as a class action. This will help eliminate the "pet plaintiff" problem where attorney's keep lists of plaintiffs with minimal stock holdings, and bring suit in their names in the "race to the courthouse."

The objective: To extend the time available to victims of fraud to bring suit.

This bill extends the statute of limitations for 100b–5 suits to five years from the date of violation, two years from the date of discovery.

KEY PROVISIONS OF DODD-DOMENICI SECURITIES REFORM BILL

Provisions that are pro-investor

Steering Committees is a "plaintiff empowerment" provision to put the investors in charge of the litigation. Make sure the lawyers are acting in the best interest of the investors. Small investors as well as larger investors can participate as members.

Better disclosure of settlement terms so that investors understand what a settlement might mean to them. Disclosure is required on a per share basis.

Make sure all shareholders are treated equally by greatly restricting lawyers' ability to negotiate bonus payments for their "pet plaintiffs" who let the lawyers use their names to file lawsuits.

Reform legal fee computations to make it easier for investors to understand how their lawyers are being compensated out of their settlement fund. Tie plaintiffs' lawyers' compensation directly to the recovery for their clients, thereby, better aligning the lawyers' interests with their clients'.

Retains current law on joint and several liability to any investor with a net worth of less than $200,000 who loses more than 10 percent. Also retains joint and several liability for the primary wrongdoer.

Provide longer statute of limitations so that meritorious cases can be thoroughly researched and filed in a timely fashion.

Provide Alternative Dispute Resolution mechanism to provide an efficient forum to hear securities cases. To provide incentives for plaintiffs' lawyers to use this method of dispute resolution to get justice for their clients sooner and cheaper.

Extends the statute of limitations to five years from the date of violation, two years from discovery.

Provisions to slow down frivolous securities litigation

Pleading reform to require that complaints spell out in more detail other than legalese and conclusions why plaintiffs' lawyers believe the class was defrauded.

Provide a safeharbor for forward looking statements. Predictions are predictions. Stock volatility isn't fraud. Provide procedures so that innocent high tech companies can get frivolous cases dismissed quickly thereby making more time for judges to punish real perpetrators of fraud.

Establish a plaintiff threshold to ensure that plaintiffs instituting class actions have a bona fide interest in the litigation. The named plaintiffs as a group must either own 1% of the securities or $10,000 of the securities before they can bring the lawsuit as a class action.

Provisions to provide better financial disclosure and higher quality auditor's financial statements

Exposing Fraud before investors lose money. Establishes a clear and immediate duty on the part of auditors to inform management of any material illegal acts they uncover in audits.

Create a self-disciplining organization for auditors. To insure financial statement quality control to provide greater investor confidence.

Mr. DOMENICI. Mr. President, every 4 working days a securities class action law suit is filed by one law firm. If you add the securities class action law suits filed by the other specialized law firms practicing in this field, a case is filed every day. Many times the real victim is a company whose only crime is stock volatility. Many times the losers are the investors because these law suits take money out of the companies' R&D budgets and give it to class action lawyers. A suspiciously high percentage of these cases settle. Often, the settlements are less than the companies' legal bills incurred to defend the law suit. This is a strong indication that the cases lack merit.

The list of companies that have been sued reads like the who's who of high growth, high technology, and biotechnology companies. They are the backbone of our economy and the foundation of our ability to compete internationally in a changing world.

It is a cookie cutter face pattern in an environment of first-to-file races to the courthouse. It is a "shoot, aim, ready" approach to class action litigation where law suits are filed within hours of news that a company missed an earnings prediction.

Information provided by the National Association of Securities and Commercial Law Attorneys [NASCAT] suggests that 56 percent of the cases that they handpicked to provide data on to the Securities Subcommittee were filed within 30 days of the triggering event. A triggering event is usually a missed earnings projection or so-called "earnings surprise." Twenty-one percent of their sample cases were filed within 48 hours of the triggering. The stock price drops and class action law suits are filed.

I asked one of the plaintiffs' class action lawyers who appeared before the Senate Securities Subcommittee to provide some information on the class action securities suits his firm had filed during the last 3 years. The data he provided showed that his firm never went to trial in 3 years. Thirty-eight percent of the cases were dismissed, 63 percent were settled within the 3-year sample period, and out of the 111 cases filed in 1990 and 1991, one of three "pet plaintiffs" were named plaintiffs in case after case 25 percent of the time.

During the 2 days of hearings Chairman DODD conducted on private litigation under the Federal securities laws, we heard from CEOs who had experienced the frivolous securities class action law suits first-hand: Companies get sued when their stock drops. Another company was sued when it failed to read the mind of a judge who reversed an appeal on an unrelated matter.

The general counsel for Intel testified that had Intel been sued when it was a startup, such a suit probably would have bankrupted the company long before it invented the microchip.

These frivolous law suits are such a menace to publicly traded companies on the NASDAQ that the NASDAQ Self-Regulatory Organization decided to recommend reforms to Senator DODD and me.

Investors are recovering, on average, a few cents on the dollar. Attorneys are boasting that these securities class action cases are a perfect practice because according to quotes in Forbes magazine, "there are no clients." Yet clientless lawyers claim to be acting for the best interests of investors. Institutional investors believe these law-suits are merely transferring money from one set of shareholders to another, with the plaintiffs' class action lawyers taking a lion's share that looks a lot like greenmail. Frivolous litigation is time consuming and distracts chief executives and other corporate officials from productive economic activity. It has been estimated that defending one of these lawsuits is as costly as starting up a totally new product line. Let me give you some examples. You can decide if this seems to be in the interest of investors.

Pacific Enterprises—lawyers settle $1 billion case for $12 million and take $8 million of the settlement fund in legal fees.

Prudential Bache Securities—investors represented by the firm who testified before the committee received four cents on the dollar under the class action lawsuit settlement. The firm took $6 million plus expenses. Other investors who hired their own lawyers went to arbitration and came away fully compensated.

Apple Computer—case settled for $16 million. Attorneys received $8.9 million, more than half of the settlement fund. Plaintiffs received 6 cents on the dollar of the damages they sought.

VMS Realty—another firm settled for $25 million and left investors with less than two cents on the dollar. But the firm walked away with $6 million. They did less work than lawyers who went to arbitration and fought for full compensation for their clients according to accounts in the New York Times.

Once a settlement agreement is agreed to, the entrepreneurial lawyer with no clients becomes an adversary of the plaintiffs' class. Often the plaintiffs' attorneys and the defendants can settle on a basis that is adverse to the interests of the plaintiffs. The class action lawyers' interest shifts to protecting the settlement. "At its worst, the settlement process may amount to a covert exchange of a cheap settlement for a high award of attorneys' fees," according to John Coffee of Columbia University. These cases do not help investors and they do not punish perpetrators of fraud because most settlement funds are paid by insurance companies.

Individual investors get little monetary benefit from class action suits. But the system does not treat all investors the same. If you are lucky enough to be a class representative, sometimes call a pet plaintiff, or professional plaintiff, the plaintiffs' lawyers will negotiate a $1,000 to $15,000 bonus for letting them use your name. If you only purchased a couple of shares of stock, the return on the investment is much better than what the class receives as a whole. This practice undermines the fairness of the system. Hopefully our bill will put a stop to this practice.

When I talk to some of the opponents to securities civil litigation reform, I feel like I am in the world of George Orwell's book, "1984," where the Ministry of Propaganda declared: War is peace; freedom is slavery; and ignorance is strength.

In the 1994 securities litigation context the Orwellian plaintiffs' lawyers' arguments go like this: Stock volatility is fraud; justice is pennies for plaintiffs, equity is millions for lawyers; truth is too expensive; merits don't matter; settle don't litigate.

Except in George Orwell's world, the conclusion of any one who has examined the issue carefully is: The current securities implied private litigation system is broken. The system is broken because too many cases are pursued for the purpose of extracting settlements from corporations and other parties, without regard to the merits of the case, and that the settlements yield large fees for plaintiffs' lawyers but compensate investors only for a fraction of their actual losses. Janet Cooper Alexander of Stanford University has proven that most securities class actions are settled by the parties without regard to whether the case has merit. SEC Chairman Arthur Levitt acknowledged recently that "virtually all securities class actions are settled for some fraction of the claimed damages, and some alleged that settlements often fail to reflect the underlying merits of the cases. If true, this means that weak claims are overcompensated and strong claims are undercompensated." Professor John Coffee has concluded the plaintiffs' attorneys in many securities class actions appear to "sell out their clients in return for an overly generous fee award," and that the defendants may also join in this collusion by passing on the cost of the settlement to absent parties, such as insurers."

The plaintiffs lawyers like to sue the officers and directors, and the accountants, underwriters and issuers. These cases are brought under joint and several liability which means that any one defendant could be made to pay the entire judgment even if he or she were only marginally responsible.

Our bill builds upon the State law trend of imposing proportionate liability. Our bill would retain joint and several liability for the really bad actors, but would provide proportionate liability for those parties only incidentally involved. In response to the Securities and Exchange Commission's staff concern we also included a special provision to address the problem of the insolvent defendant. We believe this provision strikes the correct balance. This liability reform is important to outside officers and directors, auditors, and others who often get named in the law suit but who have little if any true liability. It helps change the economies that drive these frivolous cases.

The system seeks huge monetary recoveries from outside directors, outside lawyers, and independent accountants who may be only marginally involved in activities for which corporate officers should be primarily liable. Experienced people are declining to serve on boards because of the liability exposure. This denies growing companies the expertise they need to succeed. Private lawsuits for securities violations are having a chilling effect on corporate disclosure.

Naming an accountant who, by State law usually must practice as a partnership, faces unlimited personal liability in these cases. Suing the accountant ensures that the settlement will be 50 percent larger because of their deep pocket.

The current system also operates to discriminate against defendants. People who have deep pockets are often named in the law suits to coerce settlements. Accountants bear the brunt of our current system of joint and several liability.

The fundamental purposes of the Federal securities laws are to promote investor confidence and deter fraud. Class action securities cases inhibit voluntary disclosure by corporations, discouraging them from making any public statements except when absolutely required, for fear that anything they say which might move the company's stock price might trigger a law suit.

We want to get back to basics. The central principle underlying the securities laws is that investors should receive accurate and timely disclosure of the financial condition of publicly traded companies.

The objective of this bill is to recognize that litigation isn't George Orwell's 1994 version of Big Brother looking out for investors' best interest. We reject "stock volitility is fraud;" We reject "justice is pennies for lawyers;" We reject "equity is millions for lawyers."

Our bill will encourage disclosure, strengthen confidence, realign the role of the entrepreneurial plaintiffs' lawyers with the best interests of their clients and change the risk/benefit equation of taking cases to the jury.

The basis of our bill is to make the plaintiffs' bar, "Stop, think, investigate, and research."

The spirit motivating this bill is the obligation that Chairman Levitt recently identified, "to make sure the current system operates in the best interest of all investors. This means focusing not just on the interests of those who happen to be aggrieved in a particular case, but also on the interests of issuers and the markets as a whole."

I want to commend Chairman DODD for taking on this issue. We developed a substantial hearing record and collected as many facts and opinions as we could. This bill is the product of a great deal of work and I want to express my admiration for the way he went about developing this legislation. It still needs refinement.

Ms. MIKULSKI. Mr. President, I rise today to speak as an original cosponsor of the Private Securities Litigation Reform Act of 1994.

I have been hearing about an increase in lawsuits being filed alleging securities fraud—and they are based on nothing more than a dramatic change in the price of a company's stock.

I was shocked to hear that some attorneys are paying stock brokers and others a bounty in return for identifying who they should sue—without a care about whether anything wrong has been done. These lawsuits are filed at the courthouse just hours after a change in stock price—suing everyone imaginable—this is the kitchen sink approach to the courthouse, rather than a system of justice that protects people.

This bill seeks to make sure that the people who are injured—the investors—are calling the shots, not some attorneys or bounty hunter. This bill makes it easier for investors to recover damages in strong cases. It extends the statute of limitations for fraud from 3 years to 5 years, so that people who are injured don't have to race to the courthouse. It also provides for alternative dispute resolution rather than requiring injured investors to go through a long, complicated, and expensive court proceeding. This puts the investor in the driver's seat, not some bounty hunter who is beholden only to attorneys.

The bill also says that defendants who are hardly involved in a case are liable only up to their degree of fault. But when someone has caused serious injury, those defendants that are mainly at fault would be fully liable for all damages. This should bring to an end the kitchen sink approach to these lawsuits.

I am absolutely opposed to the race to the courthouse mentality that ends up in needless suits that have huge litigation costs for society. I want to see the courthouse door kept open for the little guy, but let's get this bounty hunter law under control.

I look forward to seeing this bill become law, because I was appalled to learn how the current bounty hunter law affects people in their day-to-day lives.

It hits accountants and other professionals through the high liability insurance premiums they have to pay.

For those people, like accountants, pulled into the suits as part of the kitchen sink the disruption to their lives and their firm's work is huge.

And it even affects the companies that accountants are willing to have as clients—like the new and expanding high-technology companies. These high-technology firms are the hope of

jobs today and jobs tomorrow for the United States. These are the very companies who have big changes in their stock prices as they develop new technologies and bring them to market. And these new growing companies are the ones most in need of the breadth of services offered by many accounting firms.

I am concerned about these costs, especially the costs to the high-technology community. These high-technology companies are our biggest source of jobs today and jobs tomorrow. And I am hearing that the current bounty hunter law mentality is putting those jobs at risk.

Rather than creating jobs, these high-technology companies are having to put their efforts and dollars into expensive litigation and insurance.

I know how the system works with these lawsuits. It doesn't matter who's right or who's wrong. Both the guilty and the innocent end up settling at some big cost, even if just to avoid the risk and to get on with their lives.

So the good guys cut their losses and the bad guys get off the hook.

I am glad to cosponsor this bill that takes steps to take care of the good guys.

By Mr. DODD (for himself, Mr. KENNEDY, and Ms. MIKULSKI):

S. 1977. A bill to amend title IV of the Social Security Act to reform child support enforcement procedures, and for other purposes; to the Committee on Finance.

CHILD SUPPORT REFORM ACT OF 1994

• Mr. DODD. Mr. President, I rise today to introduce the Child Support Reform Act of 1994, which would get tough with parents who are cheating their own children out of their futures. It demands that noncustodial parents do the right thing by their children and taps the Internal Revenue Service to help make sure that happens. I am joined in this effort by Senator KENNEDY AND Senator MIKULSKI, both members of the Senate Democratic Task Force on Child Support I chaired in the last Congress.

This legislation complements the Child Support Assurance Act of 1994, which Senator ROCKEFELLER and I introduced Tuesday. That bill would test the proposition that we should guarantee a minimum level of child support for the children of America. The legislation I am introducing today addresses the other half of the equation by making sure that delinquent parents pay what they owe.

WELFARE REFORM

We will soon embark on a major discussion of welfare reform, and there are many ideas out there about steps we can take to move people off welfare and into self-sufficiency. I would suggest that of all these proposals, none would do more to fight poverty than putting teeth into our child support enforcement system.

The poverty rate for single-parent families headed by women is nearly 33 percent. This compares to a poverty rate of under 8 percent for two-parent families.

The lack of child support is a major cause of poverty among single-parent families in this country, and too often those families going without support end up on welfare. The link between lack of child support and poverty is clear, as the Census Bureau illustrated when it estimated that between 1984 and 1986 approximately half a million children fell into poverty after their fathers left home.

In my view, the American people are willing to chip in to help struggling families get back on their feet after hard times. The people are much less willing to provide that kind of help if it is simply being used as a substitute for the support an absent parent should be providing.

LACK OF SUPPORT

Regrettably, that happens too often today. Forty-two percent of single mothers do not even have child support orders for their children, For poor women, this figure is 57 percent. And a child support order is no guarantee of support. In 1989, half of all mother-led families with child support orders received no support at all or less than the amount due.

Cases where the parents reside in different States have the worst collection rate. Although the same proportion of custodial parents have support orders in place, these families are twice as likely as families not separated by State lines to receive no support. Although interstate cases account for 3 of every 10 cases, they account for only $1 of every $10 in support collected.

Enforcing these cases is a nightmare for the States. They must rely on other States to take action—States that are already burdened with their own cases. Too often, interstate cases seem to be slipped to the bottom of the enforcement pile.

EFFECT ON CHILDREN

What kind of difference would it make if child support were paid up? If every single-parent family had an award and the awards were paid in full, that would mean $30 billion a year for the children of America. It doesn't take a rocket scientist to figure out what that $30 billion would mean for their economic well-being.

As a recent report titled "Childhood's End" by the National Child Support Assurance Consortium poignantly illustrated, the statistics are much more than simply numbers on a page for the children involved. For far too many young Americans, the lack of child support means poverty. It means not being able to go to the doctor when they're sick. It means going to bed hungry. It means teetering on the brink of homelessness.

It is time for us to stop this slide toward public assistance by insisting that parents meet the responsibilities they have for the children they bring into the world. The children of America will be the true winners of such a policy, but the taxpayers would also come out ahead because of reduced welfare expenditures.

NEED FOR SWEEPING REFORM

We have known for some time now that our child support system needs a major overhaul. And we have made a number of attempts to do something about it. A series of incremental reforms, including the child support amendments of 1984 and the Family Support Act of 1988, improved the situation somewhat, but we still have a long, long way to go, as a few telling statistics illustrate.

For every 100 child support cases in 1983, there were 15 in which there was a collection. Eight years later, after a series of reforms, there were 18. Fifteen to 18 out of 100 is a step in the right direction, but it is a tiny step. The time for incremental reform has passed. It is now time for bold action.

That's why I am today proposing the "Child Support Reform Act of 1994." This legislation would attack the cases states find most burdensome and challenging to enforce and the cases in which the children are least likely to see the money owed to them.

The bill would federalize enforcement of interstate child support orders by placing responsibility for these awards in the Internal Revenue Service. Our State-by-State patchwork system of child support allows far too many irresponsible parents to skip out on their obligations simply because they have moved out of State. Interstate cases would be referred to the IRS if they are subject to wage withholding requirements or if they are at least 1 month delinquent in their payments.

The bill would take other steps to create a more efficient, centralized system of enforcement. It would create State and national registries of support orders to centralize and speed up collection and enforcement of child support orders. It also would create a system of W-4 reporting for new hires to speed up the identification of parents with support obligations and get the payments flowing to children who depend on them faster.

The bill also sets up a process for adopting national child support guidelines. The State-by-State guideline approach still leaves too many children behind, left with awards too low to meet their needs. Too often, children whose parents are in similar economic circumstances end up with vastly different awards—and therefore, vastly different living standards—simply because of what State they live in. National guidelines would create equity so that economic security does not depend on where a child lives.

This legislation would pursue other avenues as well to force absent parents

to live up to their responsibilities. It would report support arrearages to credit bureaus. It would also require the withholding of business and professional licenses, driver's licenses and vehicle registrations for nonpayment of support.

Finally, the legislation would require States to use an administrative process to establish paternity, to secure child support orders and to enforce those orders. For a child waiting for the Government to establish a support order, every day counts. So, it is important to have a process for obtaining that order and getting the payments flowing that is as streamlined as possible. This approach allows States to expeditiously process the majority of cases that are very straightforward, getting support to kids and relieving court backlogs in the process.

As this summary indicates, this is a tough bill. But it is intended to tackle a tough problem. I hope my colleagues will join me in supporting this approach to strike a blow against child poverty and a blow for the taxpayers of America.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 1977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Support Reform Act of 1994".

(b) REFERENCE TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings and purposes.

TITLE I—ESTABLISHING SUPPORT ORDERS

Subtitle A—National Child Support Guideline

Sec. 101. Process for developing recommendations for a national child support guideline for congressional approval.

Subtitle B—Improved Procedures for Establishing Support Orders

Sec. 111. Administrative process.
Sec. 112. Evidence.
Sec. 113. Credit Reporting.

Subtitle C—Child Support Registries

Sec. 121. State central registries.

TITLE II—COLLECTIONS AND ENFORCEMENT

Sec. 201. Reporting of child support information.
Sec. 202. Occupational, professional, and business licenses.
Sec. 203. Driver's licenses and vehicle registrations.
Sec. 204. Technical correction to ERISA definition of medical child support order.
Sec. 205. UIFSA endorsement.
Sec. 206. Reports to credit bureaus on persons delinquent in child support payments.

TITLE III—INTERSTATE CHILD SUPPORT ENFORCEMENT

Sec. 301. Establishment of the Office of the Assistant Commissioner for Interstate Child Support Enforcement.
Sec. 302. Division of the National Registry of Child Support Orders.
Sec. 303. Division of Enforcement.
Sec. 304. State plan requirements.
Sec. 305. Definitions.

TITLE IV—FINANCING STATE CHILD SUPPORT ENFORCEMENT ACTIVITIES

Sec. 401. Federal financial participation.
Sec. 402. Audit standards.

TITLE V—EFFECTIVE DATES

Sec. 501. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) an increasing number of children live in single-parent families, and these families are 4 times as likely to be poor as 2-parent families;

(2) the failure of noncustodial parents to pay their fair share of child support is a major contributor to poverty among single-parent families;

(3) in 1989, only 26 percent of all single mothers received a full amount of child support, and half of the mothers with child support orders received either no child support or less than such mothers were due;

(4) child support cases in which the parties live in different States have the worst collection rates, accounting for 3 of every 10 child support cases, but only $1 of every $10 of child support collected;

(5) custodial parents in interstate cases are almost twice as likely as parents in in-State cases to never receive child support payments;

(6) a more centralized system of child support enforcement would help improve collections in all cases;

(7) particularly strong measures are needed to overcome the difficulties in reaching across State lines to collect child support due in interstate cases;

(8) increased Federal involvement in interstate cases would relieve the States of the considerable burden of enforcing child support orders when one of the parties lives in another jurisdiction; and

(9) State-by-State child support guidelines have resulted in orders that vary significantly from State to State, resulting in low awards and inequities for children.

(b) PURPOSE.—It is the purpose of this Act to—

(1) increase the economic security of children by creating national child support guidelines;

(2) improve the enforcement of child support awards through a more centralized, efficient system and enhanced tools for States to use in enforcement; and

(3) improve the enforcement of child support orders when the parties live in different States by placing responsibility for enforcement in the Internal Revenue Service.

TITLE I—ESTABLISHING SUPPORT ORDERS

Subtitle A—National Child Support Guideline

SEC. 101. PROCESS FOR DEVELOPING RECOMMENDATIONS FOR A NATIONAL CHILD SUPPORT GUIDELINE FOR CONGRESSIONAL APPROVAL.

(a) DEVELOPMENT OF IMPLEMENTING BILL.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the separate organizational unit established under section 452(a) of the Social Security Act (42 U.S.C. 652(a)) shall submit to the Congress an implementing bill with respect to the national child support guideline developed under subsection (b) which contains such provisions necessary or appropriate to implement such guideline, either repealing or amending existing laws or providing new statutory authority.

(2) USE OF ADVISORY BOARD.—

(A) IN GENERAL.—To assist the separate organizational unit in developing an implementing bill with respect to a national child support guideline, the Secretary of Health and Human Services shall appoint a 9-member National Child Support Guideline Advisory Board (hereafter in this paragraph referred to as the "Board"). The Board shall include—

(i) individuals with judicial or administrative experience in matters involving child support enforcement;

(ii) individuals with knowledge of the cost of raising children; and

(iii) representatives of organizations which represent custodial and noncustodial parents.

(B) COMPENSATION.—

(i) IN GENERAL.—Members of the Board shall serve as such without pay.

(ii) TRAVEL EXPENSES, ETC.—Members of the Board shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(b) NATIONAL CHILD SUPPORT GUIDELINE.—The national child support guideline developed under this subsection for recommendation to the Congress shall—

(1) be used by each State as a rebuttable presumption of the correct amount of support to be awarded in all judicial or administrative proceedings for the establishment or modification of child support;

(2) maximize the support for children;

(3) take into account—

(A) the definitions of "income" and "resources" to be used in applying the guideline,

(B) the health care needs of the children, through health insurance coverage or other means, and

(C) the child care and educational needs of the children; and

(4) include the criteria a State may use in evaluating a request from either parent to rebut the use of the national guideline, except that issues related to visitation may not be used in lowering the amount of child support to be paid.

(c) CONGRESSIONAL CONSIDERATION OF IMPLEMENTING BILL.—

(1) IN GENERAL.—The implementing bill described in subsection (a) shall be considered by the Congress under the procedure for consideration described in paragraph (2).

(2) PROCEDURE.—

(A) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This paragraph is enacted by Congress—

(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementing bill described in subsection (a)(1), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(B) INTRODUCTION AND REFERRAL.—On the day on which the implementing bill described in subsection (a)(1) is transmitted to the House of Representatives and the Senate, such bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which the implementing bill is transmitted, the bill shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The implementing bill introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(C) AMENDMENTS PROHIBITED.—No amendment to an implementing bill shall be in order in either the House of Representatives or the Senate and no motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

(D) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(i) IN GENERAL.—Except as provided in clause (ii), if the committee or committees of either House to which an implementing bill has been referred have not reported it at the close of the 90th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the implementing bill and it shall be placed on the appropriate calendar. A vote on final passage of the implementing bill shall be taken in each House on or before the close of the 90th day after the implementing bill is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the implementing bill. If prior to the passage by 1 House of an implementing bill of that House, that House receives the same implementing bill from the other House then—

(I) the procedure in that House shall be the same as if no implementing bill had been received from the other House; but

(II) the vote on final passage shall be on the implementing bill of the other House.

(ii) COMPUTATION OF DAYS.—For purposes of clause (i), in computing a number of days in either House, there shall be excluded—

(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain, or an adjournment of the Congress sine die; and

(II) any Saturday and Sunday not excluded under subclause (I) when either House is not in session.

(E) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(i) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an implementing bill shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) DEBATE.—Debate in the House of Representatives on an implementing bill shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or to move to reconsider the vote by which an implementing bill is agreed to or disagreed to.

(iii) MOTION TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill, and motions to proceed to the consideration of other business, shall be decided without debate.

(iv) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill shall be decided without debate.

(v) GENERAL RULES APPLY.—Except to the extent specifically provided in the preceding provisions of this subparagraph, consideration of an implementing bill shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(F) FLOOR CONSIDERATION IN THE SENATE.—

(i) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) GENERAL DEBATE.—Debate in the Senate on an implementing bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(iii) DEBATE OF MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an implementing bill shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(iv) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill is not in order.

(d) RESUBMISSIONS.—If an implementing bill submitted under subsection (a)(1) is not approved by the Congress or is vetoed by the President (and such veto is not overridden by the Congress), the separate organizational unit shall resubmit a new implementing bill not later than 90 days after the Congress failed to approve such bill or failed to override the President's veto, and such new implementing bill shall be subject to congressional consideration as provided in subsection (c).

Subtitle B—Improved Procedures for Establishing Support Orders

SEC. 111. ADMINISTRATIVE PROCESS.

Section 466(a)(2) (42 U.S.C. 666(a)(2)) is amended to read as follows:

"(2) Procedures under which expedited administrative processes are used to establish paternity in contested cases and to obtain and enforce support orders in all cases. The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement or paternity establishment within the political subdivision (in accordance with the general rule for exemptions under subsection (d)).".

SEC. 112. EVIDENCE.

(a) NATIONAL SUBPOENA DUCES TECUM.—Section 452(a) (42 U.S.C. 652(a)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (11), and by inserting after paragraph (9) the following new paragraph:

"(10) draft and distribute a national subpoena duces tecum for use by child support litigants to obtain income information pertaining to all private, Federal, State, and local government employees, as well as any receivers of income; and".

(b) STATE STANDARDS.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following new paragraph:

"(12)(A) Procedures which require any unit of government, person, or corporation doing business in the State to accept and honor a subpoena duces tecum developed pursuant to section 452(a)(10).

"(B) Procedures which enforce through a hearing such a subpoena served in the State, at which hearing the burden of specifying the reasons for not timely honoring the subpoena rests with the non-complying person or entity.

"(C) Procedures for the introduction in any judicial or administrative child support proceeding of information contained in the response to such a subpoena without the need for further verification.".

SEC. 113. CREDIT REPORTING.

Section 604 of the Consumer Credit Protection Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraph:

"(4) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) to use the information relevant to the setting of an initial or modified child support award, without the necessity of a court order.".

Subtitle C—Child Support Registries

SEC. 121. STATE CENTRAL REGISTRIES.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 112, is amended by inserting after paragraph (12) the following new paragraph:

"(13)(A) Procedures under which the State shall maintain by not later than July 1, 1996, a central child support order registry which shall include each child support order issued or modified in the State. Except in the case of a child support order being enforced under section 303 of the Child Support Reform Act of 1994, the State shall, through the registry, receive, record, and disburse payment under each such child support order.

"(B) Procedures under which the State prepares and transmits within 5 days of entry

into the central State child support registry, an abstract of each order maintained in such registry, to the National Registry of Child Support Orders established under section 301 of the Child Support Reform Act of 1994. The abstract shall contain such information as required by the Secretary of the Treasury pursuant to regulations issued under section 301(b) of such Act.".

TITLE II—COLLECTIONS AND ENFORCEMENT

SEC. 201. REPORTING OF CHILD SUPPORT INFORMATION.

(a) W-4 REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall require—

(A) all employees to file a new W-4 form with their employers within 5 calendar days after the latest of—

(i) October 1, 1996,

(ii) the date the employee is hired, or

(iii) the date any information specified under paragraph (2) is no longer accurate; and

(B) all employers to provide a copy of every employee's W-4 form to the National Registry of Child Support Orders established under section 301 of this Act.

(2) EXPANDED USE OF FORM.—The Secretary of the Treasury shall modify the W-4 form to be completed by an employee to enable the employee to indicate on the form—

(A) whether the employee has a legal obligation to provide child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)) which is to be collected, in whole or in part, through wage withholding pursuant to an order issued by a State court or an order of an administrative process established under State law; and

(B) if so—

(i) the aggregate amount of all such obligations,

(ii) the name and address of any person to whom the employee has such an obligation, and

(iii) whether the payment of such obligation has been previously remitted to the National Registry of Child Support Orders established under section 301 of this Act.

(b) EMPLOYER OBLIGATIONS.—

(1) IN GENERAL.—Subtitle C of the Internal Revenue Code of 1986 (relating to employment taxes) is amended by inserting after chapter 24 the following new chapter:

"CHAPTER 24A—COLLECTION OF CHILD SUPPORT OBLIGATIONS AT SOURCE ON WAGES

"Sec. 3411. Child support obligations collected at source.

"SEC. 3411. CHILD SUPPORT OBLIGATIONS COLLECTED AT SOURCE.

"(a) REQUIREMENT OF WITHHOLDING.—

"(1) WAGE WITHHOLDING AS INDICATED BY THE EMPLOYEE.—Except as provided in paragraph (2), each employer who receives a completed W-4 form from an employee pursuant to section 201(a)(2) of the Child Support Reform Act of 1994 which indicates that the employee has a legal obligation to provide child support (as defined in section 462(b) of the Social Security Act) which is payable through wage withholding shall—

"(A) deduct and withhold from the wages of the employee the amount indicated on the W-4 form as a child support obligation; and

"(B) send such amount to—

"(i) the appropriate central State child support order registry established under section 466(a)(13)(A) of the Social Security Act, or

"(ii) the National Registry of Child Support Orders established under section 301 of the Child Support Reform Act of 1994, if notified pursuant to the employee's W-4 or section 302(4) of such Act.

"(2) CORRECTION OF WITHHOLDING INSTRUCTIONS.—If the central State child support order registry or the National Registry of Child Support Orders notifies the employer that an employee has an obligation unreported or misreported on the employee's W-4, the employer shall—

"(A) deduct and withhold from the wages of the employee the amount that such registry indicates is to be deducted and withheld from the wages of the employee to satisfy such obligation; and

"(B) send the amount so withheld to such registry.

"(b) LIABILITY FOR PAYMENT.—The employer shall be liable for the payment of amounts deducted and withheld under subsection (a) to the appropriate registry.

"(c) SPECIAL RULES.—For purposes of this chapter (and so much of subtitle F as relates to this chapter), any amount required to be deducted and withheld under this section shall be treated as if it were a tax withheld under chapter 24 and rules similar to the rules of chapter 24 shall apply.".

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle C of such Code is amended by inserting after the item relating to chapter 24 the following new item:

"Chapter 24A. Child support obligations collected at source.".

SEC. 202. OCCUPATIONAL, PROFESSIONAL, AND BUSINESS LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 121, is amended by inserting after paragraph (13) the following new paragraph:

"(14) Procedures under which the State occupational licensing and regulating departments and agencies may not issue or renew an occupational, professional, or business license of—

"(A) a noncustodial parent who is the subject of an outstanding failure to appear warrant, capias, or bench warrant related to a child support proceeding that appears on the State's crime information system or the National Registry of Child Support Orders established under section 301 of the Child Support Reform Act of 1994, until removed from the system or Registry; and

"(B) a noncustodial parent who is delinquent in such parent's child support obligation in an amount at least equal to the support payable for one month, as recorded in the central State child support order registry established under paragraph (13)(A) or the National Registry of Child Support Orders established under section 301 of the Child Support Reform Act of 1994, until—

"(i) the pro se obligee, the obligee's attorney, a State prosecutor responsible for child support enforcement, or the Division of Enforcement established under such section 301 consents to the release of the hold on the license,

"(ii) a court or administrative agency that is responsible for the order's enforcement orders the release of the hold on the license, or

"(iii) an expedited inquiry and review is completed while such parent is granted a 30-day temporary license.".

SEC. 203. DRIVER'S LICENSES AND VEHICLE REGISTRATIONS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 202, is amended by inserting after paragraph (14) the following new paragraph:

"(15) Procedures under which the State motor vehicle department—

"(A) may not issue or renew a driver's license (other than a temporary license of not more than 60-days duration) of any noncustodial parent who is the subject of an outstanding failure to appear warrant, capias, or bench warrant related to a child support proceeding that appears on the State's crime information system or the National Registry of Child Support Orders established under section 301 of the Child Support Reform Act of 1994, until removed from the system or Registry;

"(B) may not issue or renew a driver's license or vehicle registration (other than temporary) of any noncustodial parent who is delinquent in such parent's child support obligation in an amount at least equal to the support payable for one month, as recorded in the central State child support order registry established under paragraph (13)(A) or the National Registry of Child Support Orders established under section 301 of the Child Support Reform Act of 1994, until—

"(i) the pro se obligee, the obligee's attorney, a State prosecutor responsible for child support enforcement, or the Division of Enforcement established under such section 301 consents to the release of the hold on the license or registration,

"(ii) a court or administrative agency that is responsible for the order's enforcement orders the release of the hold on the license or registration, or

"(iii) an expedited inquiry and review is completed while such parent is granted a 30-day temporary license or registration; and

"(C) upon receiving notice that an individual holds a State driver's license or vehicle registration who is the subject of a warrant related to a child support proceeding—

"(i) issues a show cause order to such individual asking such individual to demonstrate why such individual's driver's license or vehicle registration ought not be suspended until the warrant is removed by the court responsible for issuing the warrant, and

"(ii) in cases in which a show cause order pursuant to clause (i) has been issued, may grant a temporary license or vehicle registration to such individual pending the show cause hearing or the removal of the warrant, whichever occurs first.".

SEC. 204. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1995.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1995, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 205. UIFSA ENDORSEMENT.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f) In order to satisfy section 454(20)(A), each State must have in effect by January 1, 1996, laws which adopt without material change the officially approved version of the Uniform Interstate Family Support Act adopted by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association House of Delegates on February 9, 1993.".

SEC. 206. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) Procedures requiring the State to provide to each consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) information regarding the amount of overdue support owed by any absent parent who resides in the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

TITLE III—INTERSTATE CHILD SUPPORT ENFORCEMENT

SEC. 301. ESTABLISHMENT OF THE OFFICE OF THE ASSISTANT COMMISSIONER FOR INTERSTATE CHILD SUPPORT ENFORCEMENT.

(a) IN GENERAL.—For purposes of locating absent parents and facilitating the enforcement of child support obligations, the Secretary of the Treasury shall establish within the Internal Revenue Service an Office of the Assistant Commissioner for Interstate Child Support Enforcement which shall establish not later than July 1, 1996—

(1) a Division of the National Registry of Child Support Orders for the purpose of carrying out the duties described in section 302; and

(2) a Division of Enforcement for the purpose of carrying out the duties described in section 303.

(b) COORDINATION.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services shall issue regulations for the coordination of activities among the Office of the Assistant Commissioner for Interstate Child Support Enforcement, the Assistant Secretary for Children and Families, and the States, to facilitate the purposes of this title.

SEC. 302. DIVISION OF THE NATIONAL REGISTRY OF CHILD SUPPORT ORDERS.

With respect to the Division of the National Registry of Child Support Orders (hereafter in this title referred to as the "Registry"), the duties described in this section are as follows:

(1) Retain an abstract of all child support orders issued or modified by the States, including the names, social security numbers, and addresses of the parties, the amount of the order, whether the order is being enforced under the State plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), and such other information as the Secretary of Treasury, in consultation with the Secretary of Health and Human Services, shall, by regulation, require.

(2) Promptly notify the Division of Enforcement whenever the Registry receives notice from a State that an order being enforced by the Division of Enforcement has been modified, specifying which terms of such order are modified.

(3)(A) Receive from employers the reports required under section 201(a)(1) of this Act, match such reports against the abstracts contained in the Registry, confirm that support is owed, to whom such support is owed, and in what amount, and report any corrections to the employers.

(B) Upon receipt of such a report—

(i) if the employee is subject to a child support order, retain the information contained in such report with respect to such employee; and

(ii) if the employee is not subject to a child support order, promptly destroy such information.

(C) Upon receipt of such a report—

(i) if both parents reside in the same State and the child support order has not been previously referred to the Division of Enforcement, report to the appropriate central State child support order registry established under section 466(a)(13)(A) of the Social Security Act (42 U.S.C. 666(a)(13)(A)), the name, address, social security number, and date of birth of the employee, the employer's name and address, the employee's date of hire, and any other information obtained which would be useful in enforcing the child support order according to its terms;

(ii) if the parents reside in different States and the order has not been previously referred to the Division of Enforcement, refer the order for interstate enforcement to the Division of Enforcement; and

(iii) if the order has been previously referred to the Division of Enforcement, refer the information specified in clause (i) to the Division of Enforcement.

(4) If an order is referred to the Division of Enforcement by the Registry under paragraph (3)(C)(ii) or by a State child support enforcement agency under section 454(26) of the Social Security Act (42 U.S.C. 654(26))—

(A) notify the custodial and noncustodial parents of such referral; and

(B) notify the employer to remit all child support payments to the Registry, receive all child support payments made pursuant to the order, record such payments, and promptly disburse the funds—

(i) in cases where there is an assignment of rights under section 402(a)(26) of the Social Security Act (42 U.S.C. 602(a)(26)), in accordance with section 457(b) of such Act (42 U.S.C. 657(b)), and

(ii) in all other cases, to the custodial parent.

SEC. 303. DIVISION OF ENFORCEMENT.

(a) IN GENERAL.—With respect to the Division of Enforcement, the duties described in this section are as follows:

(1) Enforce all child support orders referred to the Division of Enforcement—

(A) under section 302(3)(C)(ii);

(B) by a State child support enforcement agency under section 454(26) of the Social Security Act (42 U.S.C. 654(26)); and

(C) under section 452(b) of the Social Security Act (42 U.S.C. 652(b)).

(2) Enforce a child support order in accordance with the terms of the abstract contained in the Registry pursuant to section 302(1) or the modified terms of such an order upon notification of such modifications by the Registry under section 302(2).

(3) Enforce medical support provisions of any child support order using any means available under State or Federal law.

(4) Receive and process requests for Federal income intercept made in accordance with section 464 of the Social Security Act (42 U.S.C. 664).

With respect to orders referred to the Division of Enforcement under subparagraph (A) or (B) of paragraph (1), once the referral is made, the Division of Enforcement shall retain responsibility for enforcement even if the parties resume residence in the same State.

(b) FAILURE TO PAY AMOUNT OWING.—With respect to any child support order being enforced by the Division of Enforcement, if an individual fails to pay the full amount required to be paid on or before the due date for such payment, the Office of the Assistant Commissioner for Interstate Child Enforcement, through the Division of Enforcement, may assess and collect the unpaid amount in the same manner, with the same powers, and subject to the same limitations applicable to a tax imposed by subtitle C of the Internal Revenue Code of 1986 the collection of which would be jeopardized by delay.

(c) USE OF FEDERAL COURTS.—The Office of the Assistant Commissioner for Interstate Child Enforcement, through the Division of Enforcement, may utilize the courts of the United States to enforce child support orders against absent parents upon a finding that—

(1) the order is being enforced by the Division of Enforcement; and

(2) utilization of such courts is a reasonable method of enforcing the child support order.

(d) CONFORMING AMENDMENTS.—

(1) Section 452(a)(8) (42 U.S.C. 652(a)(8)) is repealed.

(2) Section 452(c) (42 U.S.C. 652(c)) is repealed.

SEC. 304. STATE PLAN REQUIREMENTS.

Section 454 (42 U.S.C. 654) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting a semicolon, and by inserting after paragraph (24) the following new paragraphs:

"(25) provide that the State will cooperate with the Office of the Assistant Commissioner for Interstate Child Support Enforcement to facilitate the exchange of information regarding child support cases and the enforcement of orders by the Commissioner; and

"(26) provide that the State child support enforcement agency shall refer for enforcement to the Division of Enforcement established under section 301 of the Child Support Reform Act of 1994 any child support order if an amount equal to at least 1 month's support is in arrears and the State believes the parties reside in different States.".

SEC. 305. DEFINITIONS.

Any term used in this title which is also used in part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) shall have the meaning given such term by such part.

TITLE IV—FINANCING STATE CHILD SUPPORT ENFORCEMENT ACTIVITIES

SEC. 401. FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) at the end of paragraph (1), by adding the following new sentence: "For fiscal year 1995 and thereafter, no amount shall be paid to any State under this section unless the amounts expended by such State during such year for the operation of the plan approved under this part are not less than such amounts expended by such State in fiscal year 1994."; and

(2) in paragraph (2), by striking "and" at the end of subparagraph (B) and by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) 66 percent for fiscal years 1990, 1991, 1992, 1993, and 1994, and

"(D) 85 percent for fiscal year 1995 and each fiscal year thereafter.".

(b) REPEAL OF INCENTIVE PAYMENTS TO STATES.—Section 458 (42 U.S.C. 658) is repealed.

SEC. 402. AUDIT STANDARDS.

(a) ESTABLISHMENT OF COMMITTEE.—

(1) IN GENERAL.—The Secretary (hereafter in this section referred to as the "Secretary") shall establish a Child Support Audit Advisory Committee (hereafter in this section referred to as the "Committee").

(2) MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—The Secretary shall determine the number of members on the Committee.

(B) APPOINTMENT.—The members of the Committee shall be appointed by the Secretary and shall include representatives of directors of State child support enforcement programs operating under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), recipients of child support enforcement services, and independent management consultants.

(3) DUTIES OF THE COMMITTEE.—The Committee shall assist the Secretary in preparing revised audit criteria to be used pursuant to section 452(a)(4) of the Social Security Act (42 U.S.C. 652(a)(4)) based on—

(A) common data elements which are defined, collected, and reported in a uniform manner from each State;

(B) numeric measures of program outcomes in locating absent parents establishing paternity, obtaining child support orders, periodically modifying such orders, and enforcing such orders, and enforcing such orders (including orders for health insurance coverage);

(C) numeric measures for assessing compliance with the regulations issued by the Secretary pursuant to subsections (h) and (i) of section 452 of such Act (42 U.S.C. 652); and

(D) a definition of substantial compliance with such criteria.

(4) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES, ETC., REIMBURSED.—The members of the Committee may be allowed travel expenses while on the business of the Committee, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(5) APPLICATION OF ACT.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Committee.

(6) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

(7) TIMING.—The Secretary shall—

(A) not later than 60 days after the date of the enactment of this Act establish the Committee; and

(B) not later than 180 days after such date issue a notice of proposed rulemaking with respect to the audit standards required by this subsection, and, after allowing not less than 45 days for public comment, issue final regulations not later than 270 days after the date of the enactment of this Act, to be effective beginning 1 year after the date of the issuance of such regulations.

(b) COMPLIANCE ENFORCEMENT.—

(1) IN GENERAL.—Section 403(h)(1) (42 U.S.C. 603(h)(1)) is amended—

(A) by striking "part D" and inserting "this part"; and

(B) by striking "by—" and all that follows and inserting "by not less than 5 percent nor more than 10 percent.".

(2) REDESIGNATION.—Title IV is amended—

(A) by redesignating subsection (h) of section 403 (42 U.S.C. 603), as amended by paragraph (1), as subsection (f); and

(B) by relocating subsection (f) (as so redesignated) immediately following subsection (e) of section 455 (42 U.S.C. 655).

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act or subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.•

By Mr. ROTH:

S. 1978. A bill to amend part III of title 5, United States Code, to provide for participation by non-Federal employees in health benefits plans under the Federal Employees Health Benefits Program, and for other purposes; to the Committee on Government Affairs.

FEDERAL HEALTH CARE EXPANSION ACT

• Mr. ROTH. Mr. President, I rise today to introduce legislation entitled the Federal Health Care Expansion Act—or "FedCare" to increase access and availability to health care coverage across the Nation. I hope my proposal will be considered as part of comprehensive national health care reform. With the introduction of this legislation I am looking forward to receiving comments and suggestions on this draft.

My proposal will not create new government bureaucracies, increase taxes, or impose mandates on businesses, and, it will not increase the deficit. Rather, FedCare will provide small businesses and self-employed individuals an affordable alternative for insuring the health of their workers and their families. My proposal could immediately help us address the largest problem in our current health care system—the lack of access to affordable coverage for the 20 million uninsured individuals who are working or in a family where someone is working for a business which has 1 to 100 employees. FedCare is based on a system with a proven track record, a system that is working now: and it will serve as a bridge in our transition to national health care reform.

There is consensus that the Federal Employees Health Benefits Program [FEHBP] is a model health care system. The President, First Lady, many health care experts, economists, and federal employees point to FEHBP as a program that works well. Since legislation in 1959 established the world's largest private voluntary health insurance network, millions of federal workers, retirees and their dependents have benefited from health insurance coverage provided through the FEHBP. In my view, it makes little sense to eliminate a program that has proven successful.

My proposal is a four point concept which would feasibly provide affordable quality health care coverage to millions of working uninsured Americans and their families. This proposal will make available to millions of Americans the same health care plan that is available to Members of Congress, Supreme Court Justices, members of the President's Cabinet, and millions of federal employees, retirees, and their dependents. While the President and others point to the Federal Employee Health Benefits Program [FEHBP] as a model for health care reform, I view the FEHBP as even more, a practical place to actually begin building our Nation's future health care system.

I was, in fact, troubled to see that the Administration and other comprehensive health care plans either terminate the FEHBP or simply overlook it. I would start reforming our health care system by extending this coverage. I believe that this approach would benefit both the currently enrolled Federal workers, retirees and their dependents as well as those who would be eligible to join by buying-in to the program.

Under my proposal, FEHBP participating fee-for-service and health maintenance organization plans would be available for buy-in by small businesses of 1 to 100 employees—including the self-employed—at the same premium price available to Federal enrollees (plus, if demonstrated that there is a need, a small administrative add-on to the premium). In order to minimize adverse risk selection, this buy-in would occur in a reformed marketplace with enactment of small group insurance market reform. The cost of the buy-in would be made affordable to self-employed individuals by increasing to 100 percent the deductibility of contributions towards health premiums, and for low-wage workers, a subsidy voucher program would place insurance coverage within affordable reach. These combined measures would make quality and affordable health insurance coverage accessible across the nation, and, as the insurance plans will allow workers to retain their coverage when they change jobs, the problem for many of "job-lock" caused by fear of losing insurance coverage is addressed.

FedCare addresses two fundamental flaws in our health care system affect-

ing small business. These flaws are the inability of small groups to negotiate in the health care market, and the lack of choice these groups have either because they can not obtain adequate health care coverage or because they can not afford the coverage. Giving small businesses FedCare access to the FEHBP addresses the negotiating problems. It extends to small business the purchasing power of the largest privately insured pool of individuals—the 9 million enrolled individuals in the over 300 private insurance plans in virtually every locality in the nation. Establishing the FedCare national subsidy voucher program enables small businesses to make more and better choices in health care coverage.

The US health care marketplace is halfway competitive. Our current health care system is a product of government intervention and skewed market incentives—which ultimately do not give us as good a value for our health care dollar as the system could yield. The private health care marketplace is fractured as big business self-insures their employees, and small businesses are left with little strength in the marketplace to negotiate the value of health care coverage for their employees. Since our hospitals can't turn people away from their emergency rooms, each time an uninsured person is treated, the costs are shifted to those who are insured. In fact, this shift in the payment of the bill is called "cost-shifting." In a report issued earlier this year by the Delaware Cost Containment Commission the following illustrated the extent of the problem in my state:

> Recent figures from Blue Cross and Blue Shield of Delaware estimate that for every dollar of net revenue generated by hospitals, $1.60 must be charged. The extra $.60 constitutes a "hidden tax" to compensate hospitals for care provided to the uninsured and to Medicare and Medicaid patients for whom reimbursement is inadequate.

Ultimately, the greatest effect of this cost-shifting is felt on that segment of the marketplace which is least able to negotiate—the small businesses in the nation. In an entirely voluntary system, Americans have reached a rate of over 85 percent insured population, yet the overwhelming majority are working and would be insured if they had access to care and if it was within their financial reach. Today, almost 20 million of the 38 million uninsured individuals are working or in a family where someone is working for a business which has 1 to 100 employees.

Clearly, it's not a fair game for small businesses seeking insurance coverage for their workers. I have heard from hundreds of small business owners who are faced with high health insurance premiums, but who struggle to meet the needs of providing insurance coverage to all of their employees. These businesses have told me that they will continue to provide health care coverage in the future because they feel it is important to them and to their workers. However, these very same business owners are very concerned with what the government may mandate. It is essential that we remember, big businesses are small businesses that have succeeded. In an economic recovery where there is slow job growth, employer mandates could end up hurting those intended to be helped and put more people out of work.

I propose four basic steps that would move us forward in making basic health care available to the 20 million working Americans and their families who do not have coverage, and contain the escalating costs of health care for those already covered. These four steps are:

First, provide access to real quality health care coverage by opening-up the Federal Employee Health Benefits Program to small businesses. This would give small businesses the purchasing power of the largest pool of privately insured individuals in the nation, and the choice of selecting among over 300 insurance plans now offered under FEHBP where there is a great deal of choice in health coverage and range in price;

Second, level the playing field in the insurance market by enacting insurance market reform to eliminate preexisting exclusions, guarantee portability, guarantee issue and guarantee renewability of health care coverage;

Third, establish equity for self-employed individuals by permanently establishing 100 percent deductibility of the cost of insurance premiums; and

Fourth, make the buy-in to FEHBP affordable to low-wage workers and their families by shifting current Medicare and Medicaid Disproportionate Share payments to a voucher subsidy program.

I believe we should begin reform of our health care system with a system we know works by building on the strengths of FEHBP. Currently, there are over 300 health care plans offered to the 9 million Federal workers, retirees and their dependents. The type of health care coverage ranges from a national fee-for-service plan to local health maintenance organizations [HMOs].

So far, the FEHBP has done a respectable job at keeping costs down. In fact, in 1994, the average premium increase for all the plans was only 3 percent, and over 40 percent of enrolled premium holders saw a decrease in their premiums from last year to this year. Approximately 9 million individuals are insured under FEHBP's voluntary health insurance program. Of the 9 million, 2.4 million are Federal employees, of whom about 680,000 work for the U.S. Postal Service; 1.6 million retirees and surviving dependents; and about 4.7 million dependents of employees and retirees. Currently, about 72 percent of the health premiums are subsidized for Federal enrollees. The Office of Personnel Management which oversees the administration of the FEHBP, has a staff of only about 164 individuals who negotiate and contract and administer the program. Clearly, this is not a bloated bureaucracy. Some have pointed out that OPM works as a purchasing cooperative for the 9 million Federal enrollees.

Choice among the many FEHBP plans gives enrollees the opportunity to select the plan that most closely matches expected need of medical services and desired level of contribution. Current law already includes a list of benefits that all FEHBP plans must offer in order to participate. In essence, this list serves to ensure that there is a uniform core level of benefits offered across the boards in all the plans, yet still leaves some flexibility in benefits. The following is a detailed description of how my concept would provide access to affordable health care to millions of working uninsured families across the nation.

I. OPEN-UP OVER 300 FEHBP PLANS FOR SMALL BUSINESS BUY-IN

Under FedCare, the Office of Personnel Management [OPM] will retain its role as the administering entity of FEHBP. Both the benefits and government contributions will remain the same in order to minimize disruption in the transition from the current FEHBP to the buy-in feature. There would only be one significant change for Federal workers, and that is the addition of an extended health coverage portability option.

Currently, Federal workers leaving the Federal Government prior to retirement can find themselves in much the same predicament of losing their health care coverage when they change jobs as those in the private sector. There are some current law protections allowing for continuation of coverage after employment, but the time is limited in many cases to 18 months. FedCare incorporates a portability option for federal workers leaving the Federal Government prior to retirement to continue their coverage for 3 years. Federal workers under this portability option may stay enrolled with the carrier of their choice at the full cost of the premium at the group rate—plus a small administrative add-on to the premium—without the government contribution subsidy. Enrollees will continue to be considered as part of the active group for rating purposes.

Contracts for insurance carriers would be awarded to all carriers meeting three criteria: First, the quality and benefits standards already in statute, second, that the carrier (with the exception of current exclusive membership plan) agrees to offer the same benefits and premium to small business employees enrolling, and third, a mini-

mum number of private small business employees would have to join the plan. The current law requirement that at least 300 federal employees, retirees, and/or their dependents participate in an insurance plan for it to remain in FEHBP is retained.

To open-up FEHBP so that all participating plans are open for enrollment by firms of 1 to 100 employees, including self-employed individuals, at the same premium rate as for Federal enrollees, the phase-in of the private sector buy-in would happen at the onset. By the third year of implementation, all employers with 1 to 100 employees are eligible to enroll in a plan unless there are capacity issues.

A small business will have the option to enroll its employees where there is an FEHBP plan in the designated area. Although small business is defined as 1 to 100 employees, the legislation does establish a study to see how to address the nonworking uninsured as well as workers enrolled in larger sized businesses. The employer will not be mandated to match or contribute towards the employee cost of premiums, although the legislation will not preclude an employer from contributing towards a portion of the premiums. To reduce administrative costs, all participating employers will be responsible for collecting the premiums from employees to pay the carrier directly.

The structure of the phase-in begins in the first year that all plans contracted to provide FEHBP coverage would be required to open up their enrollment by a minimum of 2 percent of the size of the enrolled Federal enrollee group. The plans would then be required to meet certain minimum private sector enrollee growth targets. These are minimum growth targets with which each insurance carrier must comply. In year 1 the growth rate is based on 5 percent of Federal enrollees—.059,000,000=450,000—and 450,000 small business workers would be enrolled. This increases to 20 percent in year 2 (1.8 million), 40 percent in year 3 (3.6 million), 60 percent in year 4 (5.4 million).

In order to establish stability in FEHBP plans at the beginning of the buy-in, larger employers are phased-in first. The phase-in begins with the larger small businesses—i.e. with employees of 75 to 100. The business would apply to the regional health care plan of choice with the commitment that at least 80 percent of their workers would enroll in the plan. The business would also assume the administrative responsibility for premium collection and payments directly to the carrier. In the second year, smaller firms would be able to buy-in—in the second year, 50 to 75, and in year three 50 to 1. Thus, any size small business would be eligible to enroll in the reformed FEHBP by the third year of implementation.

To assure the integration of working uninsured in the plans and not just those currently insured, in the years when the FEHBP participating health carriers open-up for small business, any business—as long as it meets the size requirement as mentioned in the previous section—may apply to join the plan. If more businesses apply than capacity permits enrollment during the phase-in years, businesses will be randomly selected to participate by each carrier. To assure that previously uninsured groups have equitable access to enrolling in the plan, at least 50 percent of the randomly accepted group would have to have been previously uninsured. This blend would be maintained throughout the phase-in. All carriers will be subject to audits by OPM to ensure compliance with the buy-in.

In addition to having access to the same benefit package and the same premium rates as Federal enrollees, the small business enrollees who have participated in the program for at least 3 years are eligible for the portability benefit.

To assure the continued fiscal integrity of the plan, all carriers will be required to have a reinsurance plan for protection from unforeseen outlier expenditures.

II. OPEN-UP FEHBP IN A REFORMED MARKET—ENACT INSURANCE MARKET REFORMS

Enact legislation similar to what passed the Senate during the 102d Congress to reform insurance market practices for groups of 1 to 100 that would level the playing field between FEHBP plans and other insurance carriers not participating in FEHBP. This component of the proposal would address the inequities in the health care market outside the reformed FEHBP, and avoid adverse risk selection. These small group insurance market reforms would also establish grants to States to establish purchasing cooperatives which would foster additional access to health coverage. This proposal would require that any insurer offering coverage to businesses of 1 to 100 employees would have to offer a "standard" or "basic" plan; the insurer could not exclude specific groups from coverage based on health status—pre-existing conditions—or exclude those illnesses; and the insurer could not drop a group from coverage—guarantee renewability. In addition, there is a portability provision to guarantee seamless health care coverage. As I mentioned earlier, these are the same types of reform that passed the Senate during the 102d Congress.

III. INCREASE EQUITY FOR SELF-EMPLOYED INDIVIDUALS—PERMANENTLY ESTABLISH 100 PERCENT DEDUCTIBILITY OF HEALTH INSURANCE PREMIUMS

To eliminate the current bias against self-employed individuals, starting on January 1, 1995, self-employed individuals would be allowed to fully deduct their health insurance premiums. Self-employed workers—unincorporated sole proprietorships of partnerships, may currently deduct the full cost of contributions to health plans for their employees but only 25 percent of the cost of coverage for themselves and their families—would get the 100 percent deduction.

IV. SUBSIDY FOR LOW-WAGE WORKERS—ASSURE FAMILIES CAN AFFORD HEALTH CARE COVERAGE

The Secretary of Health and Human Services is instructed to gradually eliminate Medicare and Medicaid disproportionate share payments [DISH] to meet the appropriate subsidy for low wage workers enrolling in the extended FEHBP. This must also cover the cost of the 1000 percent deductibility for self-employed individuals, and must be achieved in a budget neutral manner.

I am well aware that my proposal does not address every aspect of our health care system. That, again, is not my intent. But, it is evident that these four measures would achieve a great deal in moving us forward in reforming the Nation's health care system. Let me point out that I think that my proposal, in particular the section of the bill that extends the FEHBP for buy-in, would work very well with legislation established purchasing cooperatives. FedCare would essentially transform FEHBP into a purchasing cooperative without creating a new bureaucracy.

Clearly, FedCare would move the nation forward in resolving some of the most critical problems of our health care system: access and affordability. FedCare doesn't issue a mandate. It provides an opportunity. If doesn't build vast new bureaucracies. It uses existing programs. It's not based on untested theories. It's based on a proven system. FedCare builds on FEHBP—a system that works. FedCare addresses the issues that Americans consider most important in health care reform: access and affordability, portability, and the elimination of not insuring those with pre-existing conditions.

I have informally discussed and consulted with a number of academics and policy experts in the health care field regarding my idea. I hope that concerned groups and individuals will view this draft of my legislation as a step in the right direction. I look forward to receiving comments, suggestions, and recommendations.

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. 1978

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 "Federal Health Care Expansion Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States spends more on health care than any other nation in the world, and costs continue to increase at double digit rates;

(2) more than 35,000,000 people in the United States do not have basic health care insurance;

(3) small businesses and the self-employed find it particularly difficult to obtain affordable health insurance because of the small-risk pools in which they are grouped; and

(4) the Federal Employees Health Benefits Program provides quality health care coverage nationwide while providing enrollees with a large degree of choice.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) reduce the rising cost of health care through the use of market forces;

(2) increase access to affordable health care to millions of individuals who do not have health insurance;

(3) make available to millions of Americans the health care coverage that is available to the President, Members of Congress, Supreme Court Justices, members of the President's Cabinet, and millions of Federal employees and retirees;

(4) accomplish these purposes without the use of global spending caps, employer mandates, or the establishment of a huge Government bureaucracy; and

(5) strengthen the Federal Employees Health Benefits Program by introducing greater competition into the Federal employee plan so that the Government can use its power as a major purchaser of health care to drive down the costs of care for Federal enrollees while maintaining high quality care and service.

TITLE I—SMALL BUSINESS PARTICIPATION IN FEDERAL EMPLOYEES HEALTH BENEFITS PLANS

SEC. 101. SMALL BUSINESS PARTICIPATION IN FEDERAL EMPLOYEES HEALTH BENEFITS PLANS.

Part III of title 5, United States Code, is amended by inserting after chapter 89 the following new chapter:

"CHAPTER 90—SMALL BUSINESS PARTICIPATION IN FEDERAL EMPLOYEE HEALTH BENEFITS PLANS

"Sec.
"9001. Definition.
"9002. Application to small business participants.
"9003. Small business participation.
"9004. Contributions.
"9005. Continued coverage.
"9006. Schedule of small business participation.

"§ 9001. Definition

"For purposes of this chapter, the term 'small business' means any business entity which employs 100 or less employees (including businesses with one self-employed individual).

"§ 9002. Application to small business participants

"(a) The Office of Personnel Management shall promulgate regulations to apply the provisions of chapter 89, relating to health benefits plans, to the greatest extent practicable to small businesses and individuals covered under the provisions of this chapter.

"(b) Notwithstanding the provisions of subsection (a), carriers shall offer the same health benefits plans for the same premiums as are offered under chapter 89.

"(c) Notwithstanding subsection (a), the provisions of section 8907 shall not apply to individuals covered under this chapter, except the Office of Personnel Management shall establish a method to disseminate information relating to health benefits plans (including information concerning periods of open enrollment and a summary of the information described in section 8908) to such individuals through small business participants and carriers.

"§ 9003. Small business participation

"Any small business which desires to participate in a health benefits plan under this chapter may enter into a contract with a carrier in accordance with this chapter. Such contract shall be for a term of no less than 1 year.

"§ 9004. Contributions

"(a) Subject to the provisions of subsection (b), an individual enrolled in a health benefits plan under this chapter shall make contributions equal to the amount of contributions made by—

"(1) a Federal enrollee in such plan under individual, or self and family coverage, as the case may be, as determined under section 8906; and

"(2) the Federal agency making Government contributions determined under section 8906 for such Federal enrollee.

"(b)(1) A small business may by contract agree to make any amount of the contribution required under subsection (a) on behalf of an enrollee under such subsection.

"(2) An agency of a State government may provide any amount of the contribution required under subsection (a) on behalf of an enrollee under such subsection.

"(3) The Secretary of Health and Human Services (HHS) may subsidize any amount of the contribution required by subsection (a) or section 9005(a) for any qualified enrollee of any small business participating in a health benefits plan under this chapter. For purposes of the preceding sentence, the term 'qualified enrollee' will be determined by the Secretary of HHS according to the number of individuals applying and the budget neutrality requirement in section 105 of this Act.

"(c) A small business participating under this chapter shall—

"(1) collect contributions from employees by withholdings from pay or by another method or schedule;

"(2) make payments of such contributions to the contracted carrier;

"(3) maintain and make available such records as the Office, applicable State insurance authority, or carrier may require; and

"(4) provide any other related administrative service in carrying out the provisions of this chapter.

"§ 9005. Continued coverage

"(a) Subject to subsection (b), the provisions of section 8905a shall be made applicable to enrollees and individuals covered by such enrollments under this chapter through section 9002 and the carrier contract entered into under section 9003, except the enrollee shall pay all contributions for continued coverage and the applicable amount for administrative expenses unless the applicable small business by contract agrees to pay any part of such contributions or expenses.

"(b) An individual may be covered under continued coverage as provided under subsection (a), only if such individual remains in the same plan during the period of continued coverage as such individual was enrolled in immediately before such period of continued coverage.

"§ 9006. Schedule of small business participation

"(a) Subject to the provisions of subsections (b), (c), (d), (e), and (f), each carrier enrolling individuals of small business participants under this chapter shall ensure that—

"(1) in the first contract year after the date of the enactment of the Federal Health Care Expansion Act of 1994, the number of enrollees from small businesses as provided under this chapter shall be no less than 5 percent of the number of Federal enrollees enrolled under chapter 89;

"(2) in the second such year, the number of small business enrollees shall be no less than 20 percent of the number of such Federal enrollees;

"(3) in the third such year, the number of small business enrollees shall be no less than 40 percent of the number of such Federal enrollees;

"(4) in the fourth such year, the number of small business enrollees shall be no less than 60 percent of the number of such Federal enrollees; and

"(5) in the fifth such year and in each year thereafter, the number of small business enrollees shall be no less than 80 percent of the number of such Federal enrollees.

"(b) Beginning in the contract year described under subsection (a)(1) and in each contract year thereafter, in no event shall a carrier enroll enrollees from less than 1 small business.

"(c)(1) In the contract year described under subsection (a)(1), a small business may participate if such business—

"(A) has between 75 and 100 employees; and

"(B) shall ensure that at least 80 percent of such employees shall enroll.

"(2) In the contract year described under subsection (a)(2) small businesses with between 50 and 74 employees may additionally participate.

"(3) In the contract year described under subsection (a)(3), small businesses with between 1 and 49 employees may additionally participate.

"(4) In the contract year described under subsection (a)(4) and each year thereafter, all small businesses may participate.

"(d) If during any contract year described under subsection (a) (1) through (5), more small businesses apply for participation than are required to participate under such subsection, the carrier shall—

"(1) subject to paragraph (2), randomly select small businesses for participation from all applications; and

"(2) ensure that from such randomly selected small businesses, at least 50 percent of such businesses are not offering any type of health insurance benefits to its employees.

"(e) In the administration of subsection (a) (2) through (5) each carrier enrolling individuals of small business participants shall ensure that no less than 50 percent of small business enrollees in each contract year shall be individuals who had no health insurance coverage in the previous year.

"(f) A small business may participate in a health benefits plan as provided under this section if such business meets all such requirements otherwise provided under this chapter.

"(g) The Office may waive the requirements under subsection (a) but only after making a determination that there is insufficient interest in small businesses within the region in participating under this chapter.".

SEC. 102. EXTENSION OF CONTINUED COVERAGE.

Section 8905a of title 5, United States Code, is amended—

(1) in subsection (e)—

(A) in paragraph (1)(A) by striking out "18 months" and inserting in lieu thereof "36 months"; and

(B) in paragraph (2)(C) by striking out "18-month period" and inserting in lieu thereof "36-month period"; and

(2) in subsection (f)(3)(B) by striking out "18-month period" and inserting in lieu thereof "36-month period.

SEC. 103. COST EXPERIENCE COMPARISON REPORT.

No later than January 30 following the first contract year implementing the amendments made by section 101 of this Act, and on January 30 of each 4 years thereafter, each carrier contracting under chapter 89 or 90 of title 5, United States Code, shall submit a report to the Office of Personnel Management that compares the aggregate cost experiences with respect to coverage between—

(1) Federal employees and other individuals covered under chapter 89 of title 5, United States Code; and

(2) individuals covered under chapter 90 of such title.

SEC. 104. RISK ADJUSTMENT STUDY.

No later than 2 years after the date of the enactment of this Act, the Office of Personnel Management shall conduct a study and submit a health benefits plan risk adjustment report to the Congress. Such report shall examine in the administration of chapters 89 and 90 of title 5, United States Code (as amended and added by this Act)—

(1) the feasibility of risk adjusting premiums, by the use of subsidies and surcharges to hold carriers harmless for enrollment risks, based on demographic variables;

(2) the risk adjustment factors that are correlated with increased or diminished risk for consumption of the type of health services included in the standardized level of benefits established under such chapters;

(3) a formula for assigning numerical risk factors for lower than average risk for consumption of services, the average risk for consumption of services, and higher than average risk factors, and a methodology for the adjustment of such factors; and

(4) any recommendations for the enactment of legislation.

SEC. 105. ELIMINATION OF MEDICARE AND MEDICAID DISPROPORTIONATE SHARE HOSPITAL PAYMENTS TO FINANCE SELF-EMPLOYED DEDUCTION AND BUY-IN SUBSIDY.

(a) PHASE-OUT OF DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.—The Secretary of Health and Human Services shall phase-out over a 5-fiscal-year period beginning with the first fiscal year following the second January 1 described in section 107, the disproportionate share hospital payments under sections 1886(d)(5)(F) and 1902(a)(13)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F) and 1396a(a)(13)(A)).

(b) BUDGET NEUTRAL MANNER.—The phase-out described in subsection (a) shall be accomplished in a Federal budget neutral manner such that the savings for each fiscal year resulting from such phase-out are fully used to offset the additional costs resulting from the amendments made by section 301 and section 201 of this Act and such costs resulting from the premium subsidy program for low-income workers of participating small businesses described in section 9003(b)(3) of title 5, United States Code (as added by section 101 of this Act).

(c) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended by striking "For discharges" and inserting "Except as provided in section 105 of the Federal Health Care Expansion Act of 1994, for discharges".

(2) Subparagraph (A) of section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended by striking "take into account the situation of hospitals" and inserting "take into account, except as provided in section 105 of the Federal Health Care Expansion Act of 1994, the situation of hospitals".

SEC. 106. STUDY REGARDING NONWORKER AND NONCOVERED EMPLOYEE BUY-INS.

The Secretary of Health and Human Services shall study by what method nonworkers and employees of employers not covered under chapter 90 of title 5, United States Code (as added by section 101 of this Act), may be incorporated into the buy-in for coverage under the Federal Employees Health Benefits Plan. The Secretary shall report the results of such study and any appropriate legislative recommendations to the Congress not later than 2 years after the date of the enactment of this Act.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided under subsection (b), the provisions of this Act and the amendments made by this Act shall be effective on and after the first January 1, occurring after the date of the enactment of this Act.

(b) EXCEPTION.—The provisions of chapters 89 and 90 of title 5, United States Code, as amended and added by this title, relating to the establishment of or exercise of authority (including the promulgation of regulations) by the Office of Personnel Management, the Secretary of Health and Human Services, the President, or any other applicable Federal officer shall take effect on the date of the enactment of this Act in order to establish health benefits plans and fully implement the provisions and amendments made by this Act no later than the first January 1 occurring after the date of the enactment of this Act.

TITLE II—BETTER ACCESS TO AFFORDABLE HEALTH CARE

Subtitle A—Improvements in Health Insurance Affordability for Small Employers

SEC. 201. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1995, 1996, and 1997, such sums as may be necessary for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1997, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

Subtitle B—Improvements in Health Insurance for Small Employers

PART I—STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE REFORM

SEC. 211. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program

that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1995.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), or

"(B) having a legislature which does not meet in 1995 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"(e) LIMITED WAIVER OF RATING REQUIREMENTS.—The Secretary may waive requirements with respect to subsections (b) and (e) of section 2112 in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1994.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1994. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1994. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(4) GUIDELINES FOR DEMOGRAPHIC RATING FACTORS.—The standards developed under paragraphs (1) and (2) shall include guidelines with respect to rating factors used by insurers to adjust premiums to reflect demographic characteristics of a small employer group.

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(1) a self-insured group health plan;

"(2) a self-insured multiemployer group health plan; or

"(3) any of the following offered by an insurer—

"(A) accident only, dental only, vision only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) medicare supplemental insurance as defined in section 1882(g)(1),

"(D) workmen's compensation or similar insurance, or

"(E) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, the requirements of this Act shall only apply to the insurer of the arrangement.

"(b) INSURER.—As used in this title the term 'insurer' means any person that offers a health insurance plan to a small employer.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 101 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement imposed by an employer applicable to all employees that a minimum period of service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a mechanism for guaranteeing the availability of health insurance plans for all small employers in the State,

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt, and

"(iii) prohibit marketing or other practices by an insurer intended to discourage or limit the issuance of a health insurance plan to a

small employer on the basis of size, industry, geographic area, expected need for health services, or other risk factors.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) A mechanism under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"(iv) A mechanism under which the State requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State),

shall participate in a program for assigning high-risk groups among all such insurers.

"(C) STATE ADOPTION OF CERTAIN STANDARDS.—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or (except with respect to clause (iii)) may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation,

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)), or

"(iv) repeated misuse of a provider network provision.

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan offered to a small employer by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, family size, or geography must apply such adjustments consistently across small employers (as provided in guidelines developed under section 2102(a)(4)), and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of busi-

ness for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) LIMITATION.—An insurer may not establish more than six distinct groups of small employers.

"(f) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(g) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"SEC. 2113. (a) BASIC AND STANDARD BENEFIT PACKAGES.—

"(1) IN GENERAL.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) MANAGED CARE OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an insurer offers any health insurance plan to small employers in a State and also offers a managed care plan in the State or a geographic area within the State to employers that are not small employers, the insurer must offer a similar managed care plan to small employers in the State or geographic area.

"(B) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in all or a portion of the insurer's service area for a managed care plan if it ceases to enroll any new employer groups within the service area or within a portion of a service area of such plan.

"(b) STANDARD BENEFIT PACKAGE.—

"(1) IN GENERAL.—

"(A) PACKAGE DEFINED.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder, as defined in subparagraph (B)(i), is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physician services, as defined in subparagraph (B)(ii), except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services; and

"(v)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(aa) is a physician; or

"(bb) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(2) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) PREVENTIVE SERVICES.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) EXCEPTIONS.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) LIMITATION ON PREMIUMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) PART-TIME EMPLOYEE EXCEPTED.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that such an employee pay a monthly premium that does not exceed 50 percent of the total monthly premium.

"(5) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(I) a calendar year prior to 1995, $400; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

"(I) a calendar year prior to 1995, $400 per family member and $700 per family; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index

for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

"(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

"(i) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

"(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

"(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) a calendar year prior to 1995, $3,000; or

"(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.

"(c) BASIC BENEFITS PACKAGE.—

"(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, including emergency services;

"(B) inpatient and outpatient physicians' services;

"(C) diagnostic tests; and

"(D) preventive services (which may include one or more of the following services)—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well-child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colorectal screening services.

Nothing in this paragraph shall prohibit a basic health benefit package from including coverage for treatment of a mental disorder.

"(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(4) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.".

PART II—TAX PENALTY ON NONCOMPLYING INSURERS

SEC. 221. EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group con-

tract, or a multiple employer welfare arrangement, but does not include—

"(A) a self-insured group health plan;

"(B) a self-insured multiemployer group health plan; or

"(C) any of the following:

"(i) accident only, dental only, vision only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) medicare supplemental insurance as defined in section 1882(g)(1),

"(iv) workmen's compensation or similar insurance, or

"(v) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, this Act shall only apply to the insurer of the arrangement.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 101 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of the Internal Revenue Code of 1986 (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1993.

PART III—STUDIES AND REPORTS

SEC. 231. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1996, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, the number of small employers choosing standard or basic packages, and the impact of the standards on the number of small employers offering health insurance to employees through a self-funded employer welfare benefit plan; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) RECOMMENDATIONS.—The Comptroller General shall include in the report to Congress under this section recommendations with respect to adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

Subtitle C—Improvements in Portability of Private Health Insurance

SEC. 241. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans), as amended by section 221, is amended by adding at the end thereof the following new section:

"SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the requirements of subsection (e), or

"(2) any person to meet the requirements of subsection (f),

with respect to any covered individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured multiemployer group health plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title

XVIII or XIX of the Social Security Act, or other health benefit arrangement (including a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

"(g) DEFINITIONS.—For purposes of this section—

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1994.

Subtitle D—Health Care Cost Containment

SEC. 251. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXI of the Social Security Act, as added by section 211, is amended by adding at the end the following part:

"PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

"FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies covered under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that arranges for the financing and delivery of health care services to persons covered under such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons covered under the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care contractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient covered under a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to persons covered under a managed care plan in each service area;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed;

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(J) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed;

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(F) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for covered persons to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for items and services provided to covered persons; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for items and services provided to covered persons on a per capita basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that items and services be authorized by a primary care physician selected by the covered person from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review, other than as provided in standards for qualified managed care plans and qualified utilization review programs;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(3) RELATIONSHIP TO MEDICAID PROGRAM.—Nothing in paragraph (1) shall be construed as prohibiting a State from imposing requirements on managed care plans or utilization review programs that are necessary to conform with the requirements of title XIX of the Social Security Act with respect to services provided to, or with respect to, individuals receiving medical assistance under such title.".

TITLE III—HEALTH INSURANCE COSTS FOR SELF-EMPLOYED

SEC. 301. HEALTH INSURANCE COSTS FOR SELF-EMPLOYED.

(a) PERMANENT EXTENSION.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(b) INCREASE IN DEDUCTION.—Section 162(l)(1) of the Internal Revenue Code of 1986 is amended by striking "25 percent of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.●

By Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. KENNEDY, and Mr. DURENBERGER):

S. 1979. A bill to require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964, and for other purposes; to the Committee on Labor and Human Resources.

THE SEXUAL HARASSMENT PREVENTION ACT

● Mrs. MURRAY. Mr. President, today I am introducing the Sexual Harassment Prevention Act of 1994 on behalf of myself and Senators FEINSTEIN, MOSELEY-BRAUN, BOXER, KENNEDY, and DURENBERGER.

Sexual harassment in the workplace persists today despite our heightened awareness of the problem. Studies published about a broad variety of workplaces between 1986 and 1993 found that 40 to 70 percent of women workers in the United States experience some form of sexual harassment.

In addition, Mr. President, the vast majority of sexual harassment episodes go unreported. Experts estimate only 7 percent or fewer of incidents ever reach the formal complaint process.

Sexual harassment in the workplace also costs employers a great deal. A 1988 study by Working Woman showed that a typical Fortune 500 company spends $6 million per year—a cost of $292.53 per employee—addressing sexual harassment complaints. The study estimates it is 34 times more expensive for employers to ignore the problem than to establish effective programs and policies to correct it.

In fact, many large companies have established education and prevention programs in addition to internal grievance procedures. However, Mr. President, much of the future job growth in this Nation will be in smaller companies. Establishing sexual harassment programs in small businesses should be a routine and low-cost effort. This legislation should assist this effort.

The Federal Government can help end the pervasiveness of sexual harassment in the workplace by instituting a proactive policy to correct the problem.

The Sexual Harassment Prevention Act of 1994 will help increase awareness, decrease violations, and lighten the burden of costly and time-consuming litigation brought about by sexual harassment lawsuits.

This legislation will require businesses, including the Federal Government and Congress, to post notice of: the definition of sexual harassment; how to file a grievance with the U.S. Equal Employment Opportunity Commission or other appropriate entity; and the statute of limitations for such a filing.

Employers will be required to supply each employee with an individual notice of this information, as well as the internal grievance procedures established by the employer.

Employers also will be required to provide supervisory employees with information explaining the internal grievance procedures, and the responsibility of the supervisor to take corrective action when a violation is reported.

Finally, the EEOC will provide model notices of this information, voluntary

guidelines for internal grievance procedures, and a toll-free number for information on compliance with this act.

Mr. President, the EEOC has indicated the cost of implementing this legislation would be minimal. I urge my colleagues to join me to enact a low-cost remedial measure to help end sexual harassment in workplaces across our Nation.

Mr. President, I ask that the text of the legislation be printed in the RECORD.

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

S. 1979

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 "Sexual Harassment Prevention Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Sexual harassment in employment persists widely in the workplace, although it violates title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and adversely affects employees.

(2) According to guidelines issued by the Equal Employment Opportunity Commission in 1980, the most effective tool for eliminating sexual harassment is prevention.

(3) The Merit Systems Protection Board found in 1981 and 1988 surveys of Federal Government employees that 42 percent of female employees and 14 percent of male employees questioned had experienced some kind of harassment in employment. The American Psychological Association estimates that at least 50 percent of all working women have been sexually harassed at the workplace during their careers.

(4) The vast majority of sexual harassment episodes go unreported to a supervisory employee or other individual designated by the employer. Only 5 percent of the Government employees who indicated in the 1988 Merit Systems Protection Board survey that they had been harassed filed a formal complaint or requested an investigation of the harassment.

(5) Sexual harassment has a significant cost for employees and employers. A 1988 study by Working Woman Magazine shows that sexual harassment costs a typical "Fortune 500" employer $6,000,000, or $292.53 per employee, each year. The same study estimates that it is 34 times more expensive for such an employer to ignore the problem than to establish effective programs and policies to address the problem.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish workplace requirements that will reduce the incidence of sexual harassment in employment;

(2) to provide a low-cost system to assist employers to establish programs and policies to prevent sexual harassment in employment;

(3) to raise the awareness of employees of the definition of sexual harassment and of available avenues of redress; and

(4) to increase the authority and capacity of the Equal Employment Opportunity Commission, and other enforcement agencies, to assist in preventing sexual harassment in employment.

SEC. 3. EMPLOYER REQUIREMENTS.

(a) POSTING OF NOTICE IN THE WORKPLACE.—Each employer shall post and keep posted in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted, a notice that shall be prepared or approved by the appropriate primary enforcement agency and shall set forth—

(1) the definition of sexual harassment found in section 1604.11(a) of title 29, Code of Federal Regulations (or any corresponding similar regulation);

(2) the fact that sexual harassment in employment is a violation of Federal law;

(3) information describing how to file with the primary enforcement agency a complaint alleging such harassment, including information on the time periods within which an alleged victim of discrimination (including sexual harassment) must file a charge with the primary enforcement agency, or a State or local fair employment agency, in order to satisfy the applicable statute of limitations;

(4) an address, and the toll-free telephone number, to be used to contact the appropriate enforcement agency regarding such harassment or compliance with the requirements of this Act; and

(5) such other information as the primary enforcement agency may require.

(b) SEPARATE NOTICE TO INDIVIDUAL EMPLOYEES.—

(1) CONTENTS.—Each employer shall provide annually to each employee individually a written notice that includes—

(A) the information specified in paragraphs (1) through (4) of subsection (a);

(B) a description of the procedures established by such employer to resolve allegations of sexual harassment in employment; and

(C) such other information as the appropriate primary enforcement agency may require.

(2) MANNER OF NOTICE.—Such notice shall be provided in a manner that ensures that such employee actually receives such notice.

(c) MANAGEMENT INFORMATION FOR SUPERVISORY EMPLOYEES.—Not later than 60 days after an employer places an individual in a supervisory employment position or 1 year after the date of the enactment of this Act, whichever occurs later, such employer shall provide to the supervisory employee information specifying the responsibilities of, and the methods to be used by, such employee to ensure that immediate and corrective action is taken to address allegations of sexual harassment in employment.

(d) CIVIL PENALTY.—A willful violation of this section shall be punishable by a civil penalty of not more than $1,000 for each separate violation.

SEC. 4. DUTIES OF THE ENFORCEMENT AGENCIES.

(a) TECHNICAL ASSISTANCE MATERIALS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, each primary enforcement agency shall prepare and make available to employers at no cost to the employers (by publication in the Federal Register or other means)—

(A) a model notice of the kind required by section 3(a) to be posted;

(B) a model notice of the kind required by section 3(b) to be provided to employees; and

(C) voluntary guidelines for the establishment of policies and procedures by employers to address allegations of discrimination (including sexual harassment) in employment.

(2) REVISIONS.—The primary enforcement agency shall periodically review and, as appropriate, revise the notices and guidelines described in subparagraphs (A) through (C) of paragraph (1).

(b) TOLL-FREE TELEPHONE NUMBER.—Not later than 180 days after the date of the enactment of this Act, the primary enforcement agency shall provide a toll-free telephone number for use by employees and employers in the United States to obtain—

(1) information regarding compliance with this Act; and

(2) the model notices and guidelines prepared under subsection (a).

SEC. 5. ENFORCEMENT.

(a) PRIVATE EMPLOYEES; EXECUTIVE EMPLOYEES; EMPLOYEES OF INSTRUMENTALITIES; STATE EMPLOYEES.—If an employee described in subparagraph (A), (B), (E), or (F) of section 6(2) alleges a violation of section 3, the Commission shall enforce the section in the same manner as the Commission enforces section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

(b) HOUSE OF REPRESENTATIVES EMPLOYEES.—

(1) HEARING.—If an employee described in section 6(2)(C) alleges a violation of section 3, the Office of Fair Employment Practices of the House of Representatives (or such entity as the House of Representatives may designate) shall consider the allegation in accordance with the hearing procedures provided in clause 6 of Rule LI of the Rules of the House of Representatives of the 103d Congress (or any other provision that continues in effect the provisions of such rule). In carrying out such procedures, such Office or entity shall permit an employee, or a representative of the Office or entity, to file a complaint not later than 180 days after the alleged violation, and shall not require compliance with any counseling and mediation procedures provided in such rule or provision.

(2) REVIEW.—Any party to a proceeding conducted under paragraph (1) may seek review of a final decision resulting from such proceeding. Such review shall be conducted by such Office or entity in accordance with the review procedures provided in clause 7 of such rule (or such other provision).

(3) PROCEDURES.—In conducting a proceeding under paragraph (1) or (2), such Office or entity shall conduct the proceeding in accordance with any requirement of such rule (or such other provision) that relates to such a proceeding, including a requirement relating to agreements, costs, closed hearings and confidentiality, and requests for witnesses and information.

(4) REMEDIES.—Following a proceeding under paragraph (1) or (2), if the Office or entity finds that an employer is not in compliance with section 3, such Office or entity may order the civil penalty described in section 3(d).

(c) SENATE EMPLOYEES.—

(1) HEARING.—If an employee described in section 6(2)(D) alleges a violation of section 3, the Office of Senate Fair Employment Practices (or such entity as the Senate may designate) shall consider the allegation in accordance with the hearing procedures provided in section 307 of the Government Employee Rights Act of 1991 (2 U.S.C. 1207) (or any other provision that continues in effect the provisions of such Act). In carrying out such procedures, such Office or entity shall permit an employee, or a representative of such Office or entity, to file a complaint not later than 180 days after the alleged violation, and shall not require compliance with any counseling and mediation procedures provided in such Act or provision.

(2) REVIEW.—Any party to a proceeding conducted under paragraph (1) may seek review of a final decision resulting from such proceeding. Such review shall be conducted by the Select Committee on Ethics (or by such entity as the Senate may designate) in accordance with the review procedures provided in section 308 of such Act (or such other provision).

(3) JUDICIAL REVIEW.—Any party to a proceeding conducted under paragraph (2) may seek review of a final decision resulting from such proceeding. Such review shall be conducted by the United States Court of Appeals for the Federal Circuit in accordance with the procedures provided in section 309 of such Act.

(4) PROCEDURES.—In conducting a proceeding under paragraph (1) or (2), the appropriate Office, Committee, or entity shall conduct the proceeding in accordance with any requirement of such Act (or such other provision) that relates to such a proceeding, including a requirement relating to agreements, costs, closed hearings and confidentiality, and requests for witnesses and information.

(5) REMEDIES.—Following a proceeding under paragraph (1), (2), or (3), if the appropriate Office, Committee, entity, or court finds that an employer is not in compliance with section 3, the Office, Committee, entity, or court may order the civil penalty described in section 3(d).

SEC. 6. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission.

(2) EMPLOYEE.—The term "employee" means—

(A) an employee as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(B) an employee referred to in section 717(a) of such Act (42 U.S.C. 2000e-16(a));

(C) an employee in an employment position of the House of Representatives;

(D) a Senate employee as defined in section 301(c)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1201(c)(1));

(E) an employee (other than an employee described in subparagraph (B) or (D)) in an employment position of an instrumentality of the Congress; and

(F) an individual referred to in section 321(a) of the Civil Rights Act of 1991 (2 U.S.C. 1220(a)).

(3) EMPLOYER.—The term "employer" means—

(A) an employer as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(B) a Federal entity, or entity of the Government of the District of Columbia, to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;

(C) an employing authority of the House of Representatives, of the Senate, or of an instrumentality of the Congress; and

(D) an elected official described in section 321(a) of the Civil Rights Act of 1991.

(4) INSTRUMENTALITY OF THE CONGRESS.—The term "instrumentality of the Congress" means the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the United States Botanic Garden, and any other office of the legislative branch of the Federal Government.

(5) PRIMARY ENFORCEMENT AGENCY.—The term "primary enforcement agency" means—

(A) with respect to any matter relating to an allegation of sexual harassment of an employee described in subparagraph (A), (B), (E), or (F) of paragraph (2), the Commission;

(B) with respect to any matter relating to an allegation of sexual harassment of an employee described in paragraph (2)(C), the Office of Fair Employment Practices of the House of Representatives (or such entity as the House of Representatives may designate); and

(C) with respect to any matter relating to an allegation of sexual harassment of an employee described in paragraph (2)(D), the Office of Senate Fair Employment Practices (or such entity as the Senate may designate).

(6) SEXUAL HARASSMENT.—The term "sexual harassment" has the same meaning as such term has for purposes of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

SEC. 7. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) EMPLOYER REQUIREMENTS.—Section 3 shall take effect 1 year after the date of the enactment of this Act.•

By Mr. JOHNSTON:

S. 1980. A bill to establish the Cane River Creole National Historical Park and the Cane River National Heritage Area in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

CANE RIVER CREOLE NATIONAL HISTORICAL PARK AND NATIONAL HERITAGE ACT

• Mr. JOHNSTON. Mr. President, I am very pleased to introduce legislation to establish the Cane River Creole National Historical Park and National Heritage Area in northwestern Louisiana.

This proposal is the result of a special resource study begun in 1990 pursuant to Public Law 101-512, at the request of my former colleague from the then Fifth District of Louisiana, Jerry Huckaby. The study was completed last year.

The study area boundary included the historic district of the city of Natchitoches, Cane River Lake, and 4 miles along the Cane River to Cloutierville. A number of important sites, structures, and landscapes were examined in this area, including the Natchitoches Historic District—a national landmark; Kate Chopin's home, known locally as Bayou Folk—a national landmark; Melrose Plantation—a national landmark; the Badin Roque House—a Creole bousillage poteaux-en-terre structure listed on the National Register; Oakland and Magnolia Plantations—both bicentennial farms and both listed on the National Register; Cherokee and Beau Fort Plantations—both listed on the National Register; and two State commemorative areas, both of which are listed as national landmarks—Fort Jesup and Los Adaes.

Of these sites and structures, the study concluded that two meet National Park Service new area criteria for national significance, suitability, and feasibility: Oakland Plantation—according to the study, "an outstanding example of a nearly intact southern plantation agricultural complex" with 22 surviving dependencies, half from the antebellum period—and the dependencies of Magnolia Plantation, known as the Magnolia Complex, which are owned by Museum Contents, Inc., a section 501(c)(3) organization. These structures include an unusual wooden cotton press and gin, bousillage overseer's house, and a number of intact brick slave quarters. Consistent with National Park Service practice, several strategies and management alternatives were developed to preserve and interpret the rich and unusual resources of this area, as well as an analysis of taking no action.

This report was considered by the National Park System Advisory Board during its 110th meeting on August 11, 1993. The Board adopted a resolution agreeing that Oakland Plantation and certain outbuildings of Magnolia Plantation are "suitable and feasible additions to the National Park System." Moreover, the Board also recommended that other sites in the Cane River region "would best be protected through partnerships" with the National Park Service, and recommended that the Secretary transmit these findings to the Congress with the study.

In the transmission of this report on January 12, 1994, the Department recommended as the preferred alternative the creation of a new unit of the National Park System which would combine Park Service ownership and management of two sites—Oakland Plantation and the dependencies known as the Magnolia Complex—with a Cane River heritage partnership based on the development of a series of cooperative agreements between private, local, State, and Federal entities to provide for comprehensive interpretation and preservation of the entire area.

The legislation provides for acquisition of property owned by Museum Contents, Inc., a section 501(c)(3) nonprofit organization. I and my family have previously made donations of property to this foundation, and the legislation specifies that property from Museum Contents can only be acquired by donation. Neither my wife nor I hold any position in this organization.

This area of Louisiana has a fascinating history. Established in 1714 by Louis Juchereau de St. Denis, Natchitoches is the oldest permanent settlement in the Louisiana Purchase territory. Located in Natchitoches was the westernmost fort of the French Empire, Fort St. Jean Baptiste, which served for many years as a strategic outpost and center for trade on the Red River. In 1717, the Spanish authorities in Texas responded to French expansion by establishing a mission post and

later presidio at Los Adaes, 14 miles southwest of Natchitoches. Los Adaes later became the capital of Texas.

Until the end of the Seven Years War, or French and Indian War, in 1763 this frontier area was the site of considerable contraband trade between the French and the Spanish and with the local Caddo Indians. With the Treaties of Fontainebleau and Paris, signed in 1762 and 1763 respectively, the Seven years War came to an end, and the French were expelled from North America. In 1767, this part of the French Empire was ceded to Spain.

Unlike French settlers in Canada, many of whom eventually resettled in south Louisiana during the Acadian diaspora, little impact was felt in the daily lives of French settlers in northwest Louisiana by virtue of change in European rule. The conversion of the frontier economy based on trapping and hunting to an agricultural economy—first tobacco and indigo and, after 1810, cotton—had a more profound impact for which this change came the introduction of a plantation economy based on slave labor.

In 1803, this area was ceded to France by Spain, and shortly thereafter the American Ambassador to France, Robert Livingston, negotiated the farsighted and wise Louisiana Purchase, giving jurisdiction of this area and the entire Mississippi Valley to the United States. Later this area was the site of several major Civil War battles during the Red River campaign in the spring of 1864.

The early years of French and Spanish domination, and the relative isolation of this area, left a lasting legacy in the Natchitoches Parish area. In part, this legacy resulted in the development and nurturing of a unique culture on Isle Brevelle, the Cane River Creoles of color, an exceptional community which exists today. Cloutierville retains its French small village flavor; French continued to be spoken there until after World War I. Life in and the folkways of Cloutierville were also the basis for many of the fictional writings of Kate Chopin, who lived in Cloutierville between 1879 and 1884 and whose works are now receiving renewed interest. Melrose Plantation has a similarly interesting history, from its legendary roots with the Metoyer family through the early 20th century writers' projects sponsored by Miss Cammie Henry.

The real value of the proposed historical park, in addition to preserving important sites, structures, and landscapes, will be in bringing the objective, professional approach of the National Park Service to the interpretation of these and other resources in the area. To assist the Park Service in this effort, and to assure that all segments of the community are involved in the interpretive plan, section 8 establishes the Cane River National Heritage Area Commission. Among the Commission's duties will be consultation with the Secretary on the preparation of the general management plan for the historical park. More important, the Commission will be empowered to make grants to assist in studies that "identify, preserve, and plan" for the management of the area and to prepare an interpretive plan "to address the cultural and natural history of the area."

I have discussed the study and the legislative concept extensively with as many groups as possible in the Natchitoches Parish area. All groups have been in full support and are very enthusiastic about Park Service involvement. I hope we can move forward very quickly with this proposal and that it will be enacted this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1980

Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cane River Creole National Historical Park and National Heritage Area Act."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Natchitoches area along Cane River, established in 1714, is the oldest permanent settlement in the Louisiana Purchase territory;

(2) the Cane River area is the locale of the development of Creole culture, from French-Spanish interactions of the early 18th century to today's living communities;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, unlike the Cane River area, most are isolated examples, and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features with original elements in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, four other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefited from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs.

(b) PURPOSE.—The purposes of this Act are to:

(1) recognize the importance of the Cane River Creole culture as a nationally significant element of the cultural heritage of the United States;

(2) establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river; and

(3) establish a Cane River National Heritage Area and Commission to be undertaken in partnership with the State of Louisiana, the City of Natchitoches, local communities and settlements of the Cane River area, preservation organizations, and private landowners, with full recognition that programs must fully involve the local communities and landowners.

TITLE I—CANE RIVER NATIONAL HISTORICAL PARK

SEC. 101. ESTABLISHMENT

(a) IN GENERAL.—In order to assist in the preservation and interpretation of, and education concerning, the Creole culture and diverse history of the Natchitoches region, and to provide technical assistance to a broad range of public and private landowners and preservation organizations, there is hereby established the Cane River Creole National Historical Park (hereinafter in this Act referred to as the "historical park").

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) lands and structures associated with the Oakland Plantation as depicted on map CARI, 80,002, dated January 1994;

(2) lands and structures owned or acquired by Museum Contents, Inc. as depicted on map CARI, 80,001, dated January 1994;

(3) sites that may be the subject of cooperative agreements with National Park Service for the purposes of historic preservation and interpretation including, but not limited to, the Melrose Plantation, the Badin-Roque site, the Cherokee Plantation, the Beau Fort Plantation, and sites within the Natchitoches National Historical Landmark District: *Provided*, That such sites may not be added to the historical park unless the Secretary of the Interior (hereinafter referred to as the "Secretary") determines, based on further research and planning, that such sites meet the applicable criteria for national historical significance, suitability, and feasibility, and notification of the proposed addition has been transmitted to the Committee on Energy and Natural Resources of the United States Senate and the appropriate Committees of the House of Representatives; and

(4) not to exceed 10 acres of land that the Secretary may designate for an interpretive visitor center complex to serve the needs of the historical park and heritage area established in title II of this Act.

SEC. 102. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in according with this Act, and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4); and the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461–467). The Secretary shall manage the historical park in such a manner as will preserve resources and cultural landscapes relating to the Creole culture of the Cane River and enhance public understanding of

the important cultural heritage of the Cane River region.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, or other public or private entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this Act.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center on lands identified by the Secretary pursuant to section 101(b)(4) of this title. Such center shall provide for the general information and orientation needs of the historical park and the heritage area. The Secretary shall consult with the State of Louisiana, the City of Natchitoches, the Association for the Preservation of Historic Natchitoches, and the Cane River National Heritage Area Commission pursuant to section 202 of this Act in the planning and development of the interpretive center.

(d) COOPERATIVE AGREEMENTS AND TECHNICAL ASSISTANCE.—(1) The Secretary, after consultation with the Cane River National Heritage Area Commission established pursuant to section 202 of this Act, is authorized to enter into cooperative agreements with owners of properties within the heritage area and owners of properties within the historical park that provide important educational and interpretive opportunities relating to the heritage of the Cane River region. The Secretary may also enter into cooperative agreements for the purpose of facilitating the preservation of important historic sites and structures identified in the historical park's general management plan or other heritage elements related to the heritage of the Cane River region. Such cooperative agreements shall specify that the National Park Service shall have reasonable rights of access for operational and visitor use needs and that preservation treatments will meet the Secretary's standards for rehabilitation of historic buildings.

(2) The Secretary is authorized to enter into cooperative agreements with the City of Natchitoches, the State of Louisiana, and other public or private organizations for the development of the interpretive center, educational programs, and other materials that will facilitate public use of the historical park and heritage area.

(e) RESEARCH.—The Secretary, acting through the National Park Service, shall coordinate a comprehensive research program on the complex history of the Cane River region, including ethnography studies of the living communities along the Cane River, and how past and present generations have adapted to their environment, including genealogical studies of families within the Cane River area. Research shall include, but not be limited to, the extensive primary historic documents within the Natchitoches and Cane River areas, and curation methods for their care and exhibition. The research program shall be coordinated with Northwestern State University of Louisiana, and the National Center for Preservation Technology and Training in Natchitoches.

SEC. 103. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—Except as otherwise provided in this section, the Secretary is authorized to acquire lands and interests therein within the boundaries of the historical park by donation, purchase with donated or appropriated funds, or exchange.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests therein that are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) MUSEUM CONTENTS, INC.—Lands and structures identified in section 101(b)(2) may be acquired only by donation.

(d) COOPERATIVE AGREEMENT SITES.—Lands and interests therein that are the subject of cooperative agreements pursuant to section 101(b)(3) shall not be acquired except with the consent of the owner thereof.

SEC. 104. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and in consultation with the Cane River Heritage Area Commission, the National Park Service shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities that will be provided for public use, including the location and cost of an interpretive center;

(2) programs and management actions that the National Park Service will undertake cooperatively with the heritage area commission, including preservation treatments for important sites, structures, objects, and research materials. Planning shall address educational media, roadway signing, and brochures that could be prepared jointly with the Commission pursuant to section 203 of this Act; and

(3) preservation and use plans for any sites and structures that are identified for National Park Service involvement through cooperative agreements.

TITLE II—CANE RIVER NATIONAL HERITAGE AREA.

SEC. 201. ESTABLISHMENT OF THE CANE RIVER NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Cane River National Heritage Area (hereinafter referred to as the "heritage area").

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of the Cane River region and in recognition of the findings of section 2(a) of this Act, it is the purpose of this title to establish a heritage area to complement the historical park and to provide for a culturally sensitive approach to the preservation of the heritage of the Cane River region, and for other needs including—

(1) recognizing areas important to the Nation's heritage and identity;

(2) assisting in the preservation and enhancement of the cultural landscape and traditions of the Cane River region;

(3) providing a framework for those who live within this important dynamic cultural landscape to assist in preservation and educational actions; and

(4) minimizing the need for Federal land acquisition and management.

(c) AREA INCLUDED.—The heritage area shall include—

(1) an area approximately 1 mile on both sides of the Cane River as depicted on map CARI, 80,000, dated January 1994;

(2) the Natchitoches National Historical Landmark District;

(3) the Los Adaes State Commemorative Area;

(4) the Fort Jesup State Commemorative Area;

(5) the Fort St. Jean Baptiste State Commemorative Area; and

(6) the Kate Chopin House.

A final identification of all areas and sites to be included in the heritage area shall be included in the heritage area management plan as required in section 203 of this title.

SEC. 202. CANE RIVER NATIONAL HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—To assist in implementing the purposes of this Act and to provide guidance for the management of the heritage area, there is established the Cane River National Heritage Area Commission (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 16 members to be appointed no later than 6 months after the date of enactment of this Act. The Commission shall be appointed by the Secretary as follows—

(1) one member from recommendations submitted by the Mayor of Natchitoches;

(2) one member from recommendations submitted by the Association for the preservation of Historic Natchitoches;

(3) one member from recommendations submitted by the Natchitoches Historic Foundation, Inc.;

(4) one member with experience in and knowledge of tourism in the greater Cane River region, from recommendations submitted by local businesses;

(5) one member from recommendations submitted by the Governor of the State of Louisiana;

(6) one member from recommendations submitted by the Police Jury of Natchitoches Parish;

(7) one member from recommendations submitted by the Concerned Citizens of Cloutierville;

(8) one member from recommendations submitted by the St. Augustine Historical Society;

(9) one member from recommendations submitted by the Black Heritage Committee;

(10) one member from recommendations submitted by the Los Adaes/Robeline Community;

(11) one member from recommendations submitted by the Natchitoches Historic District Commission;

(12) one member from recommendations submitted by the Cane River Waterway Commission;

(13) one member who is a landowner along the Cane River;

(14) one member with experience and knowledge of historic preservation from recommendations submitted by Museum Contents, Inc.;

(15) one member with experience and knowledge of historic preservation from recommendations submitted by the President of Northwestern State University of Louisiana; and

(16) the director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION—The Commission shall—

(1) prepare a management plan for the heritage area in consultation with the National Park Service, the State of Louisiana, the City of Natchitoches, Natchitoches Parish, interested groups, property owners, and the public;

(2) consult with the Secretary on the preparation of the general management plan for the historical park;

(3) develop partnerships with property owners, preservation groups, educational groups, the State of Louisiana, the City of Natchitoches, universities, and tourism groups, and other groups to furtherance of the purposes of this Act; and

(4) identify appropriate entities, such as a nonprofit corporation, that could be established to assume the responsibilities of the Commission following its termination.

(d) POWERS OF THE COMMISSION.—In furtherance of the purposes of this Act, the Commission is authorized to—

(1) procure temporary and intermittent services to the same extent that is author-

ized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable;

(2) accept the services of personnel detailed from the State of Louisiana or any political subdivision thereof, and may reimburse the State or political subdivision for such services;

(3) upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties;

(4) appoint and fix the compensation of such staff as may be necessary to carry out its duties. Staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of Chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) enter into cooperative agreements and leases with public or private individuals or entities for research, historic preservation, and education purposes;

(6) make grants to assist in the preparation of studies that identify, preserve, and plan for the management of the heritage area;

(7) notwithstanding any other provision of law, seek and accept donations of funds or services from individuals, foundations, or other public or private entities and expend the same for the purposes of providing services and programs in furtherance of the purposes of this Act.

(8) assist others in developing educational, informational, and interpretive programs and facilities;

(9) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; and

(10) use the United States mails in the same manner and under the same conditions as other departments or agencies of the United States.

(e) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(f) TERMS.—The terms of Commission members shall be for 3 years. Any member of the Commission appointed by the Secretary for a 3-year-term may serve after expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(g) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report is made, and actions that are planned for the following year.

SEC. 203. DUTIES OF THE HERITAGE AREA COMMISSION.

(a) PREPARATION OF PLAN.—Within 3 years after the Commission conducts its first meeting, it shall prepare and submit a heritage area management plan to the Governor of the State of Louisiana. The Governor shall, if the Governor approves the plan, submit it to the Secretary for review and approval. The Secretary shall provide technical assistance to the Commission in the preparation and implementation of the plan, in concern with actions by the National Park Service to prepare a general management plan for the historical park. The plan shall consider local government plans and shall present a unified heritage preservation and education plan for the heritage area. The plan shall include, but not be limited to—

(1) an inventory of important properties and cultural landscapes that should be preserved, managed, developed, and maintained because of their cultural, natural, and public use significance;

(2) an analysis of current land uses within the area and how they affect the goals of preservation and public use of the heritage area;

(3) an interpretive plan to address the cultural and natural history of the area, and actions to enhance visitor use. This element of the plan shall be undertaken in consultation with the National Park Service and visitor use plans for the national historical park;

(4) recommendations for coordinating actions by local, state, and Federal governments within the heritage area, to further the purposes of this Act; and

(5) an implementation program for the plan including desired actions by state and local governments and other involved groups and entities.

(b) APPROVAL OF THE PLAN.—The Secretary shall approve or disapprove the plan within 90 days after receipt of the plan from the Commission. The Commission shall notify the Secretary of the status of approval by the Governor of Louisiana when the plan is submitted for review and approval. In determining whether or not to approve the plan the Secretary shall consider—

(1) whether the Commission has afforded adequate opportunity, including public meetings and hearings, for public and governmental involvement in the preparation of the plan; and

(2) whether reasonable assurances have been received from the State and local governments that the plan is supported and that the implementation program is feasible; and

(c) DISAPPROVAL OF THE PLAN.—If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons for disapproval, and shall provide recommendations and assistance in the revision of the plan. Following completion of any revisions to the plan, the Commission shall resubmit the plan to the Governor of Louisiana for approval, and to the Secretary, who shall approve or disapprove the plan within 90 days after the date that the plan is revised.

SEC. 204. TERMINATION OF HERITAGE AREA COMMISSION.

(a) TERMINATION.—The Commission shall terminate on the day occurring 10 years after the first official meeting of the Commission.

(b) EXTENSION.—The Commission may petition to be extended for a period of not more than 5 years beginning on the day referred to in subsection (a), provided the Commission determines a critical need to fulfill the purposes of this Act; and the Commission obtains approval from the Secretary, in consultation with the Governor of Louisiana.

(c) HERITAGE AREA MANAGEMENT FOLLOWING TERMINATION OF THE COMMISSION.—The national heritage area status for the Cane River region shall continue following the termination of the Commission. The management plan, and partnerships and agreements subject to the plan shall guide the future management of the heritage area. The Commission, prior to its termination, shall recommend to the Governor of the State of Louisiana and the Secretary, appropriate entities, including the potential for a corporation, to assume the responsibilities of the Commission.

SEC. 205. DUTIES OF OTHER FEDERAL AGENCIES.

In general, any Federal entity conducting or supporting activities directly affecting the heritage area, and any entity of the State of Louisiana, or a political subdivision thereof, acting pursuant to a grant of Federal funds or a Federal permit or agreement directly affecting the heritage area shall—

(1) consult with the Secretary and the Commission with respect to implementation of their proposed actions; and

(2) to the maximum extent practicable, coordinate such activities with the Commission to minimize potential impacts on the resources of the heritage area.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

Except as provided in subsection (b) there are authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mrs. KASSEBAUM (for herself, Mr. METZENBAUM, and Mr. KENNEDY):

S. 1981. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act to revise the provisions of such acts relating to orphan drugs, and for other purposes; to the Committee on Labor and Human Resources.

ORPHAN DRUG ACT AMENDMENTS OF 1994

Mrs. KASSEBAUM. Mr. President, I am introducing today, along with Senators METZENBAUM and KENNEDY, the Orphan Drug Act Amendments of 1994. This legislation would extend the authorization of the Orphan Drug Act for 3 years and would also make several refinements to it.

For the past several years, efforts to reauthorize the act have been unsuccessful due to controversy over attempts which I and others have made to introduce greater competition in the orphan drug market. The legislation we are introducing today attempts to bridge the differences that have arisen in past debates. I am pleased to note that this proposal enjoys the support of the Biotechnology Industry Organization [BIO], as well as the National Organization for Rare Disorders [NORD].

Briefly, the legislation addresses the question of competition in two ways. First, it changes from 7 to 4 years the period of market exclusively guaranteed to any approved orphan drug. Orphan drugs of "limited commercial potential," as defined by regulations to be issued by the Department of Health and Human Services, would qualify for an additional 3 years of exclusive marketing rights.

Second, provisions are made to permit more than one company to put a particular orphan drug on the market in instances where both companies

were working on the drug in roughly the same time-frame. These so-called simultaneous development provisions are identical to those included in previous orphan drug legislation.

These new provisions would not apply to orphan drugs which are currently on the market or "in the pipeline."

Additional provisions of the bill would: (1) provide for the withdrawal of exclusive marketing rights if the patient population for the approved treatment exceeds 200,000; (2) extend the authorization of the research grant program; and (3) replace the existing Orphan Products Board with an Office for Orphan Diseases and Conditions.

This legislation is the product of extensive discussions and negotiation and represents a genuine compromise among competing interests. As with any compromise, no party can claim total victory. Certainly, there are points of my original proposal which I would have liked to have retained. Nevertheless, I believe that the time, effort, and good faith brought to these discussions have produced a bill which both preserves the incentives of the act and better meets its original intent.

I am proud to have been associated with the Orphan Drug Act since its inception over a decade ago. In nearly every respect, the act has been a success. To date, over 500 drugs have received orphan designation and approximately 100 of those have been approved for marketing. Approved drugs have included treatments for diseases or conditions such as blepharospasm, a condition which causes almost complete eye closure, and Paget's Disease, a bone disorder where normal bone formation is disrupted. In addition, the research grant program authorized by the act has supported over 200 grants to assist with clinical testing of drubs with potential for treating rare diseases or conditions.

This reauthorization legislation will allow continued progress in bringing the hope of treatment to the millions of Americans who suffer from rare diseases and disorders. I hope it will be possible for the Senate to move promptly in advancing this legislation.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions appear in the RECORD.

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

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Orphan Drug Act Amendments of 1994 ".

(b) REFERENCE.—Whenever in this Act (other than sections 5 and 6) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.).

SEC. 2. PERIOD OF EXCLUSIVITY.

(a) INITIAL PERIOD.—Subsection (a) of section 527 (21 U.S.C. 360cc) is amended—

(1) by inserting "(1)" after "(a)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by striking "seven years" and inserting "4 years"; and

(4) by striking "505(c)(2)" and inserting "505(c)(1)(B)".

(b) ADDITIONAL PERIOD.—Subsection (a) of section 527 (21 U.S.C. 360cc) (as amended by subsection (a)) is amended by adding at the end the following new paragraphs:

"(2) The holder of the approved application, certification, or license of a drug to which the 4-year period of exclusivity applies under paragraph (1) may, after the expiration of 3½ years of such period but not later than 90 days before the expiration of such period, apply to the Secretary for a 3-year extension of such period. Such an application shall contain such information as the Secretary determines is necessary to evaluate such application.

"(3) The Secretary shall approve an application submitted under paragraph (2) if the applicant—

"(A) demonstrates that the drug has a limited commercial potential as determined under regulations of the Secretary, taking into account sales information respecting such drug and any other factor identified by the Secretary in such regulations that is relevant to the commercial potential of such drug, and

"(B) makes such demonstration on the basis of the regulations of the Secretary referred to in subparagraph (A) that were in effect—

"(i) on the date—

"(I) such drug received its designation under section 526(a), or

"(II) such applicant applied for an exemption for such drug under section 505(i) or 507(d),

whichever first occurs, or

"(ii) if the date under clause (i) occurred before the date such regulations were in effect, on the date such regulations were in effect.".

(c) CONFORMING AMENDMENT.—Section 527(b) (21 U.S.C. 360cc(b)) is amended—

(1) by striking "during the seven-year period beginning on the date of the application approval" and inserting "during the applicable period of exclusivity under subsection (a)"; and

(2) by striking "such seven year period" and inserting "the applicable period of exclusivity under subsection (a)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall not apply to a drug—

(1) for which an application under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act was submitted before March 1, 1994; or

(2) for which an exemption under section 505(i) or 507(d) of the Federal Food, Drug, and Cosmetic Act was in effect before March 1, 1994, for which human clinical trials were actively being conducted before such date, and for which an application for designation under section 526 of such Act was submitted before the date of enactment of the Orphan Drug Act Amendments of 1994.

The 7 year period of exclusivity provided by section 527(a) of the Federal Food, Drug, and Cosmetic Act before the date of the enactment of this Act shall, after such date, apply to a drug described in paragraph (1) or (2).

(d) REGULATIONS.—The Secretary shall issue final regulations to implement paragraphs (2) and (3) of section 527(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) (as amended by subsection (b)) not later than 6 months after the date of the enactment of this Act.

SEC. 3. DESIGNATIONS.

(a) IN GENERAL.—Section 526(a)(2) (21 U.S.C. 360bb(a)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the term 'rare disease or condition' means any disease or condition that—

"(A) affects fewer than 200,000 persons in the United States determined on the basis of—

"(i) the facts and circumstances as of the date the request for designation of the drug under this subsection is made, and

"(ii) projections as to the number of persons who will be affected by the disease or condition on a date which is 3 years from date such request was made, or

"(B) affects more than 200,000 persons in the United States and for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug.".

(b) EXCLUSIVITY.—Section 527(b) (21 U.S.C. 360cc(b)) is amended—

(1) in paragraph (1), by striking "or" at the end of such paragraph;

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(3) a drug has been designated under section 526 for a rare disease or condition described in section 526(a)(2)(A) and if after such designation it is determined that—

"(A) such disease or condition affects more than 200,000 persons in the United States; and

"(B) such drug does not meet the requirement of section 526(a)(2)(B).".

SEC. 4. SIMULTANEOUS DEVELOPMENT.

(a) IN GENERAL.—Section 527(b) (21 U.S.C. 360cc(b)), as amended by section 3(b), is amended by—

(1) inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by striking "for a person who is not" and inserting "for an applicant who is not"; and

(4) by adding at the end the following new subparagraphs:

"(D) the Secretary finds, after providing the holder, such applicant, and any other interested person an opportunity to present their views, that the drugs of the holder and such applicant were developed simultaneously.

The Secretary shall make a decision on a request for a finding under subparagraph (D) not later than 60 days after the filing of the request.

"(2) For purposes of paragraph (1)(D), drugs of a holder and an applicant shall be considered to be developed simultaneously only if—

"(A) the applicant requested that its drug be designated under section 526 not later than 6 months after publication of the designation under section 526(c) of the holder's drug;

"(B) the applicant initiated the human clinical trials that the applicant relied on in

its application for such approval, certification, or license not more than 12 months after the date the holder initiated the human clinical trials that the holder relied on in its application for such approval, certification, or license; and

"(C) the applicant submitted such application, including the reports of the clinical and animal studies necessary for approval, certification, or licensing, not more than 12 months after the holder submitted its application, including such reports, for such action.

"(3) Paragraph (1)(D) does not apply to a drug—

"(A) for which an application under section 505 or 507 or section 351 of the Public Health Service Act was submitted before March 1, 1994; or

"(B) for which an exemption under section 505(i) or 507(d) was in effect before March 1, 1994, for which human clinical trials were actively being conducted before such date, and for which an application for designation under section 526 was submitted before the date of enactment of the Orphan Drug Act Amendments of 1994.".

(b) PUBLICATION.—Section 526(c) (21 U.S.C. 360bb(c)) is amended—

(1) by inserting "for a rare disease or condition" after "(a)"; and

(2) by striking "shall be made available to the public" and inserting "shall be promptly published in the Federal Register and otherwise made available to the public in a manner designed to notify persons who have such disease or condition".

SEC. 5. OFFICE FOR ORPHAN DISEASES AND CONDITIONS.

Section 227 of the Public Health Service Act (42 U.S.C. 236) is amended—

(1) in subsection (a), to read as follows:

"(a) There is established in the Department of Health and Human Services an Office for Orphan Diseases and Conditions. Such Office shall be established at a level within the Department with sufficient authority to assure full implementation of the functions and responsibilities established by this section.";

(2) by striking "Board" each place the term appears and inserting "Office";

(3) in subsection (b), by striking "drugs and devices" and inserting "drugs, devices, and medical foods";

(4) in subsection (c)(1)(A), by inserting "of chapter V" after "subchapter B";

(5) by adding at the end the following new subsection:

"(f)(1) There is established in the Office an advisory committee to advise the Office in carrying out the functions of the Office under this section.

"(2) The advisory committee shall be comprised of 11 members appointed by the Secretary, in consultation with the Office and the Commissioner of the Food and Drug Administration, from persons knowledgeable about rare diseases and conditions, including—

"(A) 5 representatives of organizations of persons with rare diseases or conditions;

"(B) 3 research scientists; and

"(C) 3 representatives of health-related companies.

"(3) The Secretary shall also appoint, as liaisons to the advisory committee, individuals from the Food and Drug Administration, the National Institutes of Health, and other appropriate Federal agencies.

"(4) Vacancies occurring in the membership of the advisory committee shall be filled in the same manner as the original appointment for the position being vacated. Vacancies shall not affect the power of the remaining members to execute the duties of the advisory committee.

"(5) Members of the advisory committee, and liaisons to the advisory committee, shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, for each day the member or liaison is engaged in the performance of duties away from the home or regular place of business of the member or liaison.

"(6) Notwithstanding section 1342 of title 31, United States Code, the advisory committee may accept the voluntary services provided by a member of the advisory committee or a liaison to the advisory committee.", and

(6) by amending the section heading to read as follows:

"OFFICE FOR ORPHAN DISEASES AND CONDITIONS".

SEC. 6. AUTHORIZATION FOR ORPHAN DRUG ACT.

Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended by striking "$10,000,000" and all that follows and inserting "$20,000,000 for fiscal year 1995, $25,000,000 for fiscal year 1996, and $30,000,000 for fiscal year 1997.".

Mr. METZENBAUM. Mr. President, today, Senator NANCY KASSEBAUM and I introduce S. 1981, the Orphan Drug Amendments of 1994. The bill is cosponsored by our colleague, the chairman of the Labor and Human Resources Committee, Senator EDWARD KENNEDY. A companion bill is being introduced in the House of Representatives today by Health and Environment Subcommittee Chairman HENRY WAXMAN.

This legislation represents a rare legislative achievement in that it enjoys support from the national organization that represents the victims of rare diseases [NORD] and the national organization that represents the biotechnology industry, which produces many life-giving orphan drugs [BIO]. Consequently, the bill stands as a testament to the fact that Government, industry and consumer groups can work together to improve the lives of the American people.

Today, thanks to the Orphan Drug Program, more than 100 orphan drugs are being sold for debilitating diseases, such as hemophilia B, Pagets disease and carnitine deficiency, and over 500 drugs are currently under development. The bill builds on this achievement and strengthens the program for both the victims of rare diseases and the biotechnology industry. It does so by correcting the most basic weaknesses in the Orphan Drug Program that prolong market exclusivity for drugs of significant commercial value. However, the bill does not diminish the incentives for developing a new orphan drug that have made the program a success.

The two oversight hearings that I chaired on the Orphan Drug Program in 1992, convinced me that we risked undermining congressional and public support for the Orphan Drug Program unless we restored it to its original purpose. The program was intended to spur the development of drugs of little commercial potential that would not otherwise have been available for the victims of rare diseases. It did so through a Government grant of 7 years of market exclusivity.

The bill we are introducing today will leave the Orphan Drug Program virtually unchanged for the vast majority of orphan drugs that are of limited commercial potential. However, for the handful of drugs that do not meet that definition, it will preserve essential incentives for bringing them to market while opening them up to price competition after 4 years. It will also allow two or more orphan drugs to share the market if they are approved by the Food and Drug Administration within a year of one another. This provision, called simultaneous development, was adopted by the Congress in 1990, but later vetoed by the President.

Unlike the previous bill, these amendments do not rely on a statutory sales trigger to extend market exclusivity for drugs of limited commercial potential. Instead, the Food and Drug Administration is charged with developing regulations to assure that true orphan drugs receive 7 full years of market protection. In addition, under the amendments, orphan designation will be granted only to those drugs that have a projected patient population below 200,000. The amendments will apply to orphan drugs that were not yet undergoing human clinical trials as of March 1, 1994.

Both the biotechnology industry and the victims of rare diseases agree that these are prudent changes to the Orphan Drug Program and support the bill's enactment.

By now it is apparent to everyone concerned that the Orphan Drug Program is too important for the millions of Americans who suffer from rare disorders to allow a handful of weaknesses to undermine its success. Our bill will bring the program closer to its original mission, and will thereby make more live-saving and hope-giving orphan drugs available and affordable for Americans with rare diseases.

I urge all of my colleagues to support the bill. I am confident that an orphan drug bill that is being supported by both the rare disease consumer groups and the biotechnology industry will receive swift approval by the Senate.

Mr. KENNEDY. Mr. President, I join in sponsoring the Orphan Drug Act amendments of 1994. This legislation provides important and timely improvements to a law which has led to the development of vital new medicines for the treatment of rare diseases.

It is widely agreed that the Orphan Drug Act, originally enacted in 1983, has been a tremendous success. The purpose of the act was to create incentives for the development of drugs for

diseases so rare that the drugs have little commercial value. Innovative companies, particularly biotechnology companies, need the market exclusivity offered by the Orphan Drug Act to develop drugs for such diseases, since patent protection may be unavailable for their products. There are 102 orphan drugs currently on the market, and over 500 under investigation.

However, a handful of orphan drugs now on the market may reach $1 billion in multiyear sales—a record reached by few drugs in history, much less drugs of supposedly limited commercial value.

For several years, the perception that the Orphan Drug Act can be a shelter for high-priced drugs has fueled debate which threatened to undermine the strong support for the act by the public, industry, and Congress. Changes are needed to maintain the integrity of the act while assuring that its protections are not misused to produce unreasonable prices and profits.

The legislation offered today resolves any uncertainties over the future of orphan drug development. It is a fair and reasonable compromise which continues generous economic incentives to develop treatments for rare diseases. It is the result of lengthy negotiations, and has the endorsement of patient organizations, such as the National Organization for Rare Disorders, and also of the Biotechnology Industry Organization, the trade association representing the biotechnology industry.

Under the compromise put forward today, the changes in the length of market exclusivity for orphan drugs will apply prospectively. Any designated orphan drug already approved by the FDA or undergoing human clinical trials as of March 1, 1994, will be entitled to 7 years of exclusivity, as under current law.

After March 1, 1994, all newly designated orphan drugs will continue to have a minimum of 4 years of market exclusivity. If a product is of limited commercial potential, as determined by criteria issued by the Secretary of Health and Human Services, the manufacturer will receive an additional 3 years of market exclusivity. This compromise assures investors in the especially high-risk biotechnology industry that reasonable returns will still be possible during guaranteed periods of exclusivity. At the same time, it allows competition to develop in cases where drugs prove to have high commercial value.

The legislation also provides that if two or more companies develop an orphan drug during the same time period, both may be given market exclusivity. Under this so-called simultaneous development provision, the drugs must be designated as orphan drugs within 6 months of each other, and human clinical trials must be initiated within 12 months of each other. This provision will assure flexibility when companies expend extensive resources and learn that their drug is being developed simultaneously with a competitor.

Our hope is that this auspicious compromise will put the past controversy behind us, and launch a new era of orphan drug development by the biotechnology industry for the treatment of rare diseases.

I especially commend my colleagues, Senator METZENBAUM and Senator KASSEBAUM, who have worked tirelessly on this issue for many years. I also commend the industry and patient organizations for working to achieve this hopeful compromise. I am pleased that Congressman HENRY WAXMAN and Congressman GERRY STUDDS are introducing a companion bill in the House of Representatives.

I urge all Senators to join in supporting this legislation. I am hopeful that we can expedite our consideration in Congress, so that it can be signed into law by President Clinton this year.

By Mr. ROTH (for himself and Mr. COHEN):

S. 1982. A bill to modernize and streamline Federal acquisition management and procedures, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL ACQUISITION MANAGEMENT IMPROVEMENT ACT

• Mr. ROTH. Mr. President, this year Congress has a real opportunity to reform the federal buying system. There is broad, bi-partisan consensus on the need to fix the federal buying system. The administration is supportive and has been working with the Senate to develop legislation.

Mr. President, the Federal buying system needs an overhaul. Multi-billion dollar cost overruns; programs that are years or even a decade behind schedule; incentives that encourage spending rather than savings; and top-heavy bureaucratic agencies that rely on detailed regulations rather than good judgment; these are the features that come to mind when one thinks of the Federal Government's buying system. The GAO stated in its 1993 High Risk Reports that the Federal buying system itself perpetuates fraud, waste, and abuse. They also reported that cost increases on the order of 20 to 40 percent are common on major programs, with numerous programs experiencing much greater cost overruns.

The problems arise because the buying system provides the wrong incentives and is administered by top-heavy bureaucratic agencies that rely on a complicated web of regulations. I asked the General Accounting Office to give me a report on its recent investigations of procurement horror stories. The GAO found it had produced more than 150 such reports and testimonies over the last 5 years. These include such findings as the $1 billion cost increase that resulted from budget instability and technical management problems in the Army's Javelin anti-tank missile. In another audit, the GAO identified NASA contract management actions that caused a weather satellite to fall 3 years behind schedule while cost doubled to $1.7 billion. The GAO report identified problems in the way agencies determine their needs; poorly administered contracts; cost, schedule, and performance problems; funding and budgeting problems; and weaknesses in the acquisition workforce. The GAO report underscores the need for comprehensive reform.

According to the Congressional Budget Office, in fiscal year 1994, the Federal Government will buy about $450 billion of goods and services. With this much money at stake, Congress has a responsibility to ensure that the taxpayer's money is spent well. Some claim that waiving contracting laws for commercial items and small purchases would be the best that Congress can provide. But, the GAO testified last week that this would address only a small percent of the dollars spent on Federal purchases of goods and services. Such marginal changes are inadequate. A July 1993 Defense Science Board found that: "without fundamental reform, DOD will be unable to afford the weapons, equipment, and services it needs to provide for our national security." It behooves Congress to be bolder and to enact such reforms.

I have worked for more than a decade to reform the government's buying system, and over the years my conclusion has not changed: without major cultural and structural reform, Americans won't get the results they deserve. First, agencies rely on a maze of regulations and bureaucratic organizations to prevent horror stories. That approach is expensive, prolonged, and, as the GAO report illustrates, often ineffective. Second, the incentives are wrong. Program managers and contractors are rewarded for increasing the size of their program and their budget. There are no incentives for a job well done, but there are penalties for taking risks that may save money.

If we can fix the buying system, billions of dollars will be saved. The National Performance Review identified potential savings of $22.5 billion. Last summer's Defense Science Board Study on Acquisition Reform identified $20 billion in potential annual savings for just the Defense Department.

Last fall, Senator COHEN and I introduced a bill to fix the Defense Department's buying system. And, quite frankly, I think such comprehensive reforms need to be applied across the Federal buying system if we are to fix its chronic problems. I was pleased that the witnesses at all of the recent hearings on procurement have supported including our proposals in the Senate bill.

Today, we are introducing a governmentwide procurement reform bill to overhaul the Federal buying system. Our proposal contains six parts and incorporates the principles of unity of command, lean management structure, fast processes, and pay for performance for both Government workers and contractors, First, the bill establishes performance goals. On average, programs should be within 90 percent of their schedule goals and budgets. In addition, the bill requires DOD to reduce by 50 percent the time it takes to field emerging technologies.

Second, the bill directs Federal agencies to streamline their acquisition management processes for products developed for the Government. It requires that the revised processes focus on results and that programs be fully funded for each phase of development.

Third, it streamlines bureaucracies by directing agencies to get rid of nonvalue-added layers of headquarters management and consolidate where practicable. In non-Defense agencies, Inspectors General will make streamlining recommendations. In DOD, the bill contains recommendations for consolidating headquarters management and reorienting the organization to be responsive to the needs of combatants. Across government, the proposal increases the authority of users to ensure that purchases will fulfill needs, It also returns day-to-day program management authority to program managers.

Fourth, the bill re-emphasizes the commitment of Congress to a professional acquisition work force and establishes the incentive structure toward program performance. It directs Departments and agencies to develop incentive structures, including pay for performance, tied to program performance rather than to the size of a manager's budget.

Fifth, the legislation reverses the preference for buying government-unique items. It requires use of commercial items, unless it is shown that they do not meet actual government needs.

Sixth, the bill implements pay for performance for contractors, including use of contractor's performance in decisions for future work, tieing profits to results instead of costs, and tieing progress payments to achievement of measurable results. The Government will be able to manage its contractors on the basis of how well they perform. The Defense Inspector General testified last week in support of tieing progress payments to results. The Director of the Office of Federal Procurement Policy, as well as several other witnesses from government and industry, testified in support of tieing contract award to past performance and the bill sets forth a structure effectively implementing this concept.

Mr. President, large savings can be realized from the comprehensive reforms we are proposing. I anticipate that my approach will reduce acquisition management personnel by as much as 25 to 30 percent through reductions in duplicative headquarters staffs. The Defense Science Board Task Force on Defense Acquisition Reform in July of 1993 reported that a comprehensive reform along the lines we are proposing would save $20 billion per year.

In summary, there is both a need and an opportunity for reforming Defense acquisition. But, Mr. President, I must point out that bureaucracies are inherently unable to reform themselves. The time has come for Congress to make some very difficult decisions which have far-reaching impact on the future of our country.

I remain convinced that in order to achieve meaningful acquisition reform we must go well beyond simply streamlining the process of awarding contracts. Instead, we must provide for the major cultural and structural reform across the Federal buying system. The Federal Acquisition Streamlining Act provides a positive first step towards reform, but it needs additional provisions that address the underlying systemic problems. It is our intent to offer the bill we are introducing today as an amendment to Senator GLENN's Federal Acquisition Streamlining Act during the Committee markup.

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. 1982

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 "Federal Acquisition Management Improvement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—ACQUISITION IMPROVEMENT GOALS

Sec. 101. Reduction in Federal Government procurement costs.
Sec. 102. Armed services acquisitions.
Sec. 103. Civilian agency acquisitions.

TITLE II—ACQUISITION MANAGEMENT POLICIES

Subtitle A—Armed Services Acquisitions

Sec. 201. Implementation of defense acquisition work force amendments.
Sec. 202. Enhanced encouragement of excellence in the defense acquisition work force.
Sec. 203. Program management stability.

Subtitle B—Civilian Agency Acquisitions

Sec. 211. Policy regarding training of Federal acquisition work force.
Sec. 212. Acquisition work force management system.
Sec. 213. Enhanced encouragement of excellence in the Federal acquisition workforce.
Sec. 214. Inapplicability to Department of Defense.

TITLE III—ORGANIZATION OF THE ACQUISITION PROCESS

Subtitle A—Armed Services Procurements

Sec. 301. Reorganization of acquisition authority.
Sec. 302. Phase funding and review of defense acquisition programs.

Subtitle B—Civilian Agency Acquisitions

Sec. 311. Customer-driven acquisitions.
Sec. 312. Review of agency organization for acquisitions.
Sec. 313. Acquisition of noncommercial items.
Sec. 314. Inapplicability to Department of Defense.

TITLE IV—CONTRACT FORMATION

Subtitle A—Specifications and Standards

Sec. 401. Preference for commercial items.

Subtitle B—Performance-Based Contracting

Sec. 411. Use of incentive contracts.
Sec. 412. Guidance regarding consideration of past contract performance of offerors.

TITLE V—PERFORMANCE-BASED CONTRACT ADMINISTRATION

Sec. 501. Contract financing in armed services acquisitions.
Sec. 502. Contract financing in civilian agency acquisitions.

TITLE VI—DAVIS-BACON ACT EXEMPTION

Sec. 601. Contracts not in excess of $500,000.

TITLE VII—MISCELLANEOUS CONFORMING AMENDMENTS

Sec. 701. Modification of the responsibility of the Comptroller of the Department of Defense for defense acquisition budgets.
Sec. 702. The defense acquisition work force.
Sec. 703. Procurement procedures generally.
Sec. 704. Research and development.
Sec. 705. Miscellaneous procurement provisions.
Sec. 706. Major defense acquisition programs.
Sec. 707. Service specific acquisition authority.
Sec. 708. Other laws.

TITLE VIII—EFFECTIVE DATE

Sec. 801. Effective date.

TITLE I—ACQUISITION IMPROVEMENT GOALS

SEC. 101. REDUCTION IN FEDERAL GOVERNMENT PROCUREMENT COSTS.

(a) POLICY.—It is the policy of Congress that, by the end of fiscal year 1999, there should be achieved Federal budget savings in procurement costs of the Federal Government (including the personnel and other overhead costs associated with procurements for the Federal Government) in a total amount of at least the $22,500,000,000 that is projected for savings from Federal procurement streamlining in the report on the National Performance Review carried out during 1993 under the direction of the Vice President.

(b) ANNUAL PROGRESS REPORT.—The Director of the Office of Management and Budget shall transmit to Congress each year, at the same time that the President submits the budget to Congress pursuant to section 1105 of title 31, United States Code, an assessment of the progress made in implementing the policy set out in subsection (a).

SEC. 102. ARMED SERVICES ACQUISITIONS.

(a) ACQUISITION PERFORMANCE GOALS.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) It is the policy of Congress that, on and after January 1, 2000—

"(A) the Department of Defense should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the Department of Defense; and

"(B) the average period necessary for converting an emerging technology into initial operational capability for the Department of Defense should not exceed 8 years.

"(2) Whenever it is necessary in order to implement the policy set out in paragraph (1), the Secretary of Defense should—

"(A) identify and consider for termination research and development programs and acquisition programs of the Department of Defense that are not achieving the cost, performance, and schedule goals of the programs taking into consideration—

"(i) the needs of the Department known as of the time of the consideration of such programs for termination;

"(ii) the state of the technology or technologies relevant to the programs and to the needs of the Department;

"(iii) the estimated costs and projected schedules necessary for the completion of such programs; and

"(iv) other pertinent information; and

"(B) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered for termination pursuant to subparagraph (A).".

(b) RESPONSIBILITY FOR DEPARTMENTAL OVERSIGHT OF ACQUISITION PROGRAM GOALS.—

(1) IN GENERAL.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2219. Responsibility for departmental oversight of cost, performance, and schedule goals of acquisition programs

"(a) COST GOALS.—The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each phase of an acquisition program of the Department of Defense.

"(b) PERFORMANCE AND SCHEDULE GOALS.—The Joint Chiefs of Staff shall approve or define the performance and schedule goals for acquisition programs of the Department of Defense. The Joint Chiefs of Staff shall approve the performance goals for acquisition programs on the basis of cost, schedule, performance, and risk.

"(c) ANNUAL REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title—

"(1) an assessment of the progress made in implementing the policies set out in section 2301(e)(1) of this title; and

"(2) any actions taken or considered in accordance with section 2301(e)(2) of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by adding at the end the following new item:

"2219. Responsibility for departmental oversight of cost, performance, and schedule goals of acquisition programs.".

SEC. 103. CIVILIAN AGENCY ACQUISITIONS.

(a) ACQUISITION PERFORMANCE GOALS.—

(1) IN GENERAL.—It is the policy of Congress that, on and after January 1, 2000, each department and agency of the Federal Government should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of that department or agency.

(2) NONDUPLICATION OF GOAL STATEMENT.—Paragraph (1) does not apply to the Department of Defense. For the statement of the corresponding goal for the Department of Defense see subsection (e)(1)(A) of section 2301 of title 10, United States Code, as added by section 102(a).

(b) RESPONSIBILITY FOR AGENCY OVERSIGHT OF ACQUISITION PROGRAM COST GOALS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"AGENCY OVERSIGHT OF COST GOALS OF ACQUISITION PROGRAMS

"SEC. 29. The chief financial officer of an executive agency shall evaluate the cost goals proposed for each phase of an acquisition program of the agency.".

(c) RESPONSIBILITY FOR AGENCY OVERSIGHT OF ACQUISITION PROGRAM PERFORMANCE AND SCHEDULE GOALS.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended by adding at the end the following new subsection:

"(c) The head of an executive agency shall approve or define the performance and schedule goals for acquisition programs of that agency. The agency head shall approve the performance goals for acquisition programs on the basis of cost, schedule, performance, and risk.".

TITLE II—ACQUISITION MANAGEMENT POLICIES

Subtitle A—Armed Services Acquisitions

SEC. 201. IMPLEMENTATION OF DEFENSE ACQUISITION WORKFORCE AMENDMENTS.

The Congress—

(1) urges the Secretary of Defense to expedite the implementation of the provisions of chapter 87 of title 10, United States Code, relating to the acquisition workforce of the Department of Defense; and

(2) reemphasizes the importance of ensuring that the acquisition workforce is educated and trained in accordance with the standards set out in the provisions of such chapter.

SEC. 202. ENHANCED ENCOURAGEMENT OF EXCELLENCE IN THE DEFENSE ACQUISITION WORKFORCE.

(a) ENHANCED SYSTEM OF INCENTIVES AND ADVERSE ACTIONS.—

(1) REVIEW AND ACTION REQUIRED.—The Secretary of Defense shall review the incentives and personnel actions available to the Secretary for encouraging excellence in the acquisition workforce of the Department of Defense and, to the maximum extent practicable, provide an enhanced system of incentives for the encouragement of excellence in such workforce.

(2) REQUIRED CONSIDERATION.—The Secretary shall specifically consider whether action should be taken under section 1736 of title 10, United States Code (as added by subsection (b)), in the case of acquisition program executive officers and acquisition program managers.

(3) REGULATIONS.—The Secretary shall prescribe in regulations a system of incentives for encouraging professional excellence among the functional analysts in the defense acquisition workforce.

(b) ENHANCED GRADES OF CERTAIN ACQUISITION MANAGERS.—

(1) IN GENERAL.—Subchapter III of chapter 87 of title 10, United States Code, is amended—

(A) by redesignating sections 1736 and 1737 as sections 1737 and 1738, respectively; and

(B) by inserting after section 1735 the following new section 1736:

"§ 1736. Grade of certain acquisition managers

"(a) PROGRAM EXECUTIVE OFFICER.—(1)(A) Subject to subparagraph (B), the position of acquisition program executive officer carries the grade of brigadier general, rear admiral (lower half), major general, or rear admiral, as the Secretary of Defense determines appropriate.

"(B) The President may designate a position of acquisition program executive officer as a position of importance and responsibility to carry the grade of lieutenant general or vice admiral under section 601(a) of this title.

"(C) The President or the Secretary of Defense may designate a position of acquisition program executive officer to carry a grade above brigadier general or rear admiral (lower half) only when the President or Secretary, as the case may be, determines that the member serving in that position has performed the duties of the position of an acquisition program executive officer with distinction.

"(2) Notwithstanding any other provision of law (other than a provision of law limiting the number of positions or personnel in a certain grade), the Secretary of Defense may fix the civilian grade of a position of acquisition program executive officer at a civilian equivalent of a grade referred to in paragraph (1). The Secretary shall fix the civilian grade for the position of a particular employee at a grade above the civilian equivalent of brigadier general or rear admiral (lower half) only if the Secretary determines that the employee serving in that position has performed the duties of the position of an acquisition program executive officer with distinction.

"(b) ACQUISITION PROGRAM MANAGER.—(1)(A) The position of acquisition program manager carries the grade of colonel, brigadier general, or major general, or, in the case of the Navy, captain, rear admiral (lower half), or rear admiral, as the Secretary of Defense determines appropriate.

"(B) The Secretary of Defense may designate a position of acquisition program manager to carry a grade above colonel or (in the case of the Navy) captain only when the Secretary determines that the member serving in that position has performed the duties of the position of an acquisition program manager with distinction.

"(2) Notwithstanding any other provision of law (other than a provision of law limiting the number of positions or personnel in a certain grade), the Secretary of Defense may fix the civilian grade of the position of civilian acquisition program manager at a civilian equivalent of a grade referred to in paragraph (1). The Secretary shall fix the civilian grade for the position of a particular employee at a grade above the civilian equivalent of colonel or (in the case of the Navy) captain only if the Secretary determines that the employee serving in that position has performed the duties of the position of an acquisition program executive officer with distinction.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by striking out the items relating to sections 1736 and 1737 and inserting in lieu thereof the following:

"1736. Grade of certain acquisition managers.
"1737. Applicability.
"1738. Definitions and general provisions.".

(c) PAY FOR PERFORMANCE IN ACQUISITION POSITIONS.—

(1) IN GENERAL.—Subchapter II of chapter 87 of title 10, United States Code, is amended—

(A) by redesignating sections 1725 as 1726; and

(B) by inserting after section 1724 the following new section 1725:

"§ 1725. Pay for performance

"(a) PAY RATES.—(1) The Secretary of Defense may provide for the pay rate of an employee in an acquisition position within the Department of Defense to be based, to an appropriate extent, on specific criteria that relates the pay rate of such employee to the employee's contribution to the achievement of the policy goals set forth in section 2301(e)(1) of this title and performance goals approved or defined in accordance with section 2219(b) of this title.

"(2) A pay rate established pursuant to paragraph (1) for an employee in a position referred to in that subsection may not exceed the lesser of—

"(A) the amount equal to 130 percent of the maximum pay rate prescribed under law (other than paragraph (1)) for the grade or other pay level of that position; or

"(B) the rate of basic pay payable for level V of the Executive Schedule.

"(b) RELATIONSHIP OF PERSONNEL BUDGET TO ACHIEVEMENT OF GOALS.—The Secretary of Defense, in approving or formulating the personnel budget of a military department or Defense Agency for a fiscal year, shall consider whether increased funding is appropriate on the basis of the achievement by the military department or Defense Agency of the schedule, performance, and cost goals for acquisition programs of the Department of Defense referred to in section 2301(e)(1) of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by striking out the item relating to section 1725 and inserting in lieu thereof the following:

"1725. Pay for performance.
"1726. Office of Personnel Management approval.".

SEC. 203. PROGRAM MANAGEMENT STABILITY.

(a) ASSIGNMENT PERIOD FOR PROGRAM MANAGERS.—Section 1734 of title 10, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking out "the major milestone" in subparagraph (A) and all that follows through the semicolon in such subparagraph and inserting in lieu thereof "a phase in the acquisition program cycle;"; and

(ii) by striking out the second sentence and inserting in lieu thereof the following:
"Except as provided in subsection (c), a person in the position of program manager or deputy program manager may not be reassigned from such position before completion of a phase in the acquisition program cycle."; and

(B) in paragraph (2)—

(i) in the first sentence, by striking out "the first major milestone" and all that follows in the first sentence and inserting in lieu thereof "a phase of the acquisition program cycle."; and

(ii) in the second sentence, by striking out "Secretary concerned under subsection (d)" and inserting in lieu thereof "Secretary of Defense under subsection (c)"; and

(2) by striking out subsection (c).

(b) WAIVER AUTHORITY.—Such section is further amended by striking out subsection (d) and inserting in lieu thereof the following:

"(c) WAIVER OF ASSIGNMENT PERIOD.—(1) With respect to a person assigned to a critical acquisition position, the Secretary of Defense may waive the prohibition on reassignment of that person (in subsection (a)(1) or (b)(1)) and the service obligation in an agreement executed by that person (under subsection (a)(2) or (b)(2)), but only in exceptional circumstances (specified in regulations prescribed by the Secretary) in which a waiver is necessary.

"(2) The Director of Acquisition Education, Training, and Career Development shall maintain a written record of the rationale for each waiver granted under this subsection.".

(c) CONFORMING AMENDMENTS AND DEFINITION.—Such section is further amended—

(1) by redesignating subsection (e) as subsection (d); and—

(A) in paragraph (1) of such subsection, by striking out "a program manager, after completion of a major program milestone, whichever is longer" in the first sentence and inserting in lieu thereof "a program manager or deputy program manager, after completion of a phase of the acquisition program cycle"; and

(B) in paragraph (2) of such subsection, by striking out "of the department concerned" in the first sentence;

(2) by redesignating subsection (f) as subsection (e); and

(3) by striking out subsections (g) and (h) and inserting in lieu thereof the following:

"(f) In this section, the term 'phase of an acquisition program cycle' shall have the meaning given such term in the regulations prescribed pursuant to section 2220 of this title.".

Subtitle B—Civilian Agency Acquisitions

SEC. 211. POLICY REGARDING TRAINING OF FEDERAL ACQUISITION WORKFORCE.

The head of each department or agency of the Federal Government should ensure that the acquisition workforce of the department or agency is trained to perform effectively and efficiently the acquisition functions of the Federal Government.

SEC. 212. ACQUISITION WORKFORCE MANAGEMENT SYSTEM.

(a) REQUIREMENT FOR SYSTEM.—The head of each department or agency in the executive branch shall, on an expedited basis, establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in acquisition positions in the department or agency.

(b) SIMILARITY TO DEFENSE ACQUISITION WORKFORCE SYSTEM.—To the maximum extent practicable, the department or agency head shall replicate within the department or agency the acquisition workforce policies and procedures that are set forth in and implemented under the provisions of chapter 87 of title 10, United States Code, relating to the acquisition workforce of the Department of Defense.

(c) AUTHORITY.—The head of a department or agency referred to in subsection (a) may exercise the same authority with respect to the acquisition workforce of that department or agency as the Secretary of Defense or any other official within the Department of Defense may exercise with respect to the defense acquisition workforce under the provisions of chapter 87 of title 10, United States Code.

(d) NONDUPLICATION OF REQUIREMENTS AND AUTHORITY.—This section does not apply to the Department of Defense.

SEC. 213. ENHANCED ENCOURAGEMENT OF EXCELLENCE IN THE FEDERAL ACQUISITION WORKFORCE.

(a) ENHANCED SYSTEM OF INCENTIVES AND ADVERSE ACTIONS.—The head of each department or agency in the executive branch shall review the incentives and personnel actions available to such official for encouraging excellence in the acquisition workforce of that department or agency and, to the maximum extent practicable, provide an enhanced system of incentives for the encouragement of excellence in such workforce. The enhanced system shall—

(1) in accordance with applicable law, relate pay to performance; and

(2) provide for consideration of the extent to which the performance of personnel in such workforce contributes to the achievement of cost goals, schedule goals, and performance goals established for acquisition programs of the department or agency.

(b) INCREASED GRADES FOR CERTAIN ACQUISITION MANAGERS.—

(1) CONSIDERATION REQUIRED.—The head of each department or agency in the executive branch shall specifically consider whether the grade of the position of any acquisition program manager should be increased.

(2) APPLICABLE CRITERIA AND LIMITS.—In carrying out paragraph (1), the department or agency head shall apply the same criteria and limits as apply to civilian personnel of the defense acquisition workforce under section 1736 of title 10, United States Code (as added by section 202(b)).

(c) INCENTIVES FOR TECHNICAL SPECIALISTS.—The head of each department or agency in the executive branch shall prescribe in regulations a system of incentives for encouraging professional excellence among the technical specialists in that department or agency who support acquisitions of the department or agency.

SEC. 214. INAPPLICABILITY TO DEPARTMENT OF DEFENSE.

This subtitle does not apply to the Department of Defense.

TITLE III—ORGANIZATION OF THE ACQUISITION PROCESS

Subtitle A—Armed Services Procurements

SEC. 301. REORGANIZATION OF ACQUISITION AUTHORITY.

(a) UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—Section 133(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) prescribing policies for research, development, and acquisition activities of the Department of Defense;

"(2) planning, programming, and overseeing the research, development, and acquisition activities of the Department of Defense;

"(3) assisting in the preparation and integration of budgets for the research, development, and acquisition activities of the Department of Defense, including assisting in the planning, programming, and budgeting system with respect to such activities;".

(b) DEFENSE RESEARCH, DEVELOPMENT, AND ACQUISITION AGENCY.—

(1) ESTABLISHMENT.—Part I of subtitle A of title 10, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—DEFENSE RESEARCH, DEVELOPMENT, AND ACQUISITION AGENCY

"Sec.

"231. Establishment.
"232. Use of agency for all research, development, and acquisition activities.
"233. Duties.
"234. Program executive officers.
"235. Program managers.
"236. Functional analytical capability.

"§ 231. Establishment

"(a) AGENCY.—There is established a Defense Research, Development, and Acquisition Agency in the Department of Defense.

"(b) DIRECTOR.—(1) The head of the agency is the Director of Defense Research, Development, and Acquisition who shall be appointed by the Under Secretary of Defense for Acquisition from among persons who are career professional employees in the acquisition workforce of any Federal agency.

"(2) A member of the armed forces, while serving as the Director, holds the grade of general or, in the case of an officer of the Navy, admiral. A civilian, while serving as the Director, holds an equivalent civilian grade.

"(c) CHIEF OF ENGINEERING AND ANALYSIS.—(1) In the Defense Research, Development, and Acquisition Agency there is a Chief of Engineering and Analysis who shall be appointed by the Director from among the career professional employees in the acquisition workforce of the Department of Defense.

"(2) The Director shall evaluate the performance of the Chief of Engineering and Analysis. The Director may not delegate the performance of the evaluation responsibility.

"(3) The Chief of Engineering and Analysis shall be the senior technical adviser for the Defense Research, Development, and Acquisition Agency.

"§ 232. Use of agency for all research, development, and acquisition activities

"Subject to sections 3013(h), 5013(h), 8013(h) of this title, the Director shall conduct the research, development, and acquisition activities of the Department of Defense, including the activities of the research, development, and engineering centers of the Department of Defense.

"§ 233. Duties

"The responsibilities of the Under Secretary of Defense for Acquisition that are to be performed by the Defense Research, Development, and Acquisition Agency include the following:

"(1) Planning, programming, and carrying out the research, development, and acquisition activities of the Department of Defense.

"(2) Advising the Secretary of Defense and the Secretaries of the military departments regarding the preparation and integration of the budgets for the research, development, and acquisition activities of the Department of Defense.

"(3) Identifying and informing operational commanders regarding alternative technology solutions to fulfill emerging requirements.

"(4) Ensuring that the acquisition plan for each acquisition program realistically reflects the budget and related decisions made for that program.

"(5) Conducting research on management techniques as well as on individual systems.

"§ 234. Program executive officers

"(a) SELECTION AND EVALUATION.—The program executive officers of the Defense Research, Development, and Acquisition Agency shall be selected and evaluated by the Director.

"(b) DUTIES.—The duties of a program executive officer are as follows:

"(1) To manage acquisition programs assigned to the program executive officer.

"(2) To manage related technical support resources.

"(3) To establish and conduct integrated decision team meetings.

"(4) To provide technological advice (including advice regarding costs, schedule, and performance data relating to alternative technological approaches for fulfilling emerging requirements) to users of program products and to the officials within the Department of Defense who plan, program, and budget for the acquisition programs assigned to the program executive officer.

"(c) ORGANIZATION OF PERSONNEL.—The program executive officers shall be organized on the basis of unique mission areas or, in the case of programs for systems specifically relating to certain classes of targets, on the basis of target classes. No program executive officer may be organized with other program executive officers on both bases. The Secretary of Defense shall identify the mission areas or target classes on the basis of which program executive officers may be organized.

"(d) ACQUISITION LIFE-CYCLE MANAGEMENT.—The responsibilities of a program executive officer for a weapon acquisition program shall cover the entire life cycle of the program.

"(e) USER AND OPERATOR INTERACTION.—(1) The Chairman of the Joint Chiefs of Staff, in consultation with the Under Secretary of Defense for Acquisition, shall prescribe policies and procedures for the interaction of the commanders of the unified and specified combatant commands with program executive officers regarding the initiation and conduct of weapon acquisition programs. The policies and procedures shall include provisions for enabling such commands to perform operational and acceptance testing of weapons acquired pursuant to such programs.

"(2) The Comptroller of the Department of Defense, in consultation with the Under Secretary of Defense for Acquisition and the Secretaries of the military departments, shall prescribe policies and procedures for the interaction between the commanders of the unified and specified combatant commands and the program executive officers regarding funding for weapon acquisition programs.

"§ 235. Program managers

"(a) SELECTION AND EVALUATION.—Each program manager of the Defense Research, Development, and Acquisition Agency shall be selected and evaluated by the Director and a program executive officer and shall report directly to the program executive officer having primary responsibility for the system being acquired under the program.

"(b) DUTIES.—A program manager is responsible for the routine management of a research, development, and acquisition program, including the obtaining of necessary logistical support and support services for that program.

"(c) RELATIONSHIP TO PROGRAM EXECUTIVE OFFICERS.—The management functions of a program manager should not duplicate the management functions of a program executive officer.

"§ 236. Functional analytical capability

"(a) RESPONSIBILITY OF CHIEF OF ENGINEERING AND ANALYSIS.—The Chief of Engineering and Analysis shall be responsible for ensuring that each of the functional analytical capabilities provided to the Director, acquisition program executive officers, and acquisition program managers in connection with acquisition programs of the Department of Defense is the most advanced capability of its type.

"(b) FUNCTIONAL ANALYTICAL CAPABILITIES.—The functional analytical capabilities referred to in subsection (a) are as follows:

"(1) Cost and affordability analysis.

"(2) Logistics and support analysis.

"(3) Reliability and maintainability analysis.

"(4) Producibility analysis.

"(5) Environmental analysis.

"(6) Configuration management.

"(7) Warfighting and battlefield performance and utility analysis.

"(8) System engineering.

"(9) Any other analytical capability that may be necessary for ensuring the timeliness, performance, and affordability of acquisition programs.".

(2) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of such subtitle, are amended by inserting after the item relating to chapter 9 the following new item:

"10. Defense Research, Development, and Acquisition Agency ..... 231".

(c) LIMITATION OF PROCUREMENT AUTHORITY OF MILITARY DEPARTMENTS.—

(1) ARMY.—Section 3013 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking out "and subject to the provisions of chapter 6" and inserting in lieu thereof ", subject to the provisions of chapter 6, and subject to subsection (h),"; and

(ii) in paragraph (4), by striking out "(including research and development)"; and

(B) by adding at the end the following new subsection:

"(h)(1) The Secretary of the Army shall be responsible for procurements of property and services, and may exercise authority to conduct such procurements, only to the extent that the Secretary of Defense determines necessary for the sustainment of operations of the Army. The Secretary of Defense shall prescribe in regulations the extent of the responsibility and authority of the Secretary of the Army for procurements of property and services.

"(2) In conducting a procurement in accordance with paragraph (1), the Secretary of the Army shall be subject to the same laws as are applicable to acquisitions conducted by the Secretary of Defense.".

(2) NAVY.—Section 5013 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking out "and subject to the provisions of chapter 6" and inserting in lieu thereof ", subject to the provisions of chapter 6, and subject to subsection (h),"; and

(ii) in paragraph (4), by striking out "(including research and development)"; and

(B) by adding at the end the following new subsection:

"(h)(1) The Secretary of the Navy shall be responsible for procurements of property and services, and may exercise authority to conduct such procurements, only to the extent that the Secretary of Defense determines necessary for the sustainment of operations of the Navy. The Secretary of Defense shall prescribe in regulations the extent of the responsibility and authority of the Secretary of the Navy for procurements of property and services.

"(2) In conducting a procurement in accordance with paragraph (1), the Secretary of the Navy shall be subject to the same laws as are applicable to acquisitions conducted by the Secretary of Defense.".

(3) AIR FORCE.—Section 8013 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking out "and subject to the provisions of chapter 6" and inserting in lieu thereof ", subject to the provisions of chapter 6, and subject to subsection (h),"; and

(ii) in paragraph (4), by striking out "(including research and development)"; and

(B) by adding at the end the following new subsection:

"(h)(1) The Secretary of the Air Force shall be responsible for procurements of property and services, and may exercise authority to conduct such procurements, only to the extent that the Secretary of Defense determines necessary for the sustainment of operations of the Air Force. The Secretary of Defense shall prescribe in regulations the extent of the responsibility and authority of the Secretary of the Air Force for procurements of property and services.

"(2) In conducting a procurement in accordance with paragraph (1), the Secretary of the Air Force shall be subject to the same laws as are applicable to acquisitions conducted by the Secretary of Defense.".

(4) Section 2302(1) of title 10, United States Code, is amended by striking out "the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force,".

(d) TRANSFER OF FUNCTIONS.—

(1) MILITARY DEPARTMENTS.—Except as provided in paragraph (3), all research, development, and acquisition functions of the Secretaries of the military departments are transferred to the Secretary of Defense.

(2) PROCUREMENT AGENCIES, COMMANDS, AND OFFICES.—Except as provided in paragraph (3), there is transferred to the Defense Research, Development, and Acquisition Agency referred to in section 231(a) of title 10, United States Code (as added by subsection (b)), all functions of the following organizations:

(A) The Defense Logistics Agency.

(B) The Advanced Research Projects Agency.

(C) The following procurement commands of the Army:

(i) The Army Materiel Command.

(ii) The Army Information Systems Command.

(iii) The Army Strategic Defense Command.

(D) The following procurement commands of the Navy and Marine Corps:

(i) The Navy weapons systems commands.

(ii) The Navy Strategic Systems Program Office.

(iii) The Marine Corps Research, Development and Acquisition Command.

(E) The Air Force Materiel Command.

(F) Any successor organization to any agency, command, or office named in subparagraphs (A) through (E).

(G) Each agency or command within the Department of Defense not referred to in subparagraphs (A) through (F) that, on the day before the effective date of this section, has as a primary mission or function the performance of a research, development, or acquisition function of the Department of Defense.

(3) EXCEPTIONS TO TRANSFER REQUIREMENT.—

(A) IN GENERAL.—The following functions of the Secretaries of the military departments are not transferred to the Secretary of Defense:

(i) Functions that relate to planning, programming, and budgeting.

(ii) Functions to be performed by the Secretary of a military department pursuant to section 3013(h), 5013(h), or 8013(h) of title 10, United States Code, as added by subsection (c).

(B) DISCRETIONARY EXCEPTION.—To the extent prescribed by the Secretary of Defense, functions referred to in subparagraph (A)(ii) that are performed by an organization referred to in paragraph (2) need not be transferred in accordance with that paragraph.

(4) TERMINATION OF ORGANIZATION.—The Secretary of Defense shall terminate each organization from which all of its functions are transferred in accordance with this subsection.

(e) SAVINGS PROVISIONS.—

(1) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(A) which have been issued, made, granted, or allowed to become effective by the Secretary or other officer or employee of a military department, the head of a Defense Agency of the Department of Defense, or by a court of competent jurisdiction, in connection with any research, development, or acquisition activity of a military department or Defense Agency, and

(B) which are in effect on the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary of Defense, the Under Secretary of Defense for Acquisition, or another authorized official, by a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS.—

(A) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceeding, including any proceeding involving a claim or application, in connection with any acquisition activity of a military department or a Defense Agency of the Department of Defense that is pending before that military department or Defense Agency on the effective date of this section.

(B) ORDERS.—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this section had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Defense or the Under Secretary of Defense for Acquisition, by a court of competent jurisdiction, or by operation of law.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) REGULATIONS.—The Secretary of Defense may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (2) to the Secretary of Defense or to the Under Secretary of Defense for Acquisition.

SEC. 302. PHASE FUNDING AND REVIEW OF DEFENSE ACQUISITION PROGRAMS.

(a) IN GENERAL.—Chapter 131 of title 10, United States Code, as amended by section 102(b), is further amended by adding at the end the following new sections:

"§ 2220. Results oriented acquisition program cycle

"The Secretary of Defense shall define in regulations a simplified acquisition program cycle that is results-oriented and consists of the following phases:

"(1) The integrated decision team meeting which—

"(A) may be requested by a potential user of the system or component to be acquired, the head of a laboratory, or a program office on such bases as the emergence of a new military requirement, cost savings opportunity, or new technology opportunity;

"(B) shall be conducted by a program executive officer; and

"(C) shall usually be completed within 1 to 3 months.

"(2) The prototype development and testing phase which—

"(A) shall include operational tests and concerns relating to manufacturing operations and life cycle support;

"(B) shall usually be completed within 6 to 36 months; and

"(C) shall produce sufficient numbers of prototypes to assess operational utility.

"(3) Product integration, development, and testing which—

"(A) includes full-scale development, operational testing, and integration of components; and

"(B) shall usually be completed within 1 to 5 years.

"(4) Production, integration into existing systems, or production and integration into existing systems.

"§ 2221. Funding for results oriented acquisition program cycle

"(a) PROGRAM PHASE DETAILS TO BE SUBMITTED TO CONGRESS.—Before initial funding is made available for a phase of the acquisition program cycle of an acquisition program which requires congressional authorization of appropriations, the Secretary of Defense shall submit to Congress information about the objectives and plans for the conduct of that phase and the funding requirements for the entire phase. The Secretary shall include in such information objective, quantifiable criteria for assessing the extent to which the stated objectives and goals are achieved.

"(b) FULL PHASE FUNDING.—(1) In authorizing appropriations for an acquisition program that requires congressional authorization, Congress shall provide in an Act authorizing appropriations for the Department of Defense an authorization of appropriations for a phase of the acquisition program in a single amount that is sufficient for carrying out that phase. Such an authorization of appropriations shall be stated in the Act as a specific item.

"(2) In each Act making appropriations for the Department of Defense Congress shall specify the phase of each such acquisition program of the department for which an appropriation is made and the amount of the appropriation for the phase of that program.

"§ 2222. Major program decision

"(a) SINGLE MAJOR DECISION POINT.—The acquisition program approval process within the Department of Defense shall have one major decision point which shall occur for an acquisition program before that program proceeds into product integration and development.

"(b) DETERMINATIONS AT DECISION POINT.—At the major decision point for an acquisition program, the Under Secretary of Defense for Acquisition in consultation with the Vice Chairman Joint Chief of Staff shall—

"(1) review the program;

"(2) determine whether the program should continue to be carried out beyond product integration and development; and

"(3) decide whether—

"(A) to commit to further development;

"(B) to require further prototyping; or

"(C) to terminate the program.

"(c) CONSIDERATIONS.—In the review of an acquisition program, the Under Secretary shall consider the potential benefits, affordability, needs, and risks of the program.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of title 10, United States Code, as amended by section 102(b), is further amended by adding at the end the following new items:

"2220. Results oriented acquisition program cycle.

"2221. Funding for results oriented acquisition program cycle.

"2222. Major program decision.".

Subtitle B—Civilian Agency Acquisitions

SEC. 311. CUSTOMER-DRIVEN ACQUISITIONS.

It is the policy of Congress that—

(1) the purpose for initiating, planning, and executing acquisitions of property or services by the Federal Government be to satisfy the needs of the potential users of such property or services; and

(2) potential users of the property or services be involved to a significant extent in the initiation, planning, and execution of the acquisitions of such property or services by the Federal Government.

SEC. 312. REVIEW OF AGENCY ORGANIZATION FOR ACQUISITIONS.

(a) INSPECTOR GENERAL REVIEW OF MANAGEMENT STRUCTURE.—Not later than 18 months after the date of the enactment of this Act, the Inspector General of each department or agency of the executive branch shall—

(1) review the acquisition process in the department or agency in order to identify each, if any, management organization or position involved in the process that does not contribute to—

(A) the efficiency of the acquisition process; or

(B) the quality and cost-effectiveness of items acquired; and

(2) submit to Congress a report containing—

(A) the findings of the Inspector General that result from the review; and

(B) any recommendations for reorganizing the acquisition management structure of the department or agency to ensure that each organization and position involved in the management of acquisitions is valuable to the acquisition process because of contributions to the process as described in paragraph (1).

(b) AGENCIES WITHOUT INSPECTORS GENERAL.—In the case of a department or agency that does not have an Inspector General, the head of the department or agency shall carry out the review, and submit the report, required by subsection (a)(2).

SEC. 313. ACQUISITION OF NONCOMMERCIAL ITEMS.

(a) RESULTS-ORIENTED PROCESS REQUIRED.—The head of each department or agency of the executive branch shall develop and implement a results-oriented acquisition process for acquisitions of property and services by the department or agency. The process shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of noncommercial items by the department or agency satisfies the needs for which the items are being acquired.

(b) DEFINITIONS.—In this section:

(1) NONCOMMERCIAL ITEM.—The term "noncommercial item" means an item that is not a commercial item.

(2) COMMERCIAL ITEM.—The term "commercial item" means—

(A) property, other than real property, that is of a type regularly used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

(i) has been sold or licensed to the general public;

(ii) has not been sold or licensed to the general public but has been offered for sale or license to the general public; or

(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

(B) any item that, but for minor modifications made to meet Federal Government requirements or modifications of a type customarily available in the commercial marketplace, would satisfy the criteria in subparagraph (A);

(C) any combination of items meeting the requirements of subparagraph (A) or (B) that are of a type customarily combined and sold in combination to the general public; and

(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

SEC. 314. INAPPLICABILITY TO DEPARTMENT OF DEFENSE.

This subtitle does not apply to the Department of Defense.

TITLE IV—CONTRACT FORMATION

Subtitle A—Specifications and Standards

SEC. 401. PREFERENCE FOR COMMERCIAL ITEMS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2305(a)(1)(C) of title 10, United States Code, is amended in the second sentence by striking out "Subject to such needs, specifications may" and inserting in lieu thereof the following: "Normally, the specifications shall be the specifications of commercial items. When such items cannot meet bona fide needs of the Department of Defense, specifications shall".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303A(a)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(3)) is amended in the second sentence by striking out "Subject to such needs, specifications may" and inserting in lieu thereof the following: "Normally, the specifications shall be the specifications of commercial items. When such items cannot meet bona fide needs of the executive agency, specifications shall".

Subtitle B—Performance-Based Contracting

SEC. 411. USE OF INCENTIVE CONTRACTS.

(a) ARMED SERVICES ACQUISITIONS.—Subsection (c) of section 2306 of title 10, United States Code, is amended to read as follows:

"(c) The program executive officer of an acquisition program may determine the type of contract to be used when entering into a contract under the program. The program executive officer shall use an incentive type contract unless the program executive officer determines that such a contract would inhibit achievement of acquisition performance goals.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence and inserting in lieu thereof the following: "The program manager of an acquisition program may determine the type of contract to be used when entering into a contract under the program. The program manager shall use an incentive type contract unless the program manager determines that such a contract would inhibit achievement of acquisition performance goals.".

SEC. 412. GUIDANCE REGARDING CONSIDERATION OF PAST CONTRACT PERFORMANCE OF OFFERORS.

Section 6 of the Office of Federal Procurement Policy (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that contracting officials of executive agencies should consider in entering into contracts.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be entered into by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that offerors are afforded an opportunity to submit information on past contract performance and that information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies the policy regarding the period for which information on past performance of offerors may be maintained and considered.

"(4) In the case of an offeror regarding whom there is no information on past contract performance or regarding whom information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.

"(5) In evaluating past contract performance of an offeror under the guidance prescribed pursuant to paragraph (1), the head of an executive agency shall consider the performance of the offeror with respect to cost, schedule, and compliance with technical or functional specifications.".

TITLE V—PERFORMANCE-BASED CONTRACT ADMINISTRATION

SEC. 501. CONTRACT FINANCING IN ARMED SERVICES ACQUISITIONS.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically and in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PAY FOR PERFORMANCE.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) Payments under subsection (b) may be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (f)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through the period at the end of such sentence and inserting in lieu thereof "work accomplished that meets standards established under the contract. The determination of the extent of the work accomplished may be measured on a basis set forth in subsection (c)."; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

SEC. 502. CONTRACT FINANCING IN CIVILIAN AGENCY ACQUISITIONS.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically and in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PAY FOR PERFORMANCE.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) Payments under subsection (b) may be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendments made by paragraph (1) are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the effective date of this Act.

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) REFERENCE.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (c) and (d) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

TITLE VI—DAVIS-BACON ACT EXEMPTION

SEC. 601. CONTRACTS NOT IN EXCESS OF $500,000.

(a) IN GENERAL.—The first section of the Act of March 3, 1931 (40 U.S.C. 276a), commonly referred to as the "Davis-Bacon Act", is amended in subsection (a) by striking out "$2,000" and inserting in lieu thereof "$500,000".

(b) RELATED REGULATIONS.—Section 2 of the Act of June 13, 1934 (40 U.S.C. 276c) is amended by inserting after "engaged" the following: "under contracts in excess of $500,000".

TITLE VII—MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 701. MODIFICATION OF THE RESPONSIBILITY OF THE COMPTROLLER OF THE DEPARTMENT OF DEFENSE FOR DEFENSE ACQUISITION BUDGETS.

Section 137(c) of title 10, United States Code, is amended in each of paragraphs (2), (3), and (4), by inserting after the paragraph designation the following: "subject to section 133(b) of this title,".

SEC. 702. THE DEFENSE ACQUISITION WORK FORCE.

(a) GENERAL AUTHORITIES AND RESPONSIBILITIES.—(1)(A) Sections 1704, 1705, and 1707 of title 10, United States Code, are repealed.

(B) The table of sections at the beginning of subchapter I of chapter 87 of such title is amended by striking out the items relating to sections 1704 through 1707 and inserting in lieu thereof the following:

"1704. Acquisition career program boards.".

(2) Section 1706 of title 10, United States Code, is amended—

(A) in the section heading by striking out "§ 1706" and inserting in lieu thereof "§ 1704";

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) ESTABLISHMENT.—The Under Secretary of Defense for Acquisition shall establish an acquisition career program board to advise the Under Secretary in managing the accession, training, education, and career development of military and civilian personnel in the acquisition workforce and in selecting individuals for the Acquisition Corps under section 1731 of this title.";

(C) in subsection (b)—

(i) in the first sentence, by striking out "Each" and inserting in lieu thereof "The"; and

(ii) in the second sentence, by striking out "service acquisition executive" and inserting in lieu thereof "Under Secretary"; and

(D) in subsection (c)—

(i) by striking out "Secretary of a military department" and inserting in lieu thereof "Under Secretary"; and

(ii) by striking out "in the department".

(b) DEFENSE ACQUISITION POSITIONS.—(1) Section 1722 of title 10, United States Code, is amended—

(A) in subsection (g), by striking out "Secretary of each military department, acting through the service acquisition executive for that department," and inserting in lieu thereof "Secretary of Defense"; and

(B) in subsection (h), by striking out "or the Secretary of a military department (as applicable)".

(2) Section 1724(d) of such title is amended in the first sentence—

(A) by striking out "a military department" and inserting in lieu thereof "the Department of Defense"; and

(B) by striking out "of that military department".

(c) ACQUISITION CORPS.—(1) Section 1731 of title 10, United States Code, is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) ACQUISITION CORPS.—The Secretary of Defense shall establish a Department of Defense Acquisition Corps."; and

(B) in subsection (b), by striking out "an Acquisition Corps" and inserting in lieu thereof "the Acquisition Corps".

(2) Section 1732 of such title is amended—

(A) in subsection (b)—

(i) in paragraph (2)(A)(ii), by striking out "of the employing military department"; and

(ii) in paragraph (4), by striking out "or the Secretary of the military department concerned"; and

(B) in subsection (d)—

(i) by striking out "of a military department" in the first sentence of paragraph (1) and in paragraph (2); and

(ii) by striking out "of that military department" in the first sentence of paragraph (1).

(3) Section 1733(a) of such title is amended by striking out "an Acquisition Corps" and inserting in lieu thereof "the Acquisition Corps".

(4) Section 1734(a) of such title is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking out "Secretary of each military department, acting through the service acquisition executive for that department," and inserting in lieu thereof "Secretary of Defense, acting through the Under Secretary of Defense for Acquisition,"; and

(ii) in the second sentence, by striking out "concerned"; and

(B) in paragraph (2), by striking out "concerned" in the second sentence.

(5) Section 1738 of title 10, United States Code (as redesignated by section 203(b)(1)(A)), is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking out "an Acquisition Corps" and inserting in lieu thereof "the Acquisition Corps"; and

(ii) in paragraph (5), by striking out ", serving" and all that follows through "Department of Defense"; and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) WAIVER.—(1) The Secretary of Defense may waive, on a case-by-case basis, the requirements established under this subchapter with respect to the assignment of an individual to a particular critical acquisition position. Such a waiver may be granted only if unusual circumstances justify the waiver or if the Secretary determines that the individual's qualifications obviate the need for meeting the education, training, and experience requirements established under this subchapter.

"(2) The Secretary shall act through the Under Secretary of Defense for Acquisition in exercising the authority provided in paragraph (1). The authority to grant waivers under this subsection may be delegated by the Under Secretary only to the Director of Acquisition Education, Training, and Career Development.".

(d) EDUCATION AND TRAINING.—(1) Section 1741(c) of title 10, United States Code, is amended to read as follows:

"(c) PROGRAMS.—The Under Secretary shall establish and implement the education and training programs authorized by this subchapter.".

(2) Section 1742 of such title is amended by striking out "require that each military department".

(3) Section 1743 of such title is amended in the first sentence by striking out "require that the Secretary of each military department".

(e) GENERAL MANAGEMENT.—(1) Section 1761(a) of title 10, United States Code, is amended by striking out "prescribe regulations to ensure that the military departments and Defense Agencies".

(2) Section 1762(c) of such title is amended—

(A) by striking out the parenthetical material in the matter above paragraph (1); and

(B) in paragraph (4)(A), by striking out "an acquisition corps" and inserting in lieu thereof "the Acquisition Corps".

(3) Section 1763 of such title is amended by striking out the second sentence.

SEC. 703. PROCUREMENT PROCEDURES GENERALLY.

Chapter 137 of title 10, United States Code, is amended as follows:

(1) Section 2305(d) is amended—

(A) in the first sentence of paragraph (1)(A), by striking out "shall ensure that," and all that follows through "the head of an agency" and inserting in lieu thereof ", in preparing a solicitation for the award of a development contract for a major system, shall";

(B) in the first sentence of paragraph (2)(A), by striking out "shall ensure that," and all that follows through "the head of an agency" and inserting in lieu thereof ", in preparing a solicitation for the award of a production contract for a major system, shall";

(C) by striking out "the head of the agency" each place it appears and inserting in lieu thereof "the Secretary"; and

(D) by striking out "the head of an agency" each place it appears and inserting in lieu thereof "the Secretary of Defense".

(2) Section 2306(h) is amended—

(A) in paragraph (1), by striking out "the head of an agency" in the matter above subparagraph (A) and inserting in lieu thereof "the Secretary of Defense";

(B) in paragraph (2)(D), by striking out "agencies in" in the matter above clause (i);

(C) in paragraph (3), by striking out "the head of the agency concerned" and inserting in lieu thereof "the Secretary of Defense";

(D) by striking out paragraph (7);

(E) in paragraph (10), by striking out "instruct the Secretary of the military department concerned to"; and

(F) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(3) Section 2307, as amended by section 501(a)(6), is further amended in subsection (g)(7), by striking out the second sentence.

(4) Section 2311 is amended—

(A) by striking out "Except as provided in" and inserting in lieu thereof "(a) Except as provided in subsection (b) and"; and

(B) by adding at the end the following new subsection:

"(b) The Secretary of Defense may delegate any authority of the Secretary under this chapter only to—

"(1) the Deputy Secretary of Defense, who may successively delegate such authority only to the Under Secretary of Defense for Acquisition;

"(2) the Under Secretary of Defense for Acquisition; or

"(3) any acquisition program executive officer or acquisition program manager of the Defense Research, Development, and Acquisition Agency.".

(5) Section 2318 is amended—

(A) in subsection (a), by striking out "Defense Logistics Agency" each place it appears and inserting in lieu thereof "Defense Research, Development, and Acquisition Agency"; and

(B) in subsection (c), by striking out "Each advocate for competition of an agency" and inserting in lieu thereof "The advocate for competition".

(6) Section 2320(b) is amended—

(A) in the matter above paragraph (1), by striking out "an agency named in section 2303 of this title" and inserting in lieu thereof "the Department of Defense"; and

(B) in paragraph (9), by striking out "the head of the agency to withhold" and inserting in lieu thereof "the withholding of".

(7) Section 2324 is amended—

(A) in subsection (e)—

(i) in paragraph (2)(C), by striking out "head of the agency awarding the contract" and inserting in lieu thereof "Secretary"; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by striking out the matter above clause (i) and inserting in lieu thereof the following:

"(A) Pursuant to regulations prescribed by the Secretary and subject to the availability of appropriations, the Secretary may waive the application of the provisions of subparagraphs (M) and (N) of paragraph (1) to a covered contract (other than a contract to which paragraph (2) applies) if the Secretary determines that—";

(II) by striking out "head of an agency" each place it appears in subparagraphs (B) and (C); and

(III) in subparagraph (B)(ii), by striking out "head of the agency will consider granting such waiver, and, if the agency head" and inserting in lieu thereof "Secretary will consider granting such waiver, and, if the Secretary";

(B) in subsection (h)(2), by striking out "or the Secretary of the military department concerned"; and

(C) in subsection (k)(4)—

(i) by striking out "the head of the agency that awarded the covered contract" and inserting in lieu thereof "the Secretary of Defense";

(ii) by striking out "the agency head" and inserting in lieu thereof "the Secretary";

(iii) by striking out "such agency head" and inserting in lieu thereof "the Secretary"; and

(iv) in subparagraph (B), by striking out "agency" and inserting in lieu thereof "Department of Defense".

(8) Section 2326 is amended—

(A) by striking out "head of an agency" each place it appears and inserting in lieu thereof "Secretary of Defense";

(B) by striking out "head of the agency" each place it appears and inserting in lieu thereof "Secretary of Defense"; and

(C) in subsection (a), by striking out "military department concerned" and inserting in lieu thereof "Department of Defense".

(9) Section 2327 is amended—

(A) in subsection (a), by striking out "The head of an agency" and inserting in lieu thereof "The Secretary of Defense";

(B) in subsection (b), by striking out "the head of an agency" and inserting in lieu thereof "the Secretary of Defense";

(C) in subsection (c)(1)—

(i) by striking out "the head of an agency" each place it appears and inserting in lieu thereof "the Secretary"; and

(ii) by striking out "such head of an agency" each place it appears and inserting in lieu thereof "the Secretary";

(D) in subsection (c)(2), by striking out "Upon the request of the head of an agency, the" and inserting in lieu thereof "The"; and

(E) in subsection (d)—

(i) by striking out "(1)"; and

(ii) by striking out paragraph (2).

(10) Section 2329 is amended—

(A) in subsection (a), by striking out the second sentence;

(B) in subsection (b), by striking out "the Secretary of a military department" and inserting in lieu thereof "the Secretary of Defense"; and

(C) in subsection (c)—

(i) by striking out "the Secretary concerned" each place it appears and inserting in lieu thereof "the Secretary of Defense"; and

(ii) by striking out the second sentence of paragraph (3).

SEC. 704. RESEARCH AND DEVELOPMENT.

Chapter 139 of title 10, United States Code, is amended as follows:

(1) Section 2352(a) is amended in the matter above paragraph (1)—

(A) by striking out "The Secretary of a military department" and inserting in lieu thereof "The Secretary of Defense"; and

(B) by striking out "of that military department".

(2) Section 2353 is amended—

(A) in the first sentence of subsection (a)—

(i) by striking out "contract of a military department" and inserting in lieu thereof "Department of Defense contract"; and

(ii) by striking out "the Secretary of the military department concerned" and inserting in lieu thereof "the Secretary of Defense"; and

(B) in subsection (b)(3), by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense".

(3) Section 2354 is amended—

(A) in subsection (a), by striking out "the Secretary of the military department concerned, any contract of a military department" and inserting in lieu thereof "the Secretary of Defense, any contract of the Department of Defense";

(B) in subsection (c)—

(i) by striking out "the Secretary of the department concerned" and inserting in lieu thereof "the Secretary of Defense"; and

(ii) by striking out "of his department"; and

(C) in subsection (d), by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense".

(4) Section 2355 is amended—

(A) by striking out "Secretary of each military department" and all that follows through "Comptroller General," and inserting in lieu thereof "Secretary of Defense, with the approval of the Comptroller General, may"; and

(B) by striking out "his department".

(5) Section 2356(a) is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of Defense may delegate any authority under section 1584, 2353, 2354, 2355, or 2358 of this title to—

"(A) the Deputy Secretary of Defense, who may successively delegate such authority only to the Under Secretary of Defense for Acquisition;

"(B) the Under Secretary of Defense for Acquisition; or

"(C) any employee of the Defense Research, Development, and Acquisition Agency.

"(2) The authority of the Secretary under section 2353(b)(3) of this title may not be delegated to a person described in paragraph (1)(C).".

(6) Section 2367(c) is amended to read as follows:

"(c) Funds appropriated to the Department of Defense may not be obligated or expended for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

"(1) the Secretary of Defense submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(2) 60 days elapse after the date on which such report is received by Congress.".

(7) Section 2369 is amended—

(A) in subsection (a), by striking out "a program for the supervision and coordination of" and inserting in lieu thereof "and conduct appropriate"; and

(B) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) PURPOSE OF PRODUCT EVALUATION.—The purpose of each product evaluation activity established under subsection (a) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products in the Department of Defense.".

(8) Subsections (a) and (g) of section 2371 are amended by striking out "in carrying out advanced research projects through the Defense Advanced Research Projects Agency, and the Secretary of each military department,".

SEC. 705. MISCELLANEOUS PROCUREMENT PROVISIONS.

Chapter 141 of title 10, United States Code, is amended as follows:

(1) Section 2381 is amended—

(A) in subsection (a)—

(i) by striking out "The Secretary of a military department" and inserting in lieu thereof "The Secretary of Defense"; and

(ii) by striking out "that department" in paragraph (1) and inserting in lieu thereof "the Department of Defense"; and

(B) in subsection (b)—

(i) in the matter above paragraph (1), by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense"; and

(ii) in paragraph (2), by striking out "military department concerned" and inserting in lieu thereof "Department of Defense".

(2) Section 2385 is amended by striking out "a military department" and inserting in lieu thereof "the Department of Defense".

(3) Section 2386 is amended by striking out "a military department" and inserting in lieu thereof "the Department of Defense".

(4) Section 2388(a) is amended by striking out "The Secretary of a military department" and inserting in lieu thereof "The Secretary of Defense".

(5) Section 2393 is amended—

(A) in subsection (a)—

(i) by striking out "the Secretary of a military department" in paragraph (1) and inserting in lieu thereof "the Secretary of Defense"; and

(ii) by striking out "the Secretary concerned" in paragraph (2) and inserting in lieu thereof "the Secretary of Defense"; and

(B) in subsection (b), by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense".

(6) Section 2394 is amended—

(A) in subsection (a), by striking out "the Secretary of a military department" and inserting in lieu thereof "the Secretary of Defense";

(B) by striking out subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(7) Section 2394a is amended—

(A) in subsection (a)—

(i) by striking out "Secretary of a military department" and inserting in lieu thereof "Secretary of Defense"; and

(ii) by striking out "military department under his jurisdiction" and inserting in lieu thereof "Department of Defense"; and

(B) in subsection (b), by striking out the second sentence.

(8) Section 2401(a) is amended by striking out "The Secretary of a military department" both places it appears and inserting in lieu thereof "The Secretary of Defense".

(9) Section 2403 is amended—

(A) in subsection (a), by striking out paragraph (8);

(B) in subsection (b), by striking out "the head of an agency" in the matter above paragraph (1) and inserting in lieu thereof "the Secretary of Defense";

(C) in subsections (c), (f), and (g), by striking out "head of the agency concerned" each place it appears and inserting in lieu thereof "Secretary of Defense";

(D) in subsection (d)—

(i) by inserting "(1)" after the subsection designation;

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(iii) by striking out the second sentence; and

(iv) by adding at the end the following new paragraph:

"(2) The Secretary may delegate authority under this subsection only to the Under Secretary of Defense for Acquisition."; and

(E) in subsection (h)—

(i) by striking out "(1)"; and

(ii) by striking out paragraph (2).

(10) Section 2405(a) is amended by striking out "The Secretary of a military department" and inserting in lieu thereof "The Secretary of Defense".

(11) Section 2406 is amended—

(A) in subsection (a)—

(i) by striking out "head of an agency" and inserting in lieu thereof "Secretary of Defense";

(ii) by striking out "with that agency"; and

(iii) by striking out "head of the agency" each place it appears and inserting in lieu thereof "Secretary"; and

(B) in subsection (f)—

(i) by striking out paragraph (1);

(ii) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(iii) by striking out "2432(a)" and inserting in lieu thereof "2430" in paragraph (1) (as redesignated by clause (ii)); and

(iv) by striking out "the head of an agency" and inserting in lieu thereof "the Secretary of Defense" in paragraph (3) (as redesignated by clause (ii)).

(12) Section 2411(3) is amended by striking out "Director of the Defense Logistics Agency" and inserting in lieu thereof "Under Secretary of Defense for Acquisition".

SEC. 706. MAJOR DEFENSE ACQUISITION PROGRAMS.

Chapter 144 of title 10, United States Code, is amended as follows:

(1) Section 2433 is amended—

(A) by striking out "service acquisition executive designated by the Secretary concerned" each place it appears and inserting in lieu thereof "Under Secretary of Defense for Acquisition";

(B) in subsection (c)(2), by striking out "such service acquisition executive" each place it appears and inserting in lieu thereof "the Under Secretary of Defense for Acquisition";

(C) in subsection (d)—

(i) by striking out "the service acquisition executive" in paragraphs (1) and (2) and inserting in lieu thereof "the Under Secretary"; and

(ii) in paragraph (3), by striking out "If, based upon the service acquisition executive's determination, the Secretary concerned" and inserting in lieu thereof "If the Under Secretary of Defense for Acquisition"; and

(D) in subsection (e)—

(i) in paragraph (1)(A), by striking out "Secretary concerned" and inserting in lieu thereof "Under Secretary of Defense for Acquisition";

(ii) in paragraph (1)(B), by striking out "Secretary" and inserting in lieu thereof "Under Secretary";

(iii) in paragraph (2), by striking out "(as determined by the Secretary" in the matter above subparagraph (A) and inserting in lieu thereof "(as determined by the Under Secretary"; and

(iv) in paragraph (3), by striking out "by the Secretary" both places it appears in the first sentence and inserting in lieu thereof "by the Under Secretary".

(2) Section 2434(b)(1) is amended by striking out "the military department," and all that follows and inserting in lieu thereof "Department of Defense.".

(3) Section 2435 is amended—

(A) in subsection (a)(1), by striking out the matter above subparagraph (A) and inserting in lieu thereof the following:

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Under Secretary of Defense for Acquisition shall establish a baseline description for each major defense acquisition program—"; and

(B) in subsection (b)—

(i) in paragraph (1), by striking out "Secretary of the military department concerned and to the service acquisition executive designated by such Secretary" and inserting in lieu thereof "Under Secretary of Defense for Acquisition"; and

(ii) in paragraph (2), in the matter above subparagraph (A)—

(I) by striking out "The Secretary of the military department concerned" and inserting in lieu thereof "The Under Secretary of Defense for Acquisition"; and

(II) by striking out "180 days—" and all that follows and inserting in lieu thereof the following: "180 days, establish a review panel to review such program and to submit to the Under Secretary a report on the results of such review within 45 days after the date on which the program deviation report is submitted under paragraph (1).".

(4) Section 2436 is amended—

(A) in subsection (a)—

(i) by striking out ", through the Secretaries of the military departments,"; and

(ii) by striking out "senior procurement executive of the military department concerned" and inserting in lieu thereof "Under Secretary of Defense for Acquisition";

(B) in subsection (b)—

(i) by striking out "Secretary of a military department" and inserting in lieu thereof "Secretary"; and

(ii) by striking out "under the jurisdiction of the Secretary";

(C) in subsection (c)—

(i) in paragraph (1), by striking out "Secretary concerned" and inserting in lieu thereof "Under Secretary of Defense for Acquisition"; and

(ii) in paragraph (3), by striking out "senior procurement executive" and all that follows and inserting in lieu thereof "Under Secretary."; and

(D) in subsection (d), by striking out "the senior procurement executive of the military department concerned, with the approval of".

(5)(A) Section 2437 is repealed.

(B) The table of sections at the beginning of chapter 144 is amended by striking out the item relating to section 2437.

SEC. 707. SERVICE SPECIFIC ACQUISITION AUTHORITY.

(a) ARMY.—Part IV of subtitle B of title 10, United States Code, is amended by striking out "Secretary of the Army" in sections 4501(c), 4502(a), 4503, 4504, 4505, 4506, 4507, 4508(a), 4531, 4532(a), 4533, 4535, 4537, 4538, 4540(a), and 4542 (each place it appears) and inserting in lieu thereof "Secretary of Defense".

(b) NAVY.—Part IV of subtitle C of such title is amended as follows:

(1) Strike out "Secretary of the Navy" in sections 7201, 7203(a), 7210(a), 7212(a), 7213, 7229, 7299a (each place it appears), 7301(a), 7309(e), 7311(a), 7311(b), 7312 (each place it appears), 7314, 7341(a), 7342(b), 7345(a), 7361 (each place it appears), 7362, 7364, 7365, and 7521 and insert in lieu thereof "Secretary of Defense".

(2) Section 7203 is amended—

(A) in subsection (a), by striking out "(a)"; and

(B) by striking out subsection (b).

(3) Section 7210 is amended—

(A) in subsection (a), by striking out "(a)"; and

(B) by striking out subsection (b).

(4) Section 7310(a) is amended by striking out "Navy" the first place it appears in the second sentence and inserting in lieu thereof "Secretary of Defense".

(5) Section 7311(a)(1) is amended by striking out "Navy" the first place it appears and inserting in lieu thereof "Secretary of Defense".

(6) Section 7314(2) is amended by striking out "Navy" and inserting in lieu thereof "Department of Defense".

(7) Section 7363 is amended in the first sentence—

(A) by striking out "Department of the Navy" and inserting in lieu thereof "Secretary of Defense"; and

(B) by striking out "Secretary" and inserting in lieu thereof "Secretary of Defense".

(8) Section 7521 is amended by striking out "contract made by the Department of the Navy" in the first sentence and inserting in lieu thereof "contract entered into for the Department of the Navy".

(9) Section 7522 is amended by striking out "Secretary of the Navy" and all that follows through "chiefs of bureaus" and inserting in lieu thereof "Secretary of Defense".

(c) AIR FORCE.—Part IV of subtitle D of such title is amended in sections 9501(c), 9502(a), 9503, 9504, 9505, 9506, 9507, 9511(11), 9531, 9532, 9535, 9537, 9538(a), and 9540(a) by striking out "Secretary of the Air Force" and inserting in lieu thereof "Secretary of Defense".

SEC. 708. OTHER LAWS.

In any other provision of law providing authority for the Secretary of a military department or the head of a Defense Agency of the Department of Defense to perform a research, development, or acquisition function of the Department of Defense, the reference to that official shall be deemed to refer to the Secretary of Defense. That function shall be performed as provided in section 133(b) of title 10, United States Code (as amended by section 301(a)), and section 232 of such title (as added by section 301(b)).

TITLE VIII—EFFECTIVE DATE

SEC. 801. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the first day of the fiscal year that begins on or after the date of the enactment of this Act and, in the case of provisions and amendments that set forth contracting procedures, shall apply with respect to contract solicitations that are issued on or after such effective date.●

● Mr. COHEN. Mr. President, today Senator ROTH and I are introducing legislation to significantly improve the accountability of Federal managers who spend money on behalf of taxpayers. The legislation will also make huge strides to hold contractors accountable for the promises they make to the taxpayers when they sign contracts with the Federal Government. The reforms outlined in this legislation have the potential to save taxpayers an estimated $20 billion annually.

For years, the press has accurately reported how the Government has wasted money when purchasing goods and services. In recent years we have seen reports outlining how Department of Defense officials agreed to pay millions of dollars for unneeded goods like the 1.2 million bottles of nasal spray that sat expiring on a shelf in a Government warehouse; or how Department of Energy officials agreed to pay the fines of contractors who violated Federal environmental laws, and to reimburse contractors for property stolen by the contractor's own employees; or how Resolution Trust Corporation officials approved a contract that allowed a contractor to charge the taxpayer 67 cents a page to photocopy thousands of bank records when comparable copies at Kinko's cost 3 cents; or the Federal Deposit Insurance Corporation officials who paid a contractor $300 every time it mowed a lawn which was roughly the size of a basketball court. In each of these cases we heard excuses and finger pointing rather than acceptance of responsibility. We will not successfully curb these types of problems until we begin to hold Government decisionmakers responsible for their actions.

The legislation we are introducing today establishes that Federal employees who purchase goods and services on behalf of the Federal Government will be held accountable for those purchases in much the same way a private sector employee is held accountable when he or she buys goods and services for a business. In the private sector, an employee is expected to make decisions that are in the best economic interest of the employer. If the decisions result in success, the employee is rewarded. If not, the employee receives no reward. This incentive system, known as "pay for performance," has produced successful results in the private sector and should be tested in the Government's acquisition work force.

In the case of the private sector, the most successful enterprises understand and invest in the training of its work force to ensure that the employees are qualified to perform these duties effectively and efficiently. This legislation will ensure that the Federal procurement work force is qualified and formally trained to act in the best interest of the taxpayers. A trained, reliable, and competent Federal procurement work force, that is rewarded when it performs well and is not rewarded when it fails, will provide a front line defense against contract waste and mismanagement in the Federal Government.

A trained and capable work force is only half of the answer to how we can improve the administration of Federal contracts. The other half of our legislative solution calls for a contractor to achieve the cost, schedule, and performance goals outlined in its contract with Government. The concept is similar to the business judgment my constituents in Maine make when they decide to buy services or appliances. The concept is simple—if the contractor does not keep its promises to the taxpayer, the government may withhold its payments.

The bill provides an additional incentive by requiring those contractors with a record of performance on Government contracts to compete for future Government contracts not only on price, but on the contractor's performance record on is past Government contracts. This will prevent poorly performing contractors from competing on an equal basis for future Government contracts with those contractors who have performed well.

These measures of increased accountability should also halt the Government's payment of bonuses to contractors whose projects are poorly managed, late and/or grossly over budget. As an example, NASA has paid bonuses to contractors who managed a number of failed programs. Examples include: $20 million in contractor bonuses for the Hubble space telescope which required costly repairs before it could work as envisioned; a $17 million contractor bonus for the Mars Observer which spun out of control and is now lost in space thanks to critical contractor failures; and a $5 million contractor bonus for the Gamma Ray Observatory, a program which exceeded its budget by more than $40 million. The legislation we are proposing today, would only permit the payment of bonuses to contractors if their programs were under cost, ahead of schedule and/or performed better than expected. This provision will put a halt to the payment of bonuses to poorly performing Government contractors.

Mr. President, this legislation also increases the threshold to $500,000 under the Davis-Bacon Act, which requires Government contractors to pay prevailing wages to their employees. Not only will this legislation update the 60-year-old Davis-Bacon law, but it will save the taxpayer an estimated $448 million in outlays over 5 years by reducing the cost of construction. In addition, by raising the threshold, the U.S. Department of Labor, which is charged with administering and enforcing the Davis-Bacon Act, will be better able to enforce prevailing wages on large dollar volume contracts. With the huge Federal deficit and the demand by our constituents that we reduce Government spending, I firmly believe the time has come to take a fresh look at the ramifications of the Davis-Bacon Act as it now exists.

Mr. President, we believe that adding incentives and accountability to the Federal procurement system will provide the Government with needed tools to fight Government waste and mismanagement. I would urge my colleagues to support this legislation.●

By Mr. DOMENICI (for himself, Mr. NUNN, Mr. DODD, Mr. DANFORTH, Ms. MIKULSKI, Mr. COCHRAN, Mr. LIEBERMAN, Mr. BENNETT, Mr. DORGAN, and Mr. CONRAD):

S.J. Res. 178. A joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week"; to the Committee on the Judiciary.

NATIONAL CHARACTER COUNTS WEEK

Mr. DOMENICI. Mr. President, over the past few years most of us in this Chamber have heard or delivered statements about the importance of revitalizing or reinvigorating this country's moral compass or its value system. We have heard statistics from educators, national organizations, judges, journal-

ists, law enforcement personnel, and parents that the young people of this country simply do not recognize the fundamental precepts of right and wrong.

I might add to my prepared remarks that the distinguished occupant of the chair, while he was chairing a commission, had a chapter on young people in our country, and I read it carefully and in fact talked with the distinguished Senator from West Virginia [Mr. ROCKEFELLER] about it. The conclusions that were drawn obviously did not fall on deaf ears, because many of us now have learned that values or morality are very controversial. In fact, many do not think they ought to be discussed by public officials, and certainly it is very difficult to say what they are, at least from the standpoint of expecting unanimity of reception and people agreeing with your conclusions.

Our desire not to offend our fellow citizens seems to have left us collectively speechless about the fundamental character of our society. In our legitimate desire not to impose our beliefs on others, we have fumbled and stumbled around that issue. As a consequence, we may have left the impression that the Nation no longer has any respect for basic values that one generation transmits to another.

Now, I believe the time for that kind of thinking and acting has to come to a stumbling stop. The time has come to join in a crusade and stand up with countless thousands of Americans who believe that we have to face this issue head on with honesty, fairness, and understanding. We can say that there is really a crisis in character and we can offer some fundamental precepts that are positive guideposts for addressing these concerns.

Senator NUNN, myself, and six other Senators, equally divided among Republicans and Democrats, have gotten together and established an informal group called the Senate "Character Counts Group." Our objective is to find ways in which we can support, individually or collectively, publicly—and, when appropriate, even legislatively—the promotion of character education and character training throughout America.

Our primary goal is to be supportive of families and communities, schools, and youth organizations, religious institutions, civic groups and all those who care deeply about our country's children.

A few weeks ago, Alex Dominguex of the Associated Press wrote an article entitled "Schools by Scruples." I was struck by the words of Boston University's Kevin Ryan commenting on why there has been insufficient evaluation and studies on character education:

The reason for that is that the Federal Government is gutless, afraid to fund anything so controversial. This is really a core issue and they just flee from it.

This group of Senators has decided that it does not need to flee from this issue.

The first initiative that we are pursuing is the introduction of a resolution here tonight that I will send to the desk for proper referral declaring the week of October 16 through 22 of 1994 as "National Character Counts Week."

The resolution articulates six core elements of character. These six elements coincide with the six core ethical values that were developed in July of 1992 by an eminent group of ethics scholars, educators, and representatives of youth organizations who came together to determine if a common ground and a common language could be found concerning the need and the content of character education. As a result of their efforts, a consensus was reached that there were fundamental character elements that all could support. The result is known as the Aspen Declaration.

The six core elements of character are trustworthiness, respect, responsibility, justice and fairness, caring, and civic virtue and citizenship. It calls on communities, especially schools of our land, young organizations to integrate these six core elements of character into programs serving students and children.

This Senate Character Counts Group believes that these six core elements constitute the fundamental list of character elements. We can support them unequivocally, and as my remarks are either heard or read I ask whether anyone really objects to any of these six core character values.

These, as I just indicated, are easy to support but obviously difficult to achieve and equally difficult to educate our young people about. We are merely saying that these six are noncontroversial and in and of themselves constitute the core character elements of any character-building program.

Mr. President, long ago, the Greeks in this country, the Greeks in Greece, their homeland, through their leaders said something very fundamental: A country must have character, and it will only have character if the individuals that make up its population have character.

Something is going wrong in the United States. I believe it is the demise and disintegration of core character qualities among our people, and it is time that those of us in elected office see fit to join in a renaissance or crusade to see what we can do to change that.

There are those who question whether Government should ever be involved in the issue of character building programs. In answer to that, my views are that Government can help, can institute or change policies, and can supplement what others are doing. Government alone cannot, and should not, supplant our individual and collective responsibilities. Therefore, Government's role in character building efforts should be to support families, communities, and organizations with their programs. I believe that character education and training is a public policy issue, and one that Government can and should endorse.

There are many instances when Government can play a positive and constructive role in character building programs. For example, FBI Director Louis J. Freeh recently announced that the FBI would institute guidelines regarding the conduct of its employees. The FBI Director stated that "core values such as integrity, reliability, and trustworthiness" must be upheld and revered. To me, this represents what's totally right about Government intervention in character building programs.

We, in Congress, and all our public policymakers and leaders may want to think about David Broder's comments in his article, "Beware the Unattached Male":

> . . . it is no longer possible to pretend that the values by which people live their lives don't matter. The public no longer buys that, if it ever did, so "experts" who cling to that belief are increasingly marginalized in the policy debates.
>
> When the experts shake off their fright about values, however, they really can help inform the political dialogue. . . . In retrospect, it's amazing that American politics was hung up for so long in partisan debate about "family values." Now that it's largely over, perhaps we can work at reversing some of those trend lines (the Index of Leading Cultural Indicators) Bennett charts.

Most of us recognize the central role of the family in shaping the values of young people. At the same time, we must also acknowledge that too many children are raised without the benefit of positive family influences. Furthermore, even the most caring and involved parents need support. All of our social institutions—the family, our schools, churches, and civic organizations—must work in concert to emphasize responsibility, self-discipline, self-restraint, and character. As the old proverb says: "It takes a whole village to raise a child."

Today, the people of this Nation enjoy more freedom, more privilege than we have ever known. But increased individual liberty brings with it additional personal responsibility. The choices we face are difficult, but we have an obligation, a civic responsibility to confront them. As journalist E.J. Dionne observed:

> Talk of citizenship and civic virtue sounds utopian. In fact, it is the essence of practical politics. Only by restoring our sense of common citizenship can we hope to deal with the most profound and practical issues before us.

It is no longer enough to look toward others to solve our collective problems.

We, as citizens, must roll up our sleeves and pitch in. The health of a democratic society may be measured by the quality of the functions performed by private citizens.

Last year, I learned about a special partnership of some of our Nation's most influential and diverse organizations involved with our young people. This partnership, called the Character Counts Coalition, combines the resources and experience of more than 40 groups, and unites them in striving toward the common mission of reinvigorating—and in some cases reawakening—a strong sense of character in America's youth. This coalition is built upon the six core ethical values, which they refer to as the Six Pillars of Character.

Why do I say this partnership is special? Let me read a list of some of the groups that support and endorse the coalition and its Six Pillars. The American Federation of Teachers, the American Red Cross, the Association of College and University Religious Affairs, the Child Welfare League of America, 4-H, Little League baseball, the National Association of Catholic School Teachers, the National Association of State Boards of Education, the National Council of La Raza, the National Urban League, and the YMCA. This diversity of this group further supports the position that the Six Pillars have universal appeal and rise above any single religious, political, or social agenda.

As important, its council of advisers is as diverse as are its supporting organizations. The council members are William Bennett of Empower America; Marian Wright Edelman, president of the Children's Defense Fund; former U.S. Congresswoman Barbara Jordan; actor Tom Selleck; Nina Link, publisher of the Children's Television Workshop; and Sylvia Peters, a founding partner of the Edison Project and a top-notch educator. Again, this illustrates the coalition's bipartisan, broad-based support for its programs and objectives.

The Character Counts Coalition, its participating members, and its advisory council believe that strong character makes stronger individuals and thus a stonger nation. Each organization I mentioned earlier, as part of their membership in the coalition, has pledged to integrate more consistently and effectively character into new and existing programs.

I would like to mention that I am very proud that there is already considerable support for the Character Counts Coalition and the Six Pillars of Character in my home State of New Mexico. Six months ago, the Bel-Air public school in Albuquerque adopted the Character Counts program, and according to the assistant principal Dennis Romero, lessons on values are integrated into all class subjects and school activities. Thus far, school surveys report that the program is working, and school officials want to continue to develop the program as they analyze and evaluate its effectiveness over the next couple of years. I would like to have the Albuquerque Journal article about this innovative approach added at the end of my remarks.

In addition to the Bel-Air school program, on March 2, of this year, the Albuquerque public schools announced its resolution to endorse and implement Character Counts Program in the Albuquerque public schools. Among its decisions to promote the Six Pillars of Character and the Character Counts Program, the resolution states this important objective:

> That all schools examine school curriculum and practices to identify and extend opportunities for developing character, especially through the utilization of violence-prevention programs, mediation training, community service programs, fair rules which are fairly enforced, democratic practices in classrooms and organizations, and extracurricular activities which help students learn and model caring and ethical behavior.●

To say I am extremely proud of this creative approach to our public school education by the Albuquerque public schools is an understatement. This is what America's parents, families, State and local governments, and community organizations have been telling us for years—that character building is the responsibility of all of us, including our schools. I request that a copy of this resolution be made a part of the RECORD following my remarks.

We all are in this together. By these efforts today, Senator NUNN and I, and our colleagues—Senators DODD, MIKULSKI, COCHRAN, LIEBERMAN, and BENNETT—are stating for the RECORD that we can fully support the Six Pillars of Character. We support the Aspen declaration that states:

> The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.

We will continue our efforts in the days and months ahead to speak out about these Six Core Elements of Character and to find ways that will draw attention to these precepts in our work here in the Senate.

As a beginning, we invite all of our colleagues in the Senate to support this resolution. We want to see this resolution passed in both the Senate and in the House of Representatives, and have it signed by the President of the United States. We believe it sends a message of support to all those individuals and organizations who are working with such deep compassion for and commitment to America's youth. By passing this resolution, we are confirming our participation in this important national effort.

Mr. President, I ask unanimous consent that the joint resolution and additional materials be included in the RECORD.

S.J. RES. 178

Whereas young people will be the stewards of our communities, nation, and world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the nation;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character, and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by youth-influencing institutions and individuals to help young people develop the essential traits and characteristics that comprise good character;

Whereas character development is, first and foremost, an obligation of families, efforts by faith communities, schools, and youth, civic and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Congress encourages students, teachers, parents, youth and community leaders to recognize the valuable role our youth play in the present and future of our nation, and to recognize that character is an important part of that future;

Whereas in July 1992 the Aspen Declaration was written by an eminent group of educators, youth leaders and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states that "Effective character education is based on core ethical values which form the foundation of democratic society";

Whereas the core ethical values identified by the Aspen Declaration constitute the Six Core Elements of Character;

Whereas these Six Core Elements of Character are—

(1) Trustworthiness.
(2) Respect.
(3) Responsibility.
(4) Justice and Fairness.
(5) Caring.
(6) Civic Virtue and Citizenship.

Whereas these Six Core Elements of Character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states that "The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.";

Whereas the Congress encourages individuals and organizations, especially those who have an interest in the education and train-

ing of our youth, to adopt these Six Core Elements of Character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Congress encourages communities, especially schools and youth organizations, to integrate these Six Core Elements of Character into programs serving students and children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 16 through October 22, 1994, is designated as "National Character Counts Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to embrace these Six Core Elements of Character and to observe the week with appropriate ceremonies and activities.

[From the Albuquerque Journal, Mar. 15, 1994]

CHARACTER COUNTS FOR BEL-AIR PUPILS—RESPECT, FAIRNESS PART OF LEARNING

(By Tracy Dingmann)

"Remember R.A.K."—random acts of kindness—say the little pink and yellow signs posted all over Bel-Air Elementary.

Dotting the walls are bright blue certificates honoring "local heroes" for their good deeds.

And hand-lettered poems featuring "caring," the word of the month, decorate nearly every inch of the halls.

What's happening here?

It's called character education, and Bel-Air, at 4725 Candelaria NE, is the first Albuquerque Public Schools campus to give it a try.

Six months ago, Bel-Air adopted a national program called Character Counts, which advocates infusing students with six core values trustworthiness, respect, responsibility, fairness, caring and citizenship.

The program was developed two years ago during a conference in Aspen, Colo., by the Josephson Institute of Ethics, a consortium of religious groups, community leaders, educators, parents and students.

Last week, the Albuquerque Public Schools board unanimously endorsed putting Character Counts in all APS schools.

Bel-Air staffers use various methods to teach students about the values, from choosing films and books that reflect them to setting up play-acting situations, discussions and word games.

Lessons on values span all subjects and aren't confined to any class, says assistant principal Dennis Romero.

"There is no set curricula," he said. "The values are an umbrella under which we do other things."

The program has brought good things to Bel-Air, says school counselor Mary Jane Aguilar.

For example, the number of slips issued to students for discipline problems dropped from 64 in September to 17 in December, she said.

And a recent survey shows staffers heartily support the initiative and see an improvement in student behavior both in and outside the classroom.

Perhaps more importantly, kids report feeling the changed atmosphere.

"I feel safer," said fifth-grader Claire Long, who added she had often been picked on by her classmates. "Last year, I would just put my head down on my desk and cry two or three times a week."

Bel-Air principal Charles Lefkofsky said the school decided to pioneer Character Counts for APS after a parent told school workers they "weren't living in the real world."

Schools preach against fighting; but the parent said in "real life," kids have to stick up for themselves and fight back.

"We didn't realize it, but we had one set of rules, and the community had another," said Aguilar.

The problem isn't confined to the Bel-Air neighborhood, Aguilar said. "Violence as a first response really permeates our youth. It's like that all over the city. It doesn't matter where you are."

So the Bel-Air staff tackled the problem by inviting students and their families to learn a different way to react.

The staff began by crafting a definition for each of the six core values that all students could understand.

For example, responsibility was defined as: "You know what is expected. You do what is expected. Others can depend on you to know and do what is expected."

Making the words actually mean something to the children was harder than it sounds, Romero said.

Next, staffers identified certain actions associated with each word, such as "doing things without your mother reminding you" as examples of being trustworthy.

Lastly, they encourage students to "model" the value expressed in the word of the month.

To reward those who do good things, Bel-Air holds assemblies and hands out certificates.

The school gets the whole community involved by discussing the program at PTA meetings, bringing parents in to perform skits during assemblies, and posting inspirational messages on the school's marquee.

Though teaching values has improved the school's atmosphere, staffers at Bel-Air think the program will eventually benefit the students academically, too.

"If kids feel safe, then they're able to focus on academics, and not about who's going to beat them up after school," Romero said. "We're hoping test scores are going to reflect that, but we don't know. It might take a couple of years."

Launching the program districtwide recently won support from the board and the Albuquerque Teachers Federation, but staffers at Bel-Air say they have concerns.

The program won't work unless everyone at the school believes in it and wants to do it, said Aguilar. Also, she said putting the program together takes lots of work and time and there's no instruction manual for doing it.

"If they don't make a real commitment, it will all go by the wayside," she said.

RESOLUTION TO ENDORSE AND IMPLEMENT CHARACTER COUNTS PROGRAM IN THE ALBUQUERQUE PUBLIC SCHOOLS

Whereas, Albuquerque Public Schools reaffirms the need to join with other community groups to actively engage in the development and demonstration of ethical behavior among youth and adults, and

Whereas, the mission of Albuquerque Public Schools is to provide learners of all ages the skills and knowledge needed to become successful and productive members of a dynamic society, and

Whereas, the Albuquerque Public Schools recognizes that students in our schools are more likely now than in the past to experience family disintegration, homicide, drug use, teen age pregnancy, dishonesty, suicide, and strong messages from media and society that undermine home teaching of ethical values, and

Whereas, the Albuquerque Public Schools recognizes that no single community institution can instill ethical behavior in youth and adults if it is acting without the support of other institutions and groups, and

Whereas, the Albuquerque Public Schools recognizes the important role played by teachers and other adults in school settings in modeling good character for young people

Now, therefore, be it resolved:

1. That the Albuquerque Public Schools endorses the Aspen Declaration on Character Education as well as the Character Counts Program as ways to develop character based on six core ethical values: trustworthiness, respect, responsibility, fairness, caring, and citizenship;

2. That the Albuquerque Public Schools will enter into community-wide discussions with other institutions and groups to reach agreements about the role of each in promoting ethical behavior among young people and adults in various aspects of life;

3. That the Albuquerque Public School District is committed to creating models of ethical behavior among all adults who serve students and school;

4. That the core curriculum should continue to give explicit attention to character development as an ongoing part of school instruction;

5. That the materials, teaching methods, partnerships, and services to support school programs shall be selected, in part, for their capacity to support the development of character among youth and adults;

6. That all schools examine school curriculum and practices to identify and extend opportunities for developing character, especially through the utilization of violence-prevention programs, mediation training, community service programs, fair rules which are fairly enforced, democratic practices in classrooms and organizations, and extracurricular activities which help students learn and model caring and ethical behavior.•

• Mr. COCHRAN. Mr. President, we are at a critical point in our country today. We can either choose the path toward anarchy—more violence, more crime, more high school dropouts, more broken families, and other problems which have become all too familiar. Or, we can take the path toward more personal involvement with our families, churches, communities, and political institutions and try to be a more positive and stronger influence on the lives of others.

Our democratic society provides Americans with the greatest individual freedom of any country in the world but it also demands that each of us take responsibility for its preservation. Dramatic increases in crime and a general disregard for the well-being of others threaten the very foundation of our democratic society. The growing incidence of crime among young people is particularly disturbing. It is a threat to our country's future.

Families, churches, teachers, and communities all help shape the attitudes of children.

We all share in the responsibility of teaching and setting examples for our children. Parents and other family

members, of course, are the first and most influential teachers, but everyone contributes to a child's development.

The coalition of eight Senators who have come together to introduce this joint resolution will continue to work to support education initiatives and other activities to help instill ethical values into our nation's young people.

I am convinced that by building a strong personal sense of character—as described in the six core elements of character outlined in this joint resolution of trustworthiness, respect, responsibility, justice and fairness, caring, and civic virtue and citizenship—we will help young people stand up to challenges and contribute positively to the communities in which they live.

We must choose the right path today. I am pleased to join in sponsoring this resolution to designate October 17 through 21, 1994 as "National Character Counts Week." Once adopted, this resolution will increase public awareness of the six pillars of character and focus attention on taking the right path—a path toward national strength and guaranteeing that America stays on the right track. I urge other Senators to support the joint resolution.●

ADDITIONAL COSPONSORS

S. 266

At the request of Mr. SIMON, the name of the Senator from New York [Mr. MOYNIHAN] was withdrawn as a cosponsor of S. 266, a bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement.

S. 984

At the request of Mr. SIMON, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 984, a bill to prevent abuses of electronic monitoring in the workplace, and for other purposes.

S. 1021

At the request of Mr. INOUYE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1021, a bill to assure religious freedom to Native Americans.

S. 1028

At the request of Ms. MIKULSKI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1028, a bill to provide for the income tax treatment of certain distributions under a governmental plan.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. DURENBERGER] 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. 1805

At the request of Mr. WARNER, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1884

At the request of Mr. SIMPSON, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1884, a bill to amend the Immigration and Nationality Act to reform asylum procedures, to strengthen criminal penalties for the smuggling of aliens, and to reform other procedures to control illegal immigration to the United States.

S. 1894

At the request of Mr. MCCAIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1894, a bill to amend chapters 83 and 84 of title 5, United States Code, to provide that the cost-of-living adjustment of the annuities of Members of Congress may not exceed the cost-of-living adjustment of certain social security benefits, and for other purposes.

S. 1949

At the request of Mr. LAUTENBERG, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1949, a bill entitled the "Mercury-Containing and Rechargeable Battery Management Act".

SENATE JOINT RESOLUTION 160

At the request of Mr. RIEGLE, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Joint Resolution 160, a joint resolution to designate the month of April 1994, as "National Sudden Infant Death Syndrome Awareness Month," and for other purposes.

SENATE JOINT RESOLUTION 166

At the request of Mr. SPECTER, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Tennessee [Mr. MATHEWS], the Senator from New York [Mr. D'AMATO], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. CONRAD], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 166, a joint resolution to designate the week of May 29, 1994, through June 4, 1994, as "Pediatric and Adolescent AIDS Awareness Week."

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. WOFFORD, the names of the Senator from Ohio [Mr. GLENN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Vermont [Mr. LEAHY], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution to express the sense of the Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. D'AMATO, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution expressing the sense of the Congress that the President should not have granted diplomatic recognition to the former Yugoslav Republic of Macedonia.

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the names of the Senator from Utah [Mr. BENNETT], the Senator from North Dakota [Mr. CONRAD], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

SENATE CONCURRENT RESOLUTION 64—RELATIVE TO GUATEMALA

Mrs. MURRAY (for herself, Mr. JEFFORDS, and Ms. MOSELEY-BRAUN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 64

Whereas, following more than a year's hiatus, formal negotiations to bring an end to the 33-year armed conflict in Guatemala and establish conditions for democracy in Guatemala have resumed under United Nations mediation between the Government of Guatemala and the armed opposition, the Guatemalan National Revolutionary Union;

Whereas systematic human rights violations are committed with impunity against Guatemalan civilians, especially members of the indigenous population, by government security forces and by the Civil Self-Defense Patrols acting under their authority;

Whereas the Organization of American States has found that the Civil Self-Defense Patrols are a "source of human rights violations" and should be "disbanded or reorganized";

Whereas the Organization of American States has found that in Guatemala there have been serious "cases of arbitrary arrest, illegitimate deprivation of liberty, isolation, and torture and execution without trial" of individuals, including the husband of United States citizen Jennifer Harbury and other members of the Guatemalan National Revolutionary Union who are held by various government security forces;

Whereas the Organization of American States has determined that the Communities of Populations in Resistance, which have been harassed by government armed forces and the Civil Self-Defense Patrols, are civilian communities;

Whereas the Organization of American States has called on the Government of Guatemala to "take a clear stand on the grave problems that obstruct the full observance of human rights, set well defined goals, and schedule policies for attaining them";

Whereas the security of repatriated refugees in Guatemala, of internally displaced civilians, and of the Communities of Populations in Resistance remains at risk due to continued military attacks; and

Whereas there has been little substantive progress in bringing to justice all of those responsible for the murder of United States citizen Michael Devine, the abduction and torture of United States citizen Dianna Ortiz, and the murder of anthropologist Myrna Mack Chang: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) commends the President of Guatemala, Ramiro de Leon Carpio, and the leaders of the Guatemalan National Revolutionary Union for establishing a framework for formal negotiations, under the mediation of the United Nations, designed to bring an end to more than 30 years of internal armed conflict and set Guatemala on the road to democracy;

(2) commends the leaders of the various segments of civilian society, under the leadership of Bishop Rodolfo Quezada Toruno, for their role in articulating the concerns of all sectors of Guatemalan society and for bringing critical issues onto the agenda of the peace negotiations;

(3) calls on President de Leon Carpio and all parties in the negotiation process to proceed in the spirit of the Oslo Accords to achieve peace by political means, to the end that a final, binding, and verifiable agreement will be attained before the end of 1994;

(4) calls on the Group of Friends of the peace negotiations (Colombia, Mexico, Spain, Venezuela, Norway, and the United States) to continue and intensify their support of the peace negotiations through diplomatic initiatives and dialogue with all parties;

(5) calls on President de Leon Carpio to immediately develop a measurable and substantive plan to end grave human rights abuses, in compliance with internationally recognized human rights standards, Guatemala's national constitution, and the recommendations of the Inter-American Commission on Human Rights, a part of the Organization of American States;

(6) calls on President de Leon Carpio, as a sign of good faith and a contribution to peace, to immediately disband the Civil Self-Defense Patrols, which are one of the major sources of human rights violations in Guatemala;

(7) calls on President de Leon Carpio to ensure the safety of the returnees, recognizing their rights to reintegrate into Guatemalan society, in full compliance with the Accord of the Permanent Commissions of the Guatemalan Refugees in Mexico and the Government of the Republic of Guatemala, signed in Guatemala on October 8, 1993, that determines the conditions and understandings under which certain Guatemalan refugees may be repatriated;

(8) calls on President de Leon Carpio to recognize the civilian character of the Communities of Populations in Resistance, ensuring their security and their right to peaceful integration into Guatemalan society with the full exercise of rights and liberties guaranteed under Guatemala's national constitution; and

(9) calls on the Executive Branch of the United States Government to condition all assistance to Guatemala, with the exception of humanitarian and development assistance, on achieving concrete and significant progress with respect to—

(A) full compliance with the recommended precautionary measures of the Inter-American Commission on Human Rights, a part of the Organization of American States, including resolution of concerns involving clandestine prisons;

(B) the continuation of the peace process;

(C) substantive improvement in the protection of human rights;

(D) the dissolution of the Civil Self-Defense Patrols;

(E) the guaranteed safety of refugees, returnees, and the internally displaced;

(F) verifiable resolution of the Devine, Ortiz, Harbury, and Mack cases; and

(G) the strengthening of the various segments of civilian society, which are essential to the establishment of genuine democracy in Guatemala.

Mrs. MURRAY. Madam President, today I rise, along with my colleagues, Senators JEFFORDS and MOSELEY-BRAUN, to submit a concurrent resolution in support of the Guatemalan peace process and the urgent need for greater protection of human rights in Guatemala.

After more than thirty years of civil war and a staggering human toll, Guatemala is finally and firmly on the path to peace. However, although great strides have been made in pursuit of a permanent and verifiable peace in Central America's last remaining civil war, the human rights climate in Guatemala continues to be distressing.

The Department of State's assessment of Guatemala in its human rights report for 1993 states that, "Although there were improvements in the human rights situation in 1993, serious abuses occurred frequently. Statistics prepared by the Archbishop's Human Rights Office showed an increase in extrajudicial killings as of mid-December and a substantial increase in forced disappearances, with no improvement in other categories." The State Department goes on to report that, "The civil patrols, military and police continued to commit a majority of the major violations, including extrajudicial killings, political kidnapings, and death threats."

The resolution we are introducing today calls on President Clinton to ensure that all but humanitarian and development assistance to Guatemala be conditioned on improved human rights, progress in the peace process, the strengthening of civil institutions, and the resolution of a number of long-standing and troubling human rights cases.

Specifically, the bill calls for the verifiable resolution of several important human rights cases, including the murders of U.S. citizen Michael Devine and anthropologist Myrna Mack Chang, the abduction and torture of Sister Dianna Ortiz, and the arrest and torture of the husband of Jennifer Harbury. Both Sister Ortiz and Jennifer Harbury are U.S. citizens.

These cases have languished too long, and no real and permanent peace can be achieved until they, and other cases like them, are resolved.

The President of Guatemala, Ramiro de Leon Carpio, the leaders of the Guatemalan National Revolutionary Union, and civilian leaders are to be commended for their efforts to force a lasting peace, but basic human rights standards must be achieved for any peace agreement to succeed. The Civil Self-Defense Patrols must be disbanded and the safety of refugees and returnees must be guaranteed so that the people of Guatemala will be able to embrace peace without fear of reprisals or acts of terror.

The government of Guatemala must recommit itself to the establishment of a strong and independent judicial system, and broadened democratic rights for its people.

The resolution we are introducing today acknowledges the advances that have been made in a number of areas, but firmly states the resolve of the United States Congress that any further U.S. assistance depends directly on Guatemala's progress on human rights and its efforts towards a just and lasting peace.

I urge my colleagues to join me, Senator JEFFORDS and Senator MOSELEY-BRAUN in cosponsoring this important resolution, which seeks an end to oppressive human rights conditions and a new beginning of hope and prosperity for the people of Guatemala.

SENATE CONCURRENT RESOLUTION 65—RELATING TO CHILDREN IN POVERTY

Mr. LEAHY submitted the following concurrent resolution; which was referred to the Committee on the Agriculture, Nutrition, and Forestry:

S. CON. RES. 65

Whereas the special supplemental food program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) saves medical costs by preventing low birth weight, reducing anemia, and increasing immunizations;

Whereas a study conducted by the General Accounting Office concluded that WIC reduces the incidence of very low birth weight by 44 percent;

Whereas a 1993 study conducted by the Secretary of Agriculture found that savings attributable to WIC, due to the reduction of very low birth weight, ranged from $2,300,000 in Florida to $4,500,000 in North Carolina in reduced medical assistance costs under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

Whereas a study released by the Secretary of Agriculture in 1991 demonstrated that for each dollar spent on a pregnant woman under the WIC program, the associated savings in medical assistance costs for illnesses beginning in the first 60 days after birth ranged from $1.92 to $4.21 for newborns and mothers and from $2.98 to $4.75 for newborns only;

Whereas a study conducted by the General Accounting Office found that WIC benefits provided to all eligible pregnant women would more than pay for themselves in 1 year and would avert more than $1,000,000,000 in health-related costs over an 18-year period;

Whereas the WIC program reduces iron deficient anemia, which affects 25 nearly percent of poor children in the United States and is associated with impaired cognitive development and increases in the risk of lead poisoning;

Whereas the WIC program reduces fetal death and infant mortality;

Whereas the United States ranks below 20 other countries in infant mortality rates and behind 73 other countries in percentage of infants born at low birth weigh;

Whereas the Tufts University Center on Hunger, Poverty, and Nutrition Policy found that even short-term undernutrition jeopardizes the physical health, brain development, and cognitive functioning of young children;

Whereas 4- and 5-year olds whose mothers participated in the WIC program during pregnancy demonstrate higher vocabulary test scores, and children who participated in the WIC program after the 1st birthday of the children score higher on memory tests;

Whereas in 1991 corporate executive officers of 5 major corporations testified at a congressional hearing about the need to fully fund the WIC program by 1996 and concluded that "each pregnant woman, infant, and child who could benefit from WIC but is left out of the program represents a potential drain on budgetary outlays in subsequent years and on our Nation's future economic growth, not to mention a tragic loss in human potential";

Whereas more than 3,000,000 women, infants, and children are eligible but are not currently served by the WIC program; and

Whereas 1994 is the 20th anniversary of the WIC program: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the "A Child is Waiting Resolution".

SEC. 2. SENSE OF CONGRESS ON FULL FUNDING FOR WIC PROGRAM.

It is the sense of Congress that—

(1) any health care reform legislation passed by Congress include guaranteed full funding for the special supplemental food program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) so that all eligible women, infants, and children who apply could be served by the end of fiscal year 1996 and full funding could be maintained through fiscal year 2000; and

(2) at least $3,564,000,000, should be made available for fiscal year 1995 to move toward the full funding goal described in paragraph (1).

Mr. LEAHY. Mr. President, every fifth child in America lives in poverty. Fifteen percent of our homeless population are children. Their numbers are increasing faster than any other segment of the homeless population. Better than four in 10 recipients of emergency food assistance are children.

I am joined today by my friend and colleague, Senator JIM JEFFORDS, in introducing a resolution that expresses a bipartisan effort to reverse these trends. Vermont puts partisan differences aside when it comes to feeding children. In a show of support for the Women, Infants and Children [WIC] feeding program, Vermont will be the first State in the union to mark the twentieth anniversary of this program. On Monday, April 4, Agriculture Secretary Mike Espy will join us in Burlington to celebrate the occasion.

WIC deserves special recognition. It feeds hungry infants and children, prevents low birthweight, reduces anemia and increases childhood immunizations. WIC ranks among the most successful nutrition and health programs anywhere. It dispenses food, educates the public on proper nutrition, health assessments and medically prescribed supplements. It also saves the American taxpayer lots of money.

The resolution that Mr. JEFFORDS and I offer today guarantees that full funding of the WIC program will be included in any health care reform approved by Congress.

The initiative has the support of Bread for the World, which has worked tirelessly, for two decades, on behalf of America's children. Let me pause here to thank this great, humanitarian organization and the participating churches and committed membership, who has worked so hard, for so long, in support of the WIC program. They have kept the issue of childhood poverty squarely in the forefront of our national conscience.

President Clinton strongly supports full funding of WIC in his Health Security Act, which Senator JEFFORDS courageously supports with members on this side of the aisle.

Greater investment in WIC produces immediate savings in federal health care spending. For every dollar spent on proper nutrition and a healthy diet can save 3 dollars in medical costs related to undernutrition and poor health later on. It adds a practical dimension to our moral responsibility to support this program.

The United States ranks below 20 western countries in infant mortality. The richest, most powerful nation on earth ranks 74th in percentage of low birthweight infants. A WIC program capable of helping every eligible American family will dramatically reversed this shameful statistic.

A General Accounting Office report showed that WIC reduced the incidence of very low birth weight by 44 percent. A study released by the Secretary of Agriculture last year showed dollar savings in reduced Medicaid costs ranged from $2.3 million in Florida to $4.5 million in North Carolina.

GAO calculated that the government investment paid for itself within a year—and averted $1 billion more in medical expenses through the age of 18.

Savings are generated when fewer newborns need emergency, intensive medical care. It stand to reason that healthier babies mean fewer medical problems.

Low birthweight infants are at greater risk to developmental handicaps, birth defects, infectious diseases, behavior problems and other complications.

Failure to take preventative steps by providing proper nutrition drives up the cost of health care and contributed to the crisis that is crippling our economy.

Vermont has long recognized WIC as a prudent investment in America's future. We are one of the few States that provides services to every eligible applicant.

But despite WIC's 20-year record of outstanding public service, there are millions of eligible women, infants and children who receive no benefits.

They are cut off—not because they weren't entitled—but because there wasn't money enough in the program to meet their need.

Mr. President, a child needs our help. Health care reform provides this Congress a historic opportunity to ensure guaranteed full funding of the WIC program through the year 2000.

I applaud the vision of the President and his courage in including WIC full funding in his health care package. This resolution asks that WIC full funding be a part of whatever health care reform is passed by the Congress. It is my hope that each of my colleagues will share this vision and join with Senator Jeffords and me as cosponsors of this resolution.

• Mr. JEFFORDS. Mr. President, I am pleased today to join Senator LEAHY in introducing a resolution calling on Congress to include full funding for the Special Supplement Food Program for Women, Infants and Children in whatever health package is enacted.

I am confident that health care reform will pass, and I commend Senator LEAHY for his leadership on this issue. No one has done more for nutrition programs than he, and this is but one more example of his dedication.

In this, he is following in the footsteps of another Vermonter and chairman of the Agriculture Committee, George Aiken, who reportedly espoused a rather simple approach to designing Federal nutrition programs for children. It was: "Feed them all." While in these days of tight budgets we may not be able to fulfill that vision, we should at least feed all of the women, infants and children who qualify for the WIC program based on financial and nutritional need.

Senator LEAHY has thoroughly outlined the purpose and dramatic results of the WIC program. The only point I would add is one that came out in testimony before the Labor Committee 2 weeks ago. Dr. Deborah Frank came before the committee to testify on energy assistance, but the point she made is just as important here.

Dr. Frank is a pediatrician in Boston. For 3 years, she and her colleagues have studied children passing through the emergency room of Boston City Hospital. They found that although the conventional scientific wisdom is that seasonal malnutrition is a phenomenon limited to preindustrialized societies, the conventional wisdom is wrong. In

Boston, and no doubt throughout America, when it gets cold, more money is consumed by fuel bills, and less money is available to feed children. As temperatures fall, children lose weight.

The children followed in this study were almost all poor and all were between 6 and 24 months old. These infants and toddlers were at a critical stage in their development, when brain growth should be rapid. We don't know what will happen to each of them. But we do know that malnourished children are at greater immediate health risk, and at greater risk for long term effects such as failure in school and deficits in attention and social behavior.

The impact that WIC could have on these children is enormous. And the impact on women and newborns in the WIC program, as Senator LEAHY has noted, is even more dramatic.

If there is one theme that runs through the debate on health care, I think it is that we devote far too little attention to preventive care in our country. From the most conservative Republican to the most liberal Democrat, I think you would find near universal agreement that we need to change the design of our current system to focus more on promoting and rewarding wellness rather than reacting to sickness.

That is why I hope we can get overwhelming support from our colleagues on this resolution. Every one of us, regardless of our feelings toward the larger issues of health care reform, should be able to agree that the WIC program should be part of the health care package that is ultimately adopted by the Congress and sent to the President.

The WIC program has been in place for 20 years now, and we know that it works. It is the very low-cost, low-tech type of preventive intervention that we all want to emphasize in our health care system. And it saves money, both for the Federal Government and society as a whole.

But most importantly, it saves lives. And if that isn't what health care reform is all about, then we had better reexamine our purpose. WIC may not have received the notice of the other components of heath care reform, but it is every bit as important.

President Clinton was right to include full funding of WIC in the health care bill he introduced. Now it is up to all of us—in Congress and across the country—to make sure it is in the bill he signs. I know we will have great support in our efforts, and I particularly want to commend Bread for the World for its support of the WIC program, and for the compassion, commitment and common sense of its many members.

A child is waiting, Mr. President. A child is waiting for the food shelf to open tommorrow morning, for the food stamps next week to replace those exhausted, for the delivery of surplus commodities who knows when. A child is waiting for the sustenance and medical attention of the WIC program. And a child is waiting for we adults, who are entrusted by the Constitution and our own oath for her care, to finally fulfill the promise of equality that for too many is now belied by an empty belly.

Again, I deeply appreciate the leadership demonstrated by the President on this issue. And I commend Senator LEAHY for once again advancing the cause of nutrition in our country. I look forward to, and will work to secure, the overwhelming support of our colleagues.●

SENATE RESOLUTION 193—RELATIVE TO INTERNATIONAL NUCLEAR SAFETY STANDARDS

Mr. GRAHAM (for himself, Mr. BIDEN, Mr. LIEBERMAN, Mr. JEFFORDS, and Mr. BRYAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 193

Whereas there are more than four hundred nuclear power plants located in a total of thirty-three nations of the world;

Whereas there is a great disparity in the level of safety of the nuclear power plants currently in operation;

Whereas the accident in 1986 at the Chernobyl nuclear power plant demonstrated that the risks of a serious accident at nuclear power plants are not a remote or theoretical concern;

Whereas the accident at the Chernobyl nuclear power plant demonstrated that an accident at a nuclear power plant in one nation may cause damage to human health and the environment in many other nations;

Whereas the accident at the Chernobyl nuclear power plant demonstrated that the damages from a nuclear power plant accident may include a loss of human and animal life and serious long-term radiological contamination of the natural environment;

Whereas the construction of new nuclear power plants in nations that do not possess the regulatory and technological infrastructure to safely construct and operate nuclear power plants may pose unreasonable risks to human health and the environment in many nations;

Whereas there is evidence that nations which have not developed the technical capability to safely construct and operate nuclear power plants may attempt to construct and operate nuclear power plants;

Whereas it is important to the citizens of all nations of the world that all practicable measures should be taken to avoid accidents and eliminate any unreasonable risks to the human health and the environment that may be posed by currently operating nuclear power plants;

Whereas it is important to the citizens of all nations of the world that new nuclear power plants should not be constructed or allowed to operate if such plants will pose any unreasonable risks to human health and the environment;

Now, therefore, be it *Resolved* That,

SEC. 1. The United States support the development of an international convention on nuclear power plant safety;

SEC. 2. The United States support the inclusion of effective safety standards for the design, construction, and operation of existing nuclear power plants and for the design, construction, and operation of new nuclear power plants in an international convention on nuclear power plant safety;

SEC. 3. The United States support an international prohibition on the export of nuclear power plant technology and equipment to any nation that has not agreed to abide by the international convention on nuclear power plant safety; and

SEC. 4. The United States support the role of the International Atomic Energy Agency in implementing the international convention on nuclear power plant safety.

SEC. 5. The United States support meetings of the potential parties to the international convention on nuclear power plant safety to discuss the terms of the convention so that the convention would be open for signature and ratification by April, 1996.

● Mr. GRAHAM. Mr. President, today I am submitting along with Senators BIDEN, LIEBERMAN, BRYAN, and JEFFORDS, a resolution to encourage the United States to support the development of an international convention on nuclear power plant safety. The purpose of this convention would be to establish effective international safety standards for the design, construction, and operation of both existing and new nuclear power plants. Additionally, nations that agreed to abide by the standards of this convention would also agree not to provide commercial nuclear technology or assistance to nations that did not agree to abide by these standards.

Mr. President, nuclear safety is an international issue. The accident at the Chernobyl nuclear power plant in the Ukraine demonstrated that releases of radiation into the natural environment do not respect political boundaries. The West first learned of the Chernobyl accident when radiation alarms went off at a nuclear power plant in Sweden. The fallout from the accident affected milk, cheese, and other farm products in Poland and Germany; it contaminated reindeer in Scandinavia; and it caused the slaughter of sheep in England.

This is not just a European problem. It is a problem for the United States as well. The United States could be affected by fallout from a European accident, or more severely affected by radiation released from an accident closer to our borders.

The dangers that could be posed by an unsafe nuclear power plant near the United States were brought home by Cuba's recent attempts to construct two nuclear power plants. Fortunately, Cuba was forced to abandon the construction of these two units last year when the Russians stopped providing financial and technical assistance.

During the construction of these plants, there were a number of allegations from Cuban defectors, and from Americans who studied the designs of these plants, that there were serious

defects in the design and construction of these plants. Additionally, a number of American and international nuclear safety experts were concerned that Cuba did not possess the technical resources and infrastructure necessary to safely operate a nuclear power plant. The problems with the Cuban plants were well documented in a 1992 U.S. General Accounting Office [GAO] report on the safety of these plants. A country such as Cuba—which does not have even enough technical equipment to harvest all of its sugarcane mechanically—cannot be able to construct, operate, and maintain the safe operation of a nuclear power plant.

As part of the GAO's report on the safety of the Cuban plants, the National Oceanic and Atmospheric Administration [NOAA] analyzed the potential pathways for radioactivity that might be released if there were an accident at a nuclear power plant located in Cuba. The NOAA analysis showed that all of Florida and portions of Gulf States as far west as Texas could be affected if the accident occurred in the summertime. Areas as far north as Virginia and Washington, DC, could be affected if the accident occurred in the wintertime. Hence, no nation—including the United States—is immune from the dangers of an accident at a nuclear power plant in another nation.

Even if the releases from an accident are small, the fear of radiation could cause devastating losses for agricultural and livestock industries downwind from the accident. Who would feed strontium-laced milk to a child? Who will eat meat that is inspected and found only to pose "no undue risk" to public health and safety? The Chernobyl accident caused serious economic losses in several European nations just as a result of fear of adverse health effects arising from low levels of radiation. This experience serves both as and example and a warning of the possible consequences of an accident at an unsafe nuclear powerplant.

The concerns over the possible effects of an accident at a nuclear power plant are not hypothetical. They are real. We already have had one major accident. It is very possible that the world may have the misfortune to experience one or more additional accidents.

There are many Chernobyl-style reactors still in operation. Other types of nuclear power plants with unsafe designs also are in operation. Furthermore, more unsafe reactors may come into operation in the future.

There is a significant body of international expert opinion that many of the reactors that were designed in the former Soviet Union are unsafe and should be shut down as soon as possible. The United States Department of Energy and the United States Nuclear Regulatory Commission have studied the safety of Soviet-designed reactors. In June of last year the NRC and the DOE issued a joint report to the Congress on what the United States was doing to improve the safety of these reactors. In this report the NRC and the DOE concluded as follows:

> International concern over the operation of Soviet-designed reactors remains substantial. These plants have significant weaknesses in the areas of operational safety and design. The designs of RBMKs (Chernobyl-type reactors) and VVER-440/230s are particularly inconsistent with current Western safety standards. They cannot practically be upgraded to meet contemporary standards for safety and should not be operated any longer than necessary * * * The likelihood of a serious accident from their plants is considered too high.

According to the DOE and NRC, the major deficiencies in the Chernobyl-style reactors included "fundamentally unstable reactor design and poorly designed systems for shutdown of the reactor; a lack of separation and redundancy in critical safety systems, little or no fire protection, and no containment system." There are 13 of these reactors in operation.

In addition to the Chernobyl-style RBMK's, Soviet-designed VVER440/230's do not meet western safety standards. Ten of these reactors are in operation. The safety deficiencies with these reactors include a lack of separation and redundancy in critical safety systems, inadequate fire protection, insufficient safety systems to cope with leaks, and lack of an effective containment or confinement system.

A recent "60 Minutes" program highlighted the safety problems with nuclear power plants in India. These plants have not been built according to accepted international principles of nuclear safety. They have a notoriously poor operating record. A severe fire at one of India's nuclear plants last year caused the shutdown of a number of these plants. The exact degree of danger to the people of India and the international community is unknown, since India does not permit international inspections of its plants.

The problem of unsafe nuclear reactors is not confined to those reactors currently in existence. A number of lesser-developed countries currently are interested in developing or expanding their use of nuclear energy to generate electricity. The expansion of the use of nuclear energy in these nations may likely pose further serious risks to the public health and safety.

For example, to alleviate its dire energy crisis, Armenia may try to reactivate the two units at Medzamar nuclear power plant that were shut down for safety reasons after the earthquake in Armenia in 1989. These units were not built to western seismic standards. They also lack other basic features that are considered essential to safety by western experts.

There are reports that China may assist Iran in the construction of a nuclear power plant. Egypt is considering whether to use nuclear energy to generate electricity to deal with the increasing demand for and cost of electricity. India may expand its use of nuclear energy, even though its current reactors have significant safety problems. Indonesia also is interested in using nuclear energy to meet a rapidly growing demand for electricity.

Many of the lesser developed countries that are interested in using nuclear energy do not yet have the technological infrastructure to design, construct, operate, and maintain safe nuclear power plants. To have an adequate technological infrastructure to support the safe use of nuclear energy, it is necessary to have the industrial capacity to manufacture the components for nuclear power plants; the capacity for sophisticated construction according to rigorous quality assurance requirements; institutions to educate and train people to design, construct, and operate nuclear power plants and to understand the properties of nuclear materials; public institutions and private organizations to understand and address the environmental and public health issues arising from the use of nuclear energy; and separate and independent governmental organizations to oversee and regulate the use of nuclear materials.

Developing this type of infrastructure is no small task; on the contrary, it requires a long-term commitment of significant national resources. In order to have a safe nuclear energy program, many of the lesser developed countries that would like to use nuclear energy would have to rely upon other nations for assistance in one or more of these areas.

Mr. President, at present there are no binding international nuclear safety standards. There is no internationally agreed-upon baseline to judge the safety of any of the existing nuclear power plants or any nuclear power plant that may be built in the future. To date, the International Atomic Energy Agency [IAEA] has established safety fundamentals, standards, guides, and practices, but these are not binding. They are general and advisory. IAEA members are not required to adhere to them.

In November 1991, the Subcommittee on Nuclear Regulation—which I chaired at the time—held a hearing on whether there should be binding international nuclear safety standards. Just prior to this hearing, the members of the IAEA had agreed to develop a framework convention for the establishment of international nuclear safety standards.

At this hearing I expressed my strong support for the development of binding standards. At the hearing, all the witnesses from the U.S. Government—the Nuclear Regulatory Commission, the Department of Energy, and the Department of State—supported the goal of

developing the framework convention for international standards. Also at the hearing, Morris Rosen, representing the IAEA, testified in favor of the development of binding international safety standards.

At about the same time the General Accounting Office [GAO] also issued a report on international nuclear safety. The GAO recommended that the United States support the development of international safety standards.

As I will describe in more detail later, some progress has been made towards implementing these recommendations, but much more still needs to be done.

Mr. President, given the current situation—in which both safe and unsafe reactors are in operation—and the potential for proliferation of unsafe reactors, the United States should support the development of an international agreement to establish minimum safety standards for these plants. The development of these standards would provide a common baseline for judging the safety of nuclear power plants throughout the world. These standards also would provide a common indicator by which to judge the appropriateness of commercial nuclear assistance provided to other nations. These standards should make it easier to determine which of the existing plants should be shut down, which modifications are needed for others and which plants are acceptable.

Following the IAEA's initial recommendation for an international nuclear safety convention, the United States and other members of the IAEA have been negotiating an international convention to improve nuclear safety. The convention may be ready for signature later this year. The convention that has been negotiated is only a first step toward improving international nuclear safety. Even if this agreement is signed and implemented, more will need to be done.

The international convention that is under negotiation would not create binding international nuclear safety standards. It is oriented more toward ensuring that each country have a process for ensuring safety rather than towards establishing a baseline level of safety. It is designed to help establish a worldwide safety culture rather than world wide safety standards.

The proposed convention would call for adherence to general safety principles, as opposed to specific technical standards. These general safety principles are very broad and provide only the most basic concepts for the safe regulation and operation of nuclear powerplants. For example, these general safety principles would call on each country to take such general measures as to establish an agency to regulate and license nuclear poserplants; to consider technical issues regarding plant safety over the lifetime of the plant; and to require that there be a safety management system for nuclear powerplants. A peer review process would be used to review each nation's adherence to these goals and principles.

Under the peer review mechanism contemplated by this convention, the parties to the convention would meet periodically to receive reports on reactor safety prepared by the countries that had agreed to the convention. At these periodic meetings there would be a peer review of these reports by technical experts from the various other countries that had signed the convention.

Mr. President, to improve international nuclear safety it is necessary to establish some minimum safety standards. Without the establishment of a minimum standard, there may not be sufficient improvement in international nuclear safety. Under the convention that is now being negotiated, each nation would be able to state that it has established a process for ensuring safety, and that therefore its rectors are safe.

Clearly, this is not enough. How will the international community be able to judge the safety of reactors if there is not some minimum standard to apply? What will the peer review process seek to attain if not some minimum level of safety? The international community should seek stronger assurances that reactors are being safely operated. Certainly, adherence to international safety standards would provide more credible assurances of safe operation than peer review.

A minimum standard of safety is especially important for reactors that may be built in the future. A set of minimum standards would serve notice as to what the international community considers acceptable and what the international community considers unacceptable in terms of creating risks to other countries.

A system of international inspections would be necessary to determine compliance with these standards. Without any such inspections, we can only speculate on the safety of the plants in other countries. There is no substitute for a first-hand, independent on-site examination of a nuclear powerplant. Self-made reports have a tendency to be self-serving. Independent examination is more reliable. An international safety agreement therefore should also provide for an agreement to allow international inspection to determine compliance with the standards.

I want to make it clear that I do not advocate the creation of a worldwide, international equivalent of the Nuclear Regulatory Commission. Nuclear safety must remain the responsibility of the powerplant operators and the national regulatory bodies. The international community should not have the authority to impose civil penalties or take other enforcement actions that are traditionally the responsibility of a national regulatory body. Rather, international standards should be enforced by sanctions that are uniquely international in nature.

A strong incentive to comply with international safety standards would be to deny nuclear assistance for reactors under construction in countries that have not agreed to abide by these standards. For example, nations that agreed to the standards would also agree not to provide financial loans, guarantees, or grants to projects that did not comply with the international nuclear safety standards. Similarly, international lending institutions would be discouraged from providing such financial assistance. Additionally, signatory nations would agree to prohibit the export of commercial nuclear technology if the importing country did not agree to abide by at least the minimum international nuclear safety standards.

At least with respect to new reactors, nations that do not intend to comply with international nuclear safety standards or that do not permit international inspections of their facilities should not be able to obtain commercial nuclear assistance from nations that are in compliance.

This type of international enforcement mechanism would be similar to the system that has been established to prevent the proliferation of nuclear weapons technology. IAEA members have agreed that civilian nuclear technology or materials will not be provided to nations that do not agree to accept IAEA safeguards to prevent that technology or materials from being used for noncivilian purposes.

There are a host of restrictions under United States and international law for the transfer of technology to nations that do not adhere to the international system of safeguards and inspections to prevent the nonproliferation of nuclear weapons technology and materials. Oddly enough, there are almost no restrictions on the transfer of technology that may be used for unsafe nuclear reactors. If the international community can restrict the export of nuclear technology that will pose an unacceptable risk of contributing to nuclear weapons proliferation, then the international community also should be able to restrict the export of nuclear technology that will pose an unacceptable risk of a nuclear accident. Restrictions on technological assistance would therefore be the primary method by which the international nuclear safety standards would be enforced.

I have outlined a variety of tools that the United States should use or develop to improve international nuclear safety. We should encourage the creation of binding international nuclear safety standards. We should insist upon a system of international inspec-

tion for nuclear reactors. We should develop a regime to prevent the proliferation of unsafe nuclear technology. The resolution I am introducing today encourage the United States to support an international nuclear safety convention to accomplish these goals.

International nuclear safety is not an obscure or remote issue only for people in far away places. It is an issue that could affect the health and welfare of many Americans. It is an important issue for us here at home. I hope that we will see more progress on this issue in the near future, and I urge my colleagues to support this resolution.●

SENATE RESOLUTION 194—COMMENDING ISRAEL AND EGYPT

Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. BROWN, Mr. MITCHELL, and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 194

Whereas, March 26, 1994 is the fifteenth anniversary of the signing by Prime Minister Begin of Israel and President Sadat of Egypt of the Treaty of Peace between the Arab Republic of Egypt and the State of Israel;

Whereas, the Treaty of Peace has resulted in the longest period without hostilities between Israel an Arab neighbor since the founding of Israel in 1948;

Whereas, the Treaty of Peace has served as the foundation of subsequent initiatives to secure a lasting peace between Israel and its Arab neighbors;

Whereas, the Treaty of Peace has served to enhance regional stability in the Middle East; Now, therefore be it

Resolved, That the United States Senate—

(1) congratulates Israel and Egypt on the fifteenth anniversary of the signing of the historic Treaty of Peace between the Arab Republic of Egypt and the State of Israel;

(2) commends Israel and Egypt for their fortitude and commitment to international peace and regional stability; and

(3) reaffirms its support for Israel and Egypt as they continue to pursue a lasting peace in the Middle East.

SENATE RESOLUTION 195—RELATING TO LINE-ITEM VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 195

Whereas article I, section 7, clause 2 of the Constitution authorizes the President to veto bills passed by both Houses of Congress;

Whereas article I, section 7, clause 3 of the Constitution authorizes the President to veto every "Order, Resolution, or Vote" passed by both Houses of Congress;

Whereas during the Constitutional Convention, Roger Sherman of Connecticut opined that article I, section 7, clause 3 was "unnecessary, except as to votes taking money out of the Treasury;"

Whereas the language of article I, section 7, clause 3 was taken directly from the Constitution of the Commonwealth of Massachusetts of 1780;

Whereas the provision of the Massachusetts Constitution of 1780 that was included as article I, section 7, clause 3 of the United States Constitution vested in the Governor of Massachusetts the authority to veto individual items of appropriation contained in omnibus appropriations bills passed by the Massachusetts Legislature;

Whereas the Governor of Massachusetts had enjoyed the authority to veto individual items of appropriation passed by the Legislature since 1733;

Whereas in explaining the purpose of the constitutional veto power, Alexander Hamilton wrote in The Federalist No. 69 that it "tallies exactly with the revisionary authority of the council of revision" in the State of New York, which had the authority to revise or strike out individual items of appropriation contained in spending bills;

Whereas shortly after the new Federal Constitution was adopted, the States of Georgia, Pennsylvania, Vermont, and Kentucky adopted new Constitutions which included the language of article I, section 7 of the Federal Constitution, and allowed their governors to veto individual items of appropriation on the basis of these provisions;

Whereas the contemporary practice in the States is probative as to the understanding of the Framers of the Constitution as to the meaning of article I, section 7, clause 3;

Whereas President Washington, on a matter of presidential authority, exercised the prerogative to shift appropriated funds from one account to another, effectuating a line-item veto;

Whereas President Jefferson considered appropriations bills to be permissive and refused on at least two occasions to spend funds appropriated by the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) The Constitution grants to the President the authority to veto individual items of appropriation; and

(2) the President should exercise that constitutional authority to veto individual items of appropriation without awaiting the enactment of additional authorization.

Mr. SPECTER. Mr. President, I have long supported a line-item veto for the President, I have proposed constitutional amendments to grant the President such authority, and I have supported statutory enhanced rescission authority.

As these measures have failed, after extensive legal research and analysis, I now urge the President to exercise the line-item veto without further legislative action. I do so because I believe, after a careful review of the historical record, that the President already has the authority under the Constitution to veto individual items of appropriation in an appropriations bill and that neither an amendment to the Constitution nor legislation granting enhanced rescission authority is necessary.

The line-item veto would be effective in helping to reduce the hugh deficit that now burdens our country. While alone it is no panacea, its use would enable the President to veto specific items of appropriation in large spending bills, thereby restraining some of the pork-barrel or purely local projects that creep into every appropriations bill. With the broad national interest rather than purely local concerns at work, the President's use of the line-item veto would cut significant amounts of this type of spending.

The line-item veto would also have a salutary effect on Members of Congress. Knowing that their attempts to insert items into appropriations bills will be subjected to presidential scrutiny, Members are likely to become more reluctant to seek special favors for the home district at the expense of the Nation at large. While such discretionary programs and earmarks do not account for a large part of Federal spending, getting control over them will improve the authorization and appropriations process. The President could use the veto to eliminate funding for unauthorized programs. Such a message would motivate Congress to reauthorize programs with regularity, improving our oversight and the effectiveness of the government.

The line-item veto is not a partisan issue. It is a good government issue. Many Democrats support the line-item veto; some Republicans oppose it. As a candidate in 1992, Bill Clinton firmly embraced the line-item veto. As President, he has the opportunity to make effective use of it to help control in some small measure the deficits we accumulate. By exercising this option, the President can provide a check on unfettered spending and carve away many of the pork-barrel projects contained in both versions of the budget that serve primarily private, not national interests.

Beyond the specific savings, the presence and use of the line-item veto by the President could give the public assurances that tax dollars were not being wasted. Each year the media reports many instances of congressional expenditures which border, if in fact they do not pass, the frivolous. Those expenditures are made because of the impracticality of having the President veto an entire appropriations bill or sometimes a continuing resolution. That creates a general impression that public funds are routinely wasted by the Congress.

The line-item veto could eliminate such waste and help to dispel that notion. The resentment to taxes is obviously much less than when the public does not feel the monies are being wasted. Notwithstanding the so called taxpayers' revolts in some States, there is still a willingness by the citizenry to approve taxes for specific items where the taxpayers believe the funds are being spent for a useful purpose. The line-item veto could be a significant factor in improving such public confidence in governmental spending even beyond the specific savings.

I now turn to the basis for my position that the President already has authority under the Constitution to exercise the line-item veto, without a need for additional constitutional or statutory legislation.

The constitutional basis for the President's exercise of a line-item veto is found in article I, section 7, clause 3 of the Constitution. Clause 2 of article I, section 7 provides the executive the authority to veto bills in their entirety. The question of conferring on the President the power to veto specific items within a bill appears not to have been discussed at the Constitutional Convention. During the drafting of the Constitution, however, James Madison expressed his concern that Congress might try to get around the President's veto power by labeling bills by some other term. In response to Madison's concern, Edmund Randolph proposed and the Convention adopted the third clause of article I, section 7, whose language was taken directly from a provision of the Massachusetts Constitution of 1780.

Clause 3 of article I, section 7 provides that in addition to bills—the veto of which is set forth in clause 2:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

While the clause does not explicitly set out the executive authority to veto individual items of appropriation, the context and practice are evidence that that was its purpose. According to noted historian Professor Forrest McDonald of the University of Alabama, the clause was taken directly from a provision of the Massachusetts Constitution of 1780. In his article entitled "The Framers' Conception of the Veto Power," published in the monograph Pork Barrels and Principles: The Politics of the Presidential Veto 1-7—1988, Professor McDonald explains that this provision dates back to the state's fundamental charter of 1733 and was implemented specifically to give the royal Governor a check on the unbridled spending of the colonial legislature, which had put the colony in serious debt by avoiding the Governor's veto power by appropriating money through votes rather than through legislation.

Professor McDonald also points out that at the time of the Constitution's ratification process, anti-Federalist pamphleteers opposed the proposed Constitution and in particular clause 3 of article I, section 7, precisely because it "made too strong a line-item veto in the hands of the President."

Federalists, on other hand, saw clause 3 and the power to veto individual items of appropriation as an important executive privilege—one that was essential in assuring fiscal responsibility while also comporting with the delicate balance of power they were seeking to achieve. For example, during his State's ratifying convention, James Bowdoin, the Federalist Governor of Massachusetts, argued that the veto power conferred to the President in the Federal Constitution was to be read in light of the Massachusetts experience under which, I have already noted, the Governor had enjoyed the right to veto or reduce by line-item since 1733.

In The Federalist No. 69, Alexander Hamilton, a member of the Constitutional Convention who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto power "tallies exactly with the revisionary authority of the council of revision" in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely accept or reject legislative enactments in their entirety. This power was not unique to New York, as the Governors of Massachusetts, Georgia, and Vermont (soon to be the first new State admitted to the new union) also enjoyed revisionary authority over legislative appropriations.

As many of my colleagues know, our distinguished colleague from West Virginia, the chairman of the Appropriations Committee, had made a series of speeches on the Senate floor drawing on his vast knowledge about the historical underpinnings of our republican form of government and on the framers' rationale for the checks and balances they created. His review of Roman history is apt, because, as he knows, the framers were acutely aware of Roman history. This awareness helped them develop their government of limited powers and of checks and balances. The framers knew that the vice of faction, the desire to pursue one's private interest at the expense of the public interest, had helped bring on the downfall of the Roman Republic. Madison and others were convinced that the diffusing power and balancing it off in different branches of government, we might avoid to the fullest extent possible, the defects of faction.

In another sense, however, the distinguished Chairman of the Appropriations Committee, overlooks the fundamental differences between Rome's ancient government and ours. In ours, the people have a direct say. In Rome's the male citizens had a limited, indirect say, by mostly the ruling class was hereditary or was based on wealth. We have a democracy; Rome did not.

This fundamental difference between our Nation and ancient Rome means that there are more factions with which our Government must contend. With so many different factions, or "interest groups, as we call them today, it is much easier for one of them to "capture" a single Member of Congress to advance its cause and to fund it. Each Representative has a much narrower focus than a Senator, each of whom has a much narrower focus than the President. Thus, Congress is more susceptible to pressure from factions, as one Member who wants a favor for a particular faction trades his or her support for another Member's preferred faction. We all know that this appropriations log-rolling occurs. Ultimately, the President is presented with one large spending bill, much of which reflects the political horse-trading that occurs.

The line-item veto sheds light on the power of private interests that seek to use the appropriations process for their one private benefit. By excising line items and making Congress vote on them individually in an effort to override the veto, the President can shed light directly on these private interests and force Members to be more accountable to their constituents by voting on the projects identified by the President as unnecessary and wasteful.

Some, like the distinguished chairman of the Appropriations Committee, contend that the line-item veto would result in an intolerable shift of power from Congress to the Executive. To this argument, I have two responses. The first is that, as I believe I show, the Framers of the Constitution intended that the President have the authority to veto individual items of appropriations, Thus, in their concept, the line-item veto does not offend the balance of powers.

The second response is related to the entire structure of the Government. The Constitution places the power of the purse in the hands of Congress. It is peculiarly legislative function to decide how much money to spend and how to allocate these expenditures. In this regard, however, spending is no different than any other legislative function. Thus, there is no reason to consider the line-item veto any more of an infringement of the separation of powers than the President's ability to veto bills at all. Hamilton recognized the structure importance of the veto in the Federalist 73, when he wrote that the veto provides "an additional security against the inaction of improper laws—to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of the—legislative—body" from time to time. The Framers were acutely aware that it is the legislative branch that is most susceptible to fractional influence. Thus, they understood that the veto served a critical role.

But, opponents of the line-item veto argue, Hamilton's point went to bills as a whole, and not simply pieces of them. The legislative process necessarily relies on horse-trading to get things done, and nowhere is such trading more important than in the appropriations process. This response, while acknowledging the reality, is an answer that directly contradicts the

Framers' intent and leads to bad government, for it accepts the premise that factions and the prominent Members of Congress who support their causes must be bought off with goodies in appropriations bills. But that is precisely the evil that the Framers sought to insulate against with the veto.

Given the role of factions in the appropriation process, the use of the line-item veto is completely consistent with the Framers' conception of the veto power. Indeed, that is not surprising, as the Framers believed they had granted the President a line-item veto. Despite the arguments of the distinguished Chairman of the Appropriations Committee to the contrary, the line-item veto was not only intended by the Framers but is an appropriate limitation on congressional authority to combat the force of faction.

This process would not surprise the Framers of the Constitution, Madison and the others who met in Philadelphia in 1787 were not just knowledgeable about history. They were practical men of affairs and politics who understood human nature. They knew the dangers of faction and the likelihood that faction would influence Congress more so than the President, who is responsible to the entire Nation, not a single district or State.

Thus, it is only to be expected that the Framers provided Congress with the power to appropriate funds, tempered with executive authority to line-item veto as a means of expunging special interest spending was their resolution, and history bears this out. The line-item veto is entirely consistent with the Framers' conception of government and the dangers of faction.

Shortly after the new Federal Constitution was ratified, several States, including Georgia, Vermont, Kentucky, and my home State of Pennsylvania, rewrote their constitutions to conform with the Federal one and specifically incorporated language to give to their executives the authority to exercise a line-item veto. These States were in addition to the States like Massachusetts and New York, where the Governor's power to revise items of appropriation was well-established. For example, article II, section 10 of the Georgia Constitution of 1789 gave the governor the power of "revision of all bills" subject to a two-thirds vote of the general assembly. Section 16 of chapter II of the Vermont Constitution of 1793 vested in the governor and council the right to revise legislation or to propose amendments to the legislature, which would have to adopt the proposed amendments if the bill were to be enacted. Article I of the Kentucky Constitution of 1792 and section 23 of article I of the Pennsylvania Constitution of 1790 tracked the language of article I, section 7, clause 3 of the new United States Constitution.

The chief executives of both the State and new Federal Governments immediately employed the line-item veto. On the national level, the early practice was one in which the President viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary Hamilton assumed the authority to shift appropriated funds from one account to another. Although his party had at one time opposed such transfers, once he became President, Republican Thomas Jefferson also embraced the practice, and at least on two occasions, he refused to spend money that the Congress had appropriated.

The practice continued. As late as 1830, President Andrew Jackson declined to enforce provisions of a congressional enactment. Likewise in 1842, President John Tyler signed a bill that he refused to execute in full. It was not until after the Civil War that a President assumed he did not already have the authority to veto individual items of appropriation, when President Grant urged the Congress to grant him such authority.

But President Grant's view was anomalous. The Framers' understanding and their original intent was that the Constitution did provide the authority to veto or impound specific items of appropriation. The States understood that to be the case, and many in fact embraced the Federal model as a means of providing their own executives this same authority.

I believe that the evidence strongly supports the position that under the Constitution the President has the authority to employ the line-item veto. At the very least, the President's use of the line-item veto will almost certainly engender a court challenge if the veto is not overridden. The courts will then decide whether the Constitution authorizes the line-item veto. If they find it does, then the matter will be settled. If they find it does not, then Congress may revisit the issue and decide whether to amend the Constitution or grant statutory enhanced rescission authority to the President.

In conclusion, I urge the President to employ the line-item veto if he is seriously committed to deficit reduction. As I have argued here today, the authority to exercise this power is not dependent on the adoption of a constitutional amendment or any additional legislation; it already exists. The Framers' intent and the historical practice of the first Presidents serve as ample evidence that the Constitution confers to the executive the authority to line-item veto. Given President Clinton's use of the line-item veto as Governor and his support of it as a candidate, I urge him to act on that authority consistent with his rightful power to do so.

I ask unanimous consent that a copy of a memorandum I have prepared summarizing my research into the Framers' intent to establish a line-item veto and the early national practice by included in the RECORD.

MEMORANDUM

Re: Presidential authority to exercise a line-item veto.

The President currently enjoys the authority under the Constitution to exercise a line-item veto without any additional constitutional or statutory authority. The constitutional basis for the President's exercise of a line-item veto is to be found in article I, section 7, clause 3 of the Constitution.

The first article of the Constitution vests legislative authority in the two Houses of Congress established thereunder. Clause 2 of section 7 of the first article provides the presidential authority and procedure to veto "bills." This is the basis of the President's clearly established authority to veto legislation. The provision also established the procedure under which Congress may override the President's veto.

The question of conferring authority on the President to veto specific items within a bill was not discussed at the Constitutional Convention. During the drafting of the Constitution in 1787, however, James Madison noted in his subsequently published diary that he had expressed his concern that Congress might try to get around the President's veto power by labeling "bills" by some other term. In response to Madison's concern and in order to guard the President's veto authority from encroachment or being undermined and preserve the careful balance of power it sought to establish, Edmund Randolph of Virginia proposed and the Convention adopted language from the Massachusetts Constitution which became article I, section 7, clause 3.

This clause requires that in addition to bills: "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill [these being set forth in article I, section 7, clause 2]."

In combination with the preceding clause 2 of section 7, this third clause gives the President the authority to veto any legislative adoption of Congress, subject to congressional override.

The historical context of its adoption supports the position that clause 3 vests the President with authority to veto individual items of appropriation.

According to the noted historian Professor Forrest McDonald in his paper "The Framers' Conception of the Veto Power," published in "Pork Barrels and Principles: The Politics of the Presidential Veto" 1–7 (1988), clause 3 was taken directly from a provision of the Massachusetts Constitution of 1780. This provision set in the State's fundamental charter Massachusetts law dating to 1733 first implemented to give the Royal Governor a check on unbridled spending by the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through "votes" rather than legislation. Professor McDonald has also noted in an op-ed article published in the "Wall Street Journal," that the agents of the King of England could disapprove or alter colonial legislative enactments "in any part thereof."

Discussion and debate at the Constitutional Convention over the meaning of clause 3 was scant. In his notes of the proceedings of the Convention, our main source for the intent of the Framers of our fundamental Charter, Madison noted only that Roger Sherman of Connecticut "thought [article I, section 7, clause 3] unnecessary, except as to votes taking money out of the Treasury." No other member of the Convention appears to have discussed the clause. Sherman's comment was important, as it demonstrates the context in which the Framers saw the newly added provision: it was needed only insofar as it pertained to votes appropriating money from the Treasury. Perhaps discussion was so scant because the meaning of the clause was clear to the Framers.

In his 1988 article, Professor McDonald notes that two Anti-Federalist pamphleteers opposed the proposed Constitution in part because article I, section 7, clause 3 "made too strong a line-item veto in the hands of the President." The Federalist Governor of Massachusetts, James Bowdoin, argued during the Massachusetts ratifying convention that the veto power was to be read in light of the Massachusetts experience in which, as noted, the line-item veto was exercised by the governor. In "The Federalist" No. 69, Alexander Hamilton wrote that the constitutional veto power "tallies exactly with the revisionary authority of the council of revision" in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely turn down the entire legislative enactment. Massachusetts, Georgia, and Vermont also gave their executives revisionary authority over legislative appropriations.

Roger Sherman's comment was prescient, as he focused on the issue confronting us over 200 hundred years later. The language of clause 3 has proven to be redundant, as Congress has not attempted to avoid the strictures of the second clause. But clause 3 is not superfluous as regards, in Sherman's language, "votes taking money out of the Treasury." In order to give effect to this provision, the President must have the authority to separate out different items from a single appropriation bill and veto one or more of those individual items.

This reading is consistent with the early national practice, under which Presidents viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary, Alexander Hamilton, assumed that the President had the authority to shift appropriated funds from one account to another. The former Anti-Federalists, having become the Republican party, objected to these transfers. Once a Republican, Thomas Jefferson, became President, however, he too considered appropriations bills to be permissive and refused on a least two occasions to spend money that had been appropriated by Congress.

Professor McDonald points out in his 1988 article that shortly after the new Federal Constitution was ratified, several of the States rewrote their constitutions to conform their basic charters to the new Federal one. The contemporaneous experience of these States is highly relevant to the Framers' understanding of the text they had devised. Several States adopted new constitutions in 1789 or the early 1790's. Of these, Georgia and Pennsylvania, and the new States of Vermont and Kentucky all adopted constitutions that included the phrasing of article I, section 7 to enable their governors to exercise the line-item veto.

According to a 1984 report of the Committee on the Budget of the House of Representatives, "The Line-Item Veto: An Appraisal," the practice at the national level of the President's exercise of a line-item veto continued. President Andrew Jackson declined, over congressional objection, to enforce provisions of a congressional enactment in 1830. In 1842, President John Tyler signed a bill that he refused to execute in full. Instead, he advised Congress that he had deposited with the Secretary of State "an exposition of my reasons for giving [the bill] my sanction." Congress issued a report challenging the legality of the President's action.

Professor McDonald noted that between 1844 and 1859, three northern States, responding to fiscal problems, adopted constitutions explicitly providing their governors with power to veto individual items of appropriation. Building on this history, the provisional Constitution of the Confederate States of America also made explicit that the President of the Confederacy had line-item veto authority.

It was only after the Civil War that President Grant suggested that he did not already enjoy the authority to veto individual items of appropriation and other specific riders to legislation and urged that he be granted such authority. President Grant's position that he did not enjoy a line-item veto under the Constitution was directly contradictory to the original understanding of the Constitution, a position endorsed by Presidents Washington, Jefferson, Jackson, and Tyler through usage. It ignored the original understanding of the Framers of the Constitution and the historical context in which that document was drafted. Proposals for a Federal line-item veto have been made intermittently since the Grant Administration.

An alternative argument based on the language of article I, section 7, clause 2, but consistent with the original understanding of the veto power, has also been made to support the President's exercise of a line-item veto. In discussing why the issue of a line-item veto was not raised during the Constitutional Convention, Professor Russell Ross of the University of Iowa and former United States Representative Fred Schwengel wrote in an article "An Item Veto for the President?," 12 "Presidential Studies Quarterly" 66 (1982), "[i]t is at least possible that this subject was not raised because those attending the Convention gave the term 'bill' a much narrower construction than has since been applied to the term. It may have been envisioned that a bill would be concerned with only one specific subject and that subject would be clearly stated in the title."

Professor Ross and Mr. Schwengel quote at length the former Chairman of the House Judiciary Committee, Hatton W. Sumners, who defended this view in a 1937 letter to the Speaker of the House that was reprinted in the Congressional Record on February 27, 1942. Chairman Sumners was of the view that the term "bill" as used in clause 2 of section 7 of the first article was intended to be applied narrowly to refer to "items which might have been the subject matter of separate bills." This reading he thought most consistent with the purpose and plan of the Constitution. Thus, Chairman Sumners believed that clause 2, as originally intended, could also be relied upon to vest line-item veto authority in the President.

Chairman Sumner's reading is also consistent with the practice in some of the colonies. Professor McDonald cites to the Maryland constitution of 1776, which expressly provided that any enacted bill could have only one subject. Several other States followed Maryland during the succeeding decades and limited legislative enactments to a single subject.

A review of the contemporary understanding of the veto provisions of the Constitution when drafted supports the view that the President currently enjoys line-item veto authority, which several Presidents have exercised.

AMENDMENTS SUBMITTED

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

DOMENICI (AND OTHERS) AMENDMENT NO. 1567

Mr. DOMENICI (for himself, Mr. NUNN, and Mr. THURMOND) proposed an amendment to the concurrent resolution (S. Con. Res. 63) setting forth the congressional budget for the United States Government for fiscal years 1995, 1996, 1997, 1998, and 1999; as follows:

Beginning on page 5, line 1, strike all through page 72, line 9, and insert the following:

Fiscal year 1995: $1,247,700,000,000.
Fiscal year 1996: $1,307,900,000,000.
Fiscal year 1997: $1,373,900,000,000.
Fiscal year 1998: $1,447,300,000,000.
Fiscal year 1999: $1,508,700,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and disbursements of the Hospital Insurance Trust Fund), the appropriate levels of total new budget authority are as follows:

Fiscal year 1995: $1,149,200,000,000.
Fiscal year 1996: $1,202,300,000,000.
Fiscal year 1997: $1,257,000,000,000.
Fiscal year 1998: $1,315,000,000,000.
Fiscal year 1999: $1,372,300,000,000.

(3) BUDGET OUTLAYS.—(A) For purposes of comparison with the maximum deficit amount under sections 601(a)(1) and 606 of the Congressional Budget Act of 1974 and for purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1995: $1,217,900,000,000.
Fiscal year 1996: $1,288,500,000,000.
Fiscal year 1997: $1,356,700,000,000.
Fiscal year 1998: $1,413,700,000,000.
Fiscal year 1999: $1,472,300,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and disbursements of the Hospital Insurance Trust Fund), the appropriate levels of total budget outlays are as follows:

Fiscal year 1995: $1,124,000,000,000.
Fiscal year 1996: $1,188,600,000,000.
Fiscal year 1997: $1,247,300,000,000.
Fiscal year 1998: $1,295,400,000,000.
Fiscal year 1999: $1,344,800,000,000.

(4) DEFICITS.—(A) For purposes of comparison with the maximum deficit amount under sections 601(a)(1) and 606 of the Congressional Budget Act of 1974 and for purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1995: $240,200,000,000.
Fiscal year 1996: $257,300,000,000.
Fiscal year 1997: $277,000,000,000.
Fiscal year 1998: $277,300,000,000.
Fiscal year 1999: $282,100,000,000.

(B) For purposes of section 710 of the Social Security Act (excluding the receipts and

disbursements of the Hospital Insurance Trust Fund), the amounts of the deficits are as follows:

Fiscal year 1995: $248,200,000,000.
Fiscal year 1996: $263,700,000,000.
Fiscal year 1997: $279,500,000,000.
Fiscal year 1998: $276,800,000,000.
Fiscal year 1999: $278,300,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1995: $4,965,200,000,000.
Fiscal year 1996: $5,285,700,000,000.
Fiscal year 1997: $5,622,300,000,000.
Fiscal year 1998: $5,958,200,000,000.
Fiscal year 1999: $6,289,700,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1995: $26,700,000,000.
Fiscal year 1996: $32,100,000,000.
Fiscal year 1997: $33,800,000,000.
Fiscal year 1998: $35,700,000,000.
Fiscal year 1999: $37,800,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1995: $199,700,000,000.
Fiscal year 1996: $174,400,000,000.
Fiscal year 1997: $164,600,000,000.
Fiscal year 1998: $164,100,000,000.
Fiscal year 1999: $163,500,000,000.

SEC. 3. DEBT INCREASE AS A MEASURE OF DEFICIT.

The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1995: $308,300,000,000.
Fiscal year 1996: $320,500,000,000.
Fiscal year 1997: $336,600,000,000.
Fiscal year 1998: $335,900,000,000.
Fiscal year 1999: $331,400,000,000.

SEC. 4. DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

The balances of the Federal retirement trust funds are as follows:

Fiscal year 1995: $1,161,100,000,000.
Fiscal year 1996: $1,275,200,000,000.
Fiscal year 1997: $1,396,900,000,000.
Fiscal year 1998: $1,524,200,000,000.
Fiscal year 1999: $1,651,300,000,000.

SEC. 5. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1995: $360,500,000,000.
Fiscal year 1996: $379,600,000,000.
Fiscal year 1997: $399,000,000,000.
Fiscal year 1998: $419,500,000,000.
Fiscal year 1999: $439,800,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1995: $287,600,000,000.
Fiscal year 1996: $301,300,000,000.
Fiscal year 1997: $312,300,000,000.
Fiscal year 1998: $324,400,000,000.
Fiscal year 1999: $337,000,000,000.

SEC. 6. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1995 through 1999 for each major functional category are:

(1) National Defense (050):

Fiscal year 1995:
(A) New budget authority, $263,800,000,000.
(B) Outlays, $270,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $255,300,000,000.
(B) Outlays, $261,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $252,000,000,000.
(B) Outlays, $256,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:
(A) New budget authority, $258,700,000,000.
(B) Outlays, $256,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $265,100,000,000.
(B) Outlays, $257,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1995:
(A) New budget authority, $19,300,000,000.
(B) Outlays, $18,100,000,000.
(C) New direct loan obligations, $3,200,000,000.
(D) New primary loan guarantee commitments, $18,000,000,000.

Fiscal year 1996:
(A) New budget authority, $17,200,000,000.
(B) Outlays, $17,300,000,000.
(C) New direct loan obligations, $2,800,000,000.
(D) New primary loan guarantee commitments, $18,500,000,000.

Fiscal year 1997:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $17,300,000,000.
(C) New direct loan obligations, $2,600,000,000.
(D) New primary loan guarantee commitments, $18,500,000,000.

Fiscal year 1998:
(A) New budget authority, $16,800,000,000.
(B) Outlays, $17,600,000,000.
(C) New direct loan obligations, $2,400,000,000.
(D) New primary loan guarantee commitments, $18,500,000,000.

Fiscal year 1999:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $17,500,000,000.
(C) New direct loan obligations, $2,400,000,000.
(D) New primary loan guarantee commitments, $16,500,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1995:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $17,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $17,200,000,000.
(B) Outlays, $17,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $17,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:
(A) New budget authority, $17,400,000,000.
(B) Outlays, $17,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $17,600,000,000.
(B) Outlays, $17,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1995:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $5,200,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $4,700,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $5,200,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1995:
(A) New budget authority, $21,700,000,000.
(B) Outlays, $21,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1996:
(A) New budget authority, $22,200,000,000.
(B) Outlays, $21,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:
(A) New budget authority, $22,100,000,000.
(B) Outlays, $21,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $21,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $21,600,000,000.
(B) Outlays, $21,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1995:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $11,600,000,000.

(C) New direct loan obligations, $10,100,000,000.
(D) New primary loan guarantee commitments, $7,400,000,000.
Fiscal year 1996:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $11,400,000,000.
(C) New direct loan obligations, $9,700,000,000.
(D) New primary loan guarantee commitments, $7,400,000,000.
Fiscal year 1997:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $9,700,000,000.
(D) New primary loan guarantee commitments, $7,400,000,000.
Fiscal year 1998:
(A) New budget authority, $13,200,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $9,800,000,000.
(D) New primary loan guarantee commitments, $7,400,000,000.
Fiscal year 1999:
(A) New budget authority, $13,700,000,000.
(B) Outlays, $12,500,000,000.
(C) New direct loan obligations, $9,900,000,000.
(D) New primary loan guarantee commitments, $7,400,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1995:
(A) New budget authority, $7,700,000,000.
(B) Outlays, −$8,300,000,000.
(C) New direct loan obligations, $2,800,000,000.
(D) New primary loan guarantee commitments, $117,900,000,000.
Fiscal year 1996:
(A) New budget authority, $5,300,000,000.
(B) Outlays, −$10,800,000,000.
(C) New direct loan obligations, $3,000,000,000.
(D) New primary loan guarantee commitments, $103,200,000,000.
Fiscal year 1997:
(A) New budget authority, $5,100,000,000.
(B) Outlays, −$3,400,000,000.
(C) New direct loan obligations, $3,100,000,000.
(D) New primary loan guarantee commitments, $95,900,000,000.
Fiscal year 1998:
(A) New budget authority, $5,200,000,000.
(B) Outlays, −$2,900,000,000.
(C) New direct loan obligations, $3,200,000,000.
(D) New primary loan guarantee commitments, $96,600,000,000.
Fiscal year 1999:
(A) New budget authority, $6,200,000,000.
(B) Outlays, −$900,000,000.
(C) New direct loan obligations, $3,400,000,000.
(D) New primary loan guarantee commitments, $99,500,000,000.
(8) Transportation (400):
Fiscal year 1995:
(A) New budget authority, $42,900,000,000.
(B) Outlays, $38,800,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $500,000,000.
Fiscal year 1996:
(A) New budget authority, $41,800,000,000.
(B) Outlays, $39,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $43,200,000,000.
(B) Outlays, $40,100,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $44,000,000,000.
(B) Outlays, $40,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $44,500,000,000.
(B) Outlays, $40,400,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1995:
(A) New budget authority, $9,500,000,000.
(B) Outlays, $9,300,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $3,600,000,000.
Fiscal year 1996:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $8,900,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $3,600,000,000.
Fiscal year 1997:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $9,000,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $3,600,000,000.
Fiscal year 1998:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $9,100,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $3,600,000,000.
Fiscal year 1999:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $9,000,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $3,600,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1995:
(A) New budget authority, $57,600,000,000.
(B) Outlays, $53,600,000,000.
(C) New direct loan obligations, $5,500,000,000.
(D) New primary loan guarantee commitments, $19,000,000,000.
Fiscal year 1996:
(A) New budget authority, $58,200,000,000.
(B) Outlays, $55,500,000,000.
(C) New direct loan obligations, $11,500,000,000.
(D) New primary loan guarantee commitments, $14,000,000,000.
Fiscal year 1997:
(A) New budget authority, $59,900,000,000.
(B) Outlays, $58,100,000,000.
(C) New direct loan obligations, $13,200,000,000.
(D) New primary loan guarantee commitments, $13,200,000,000.
Fiscal year 1998:
(A) New budget authority, $61,700,000,000.
(B) Outlays, $60,600,000,000.
(C) New direct loan obligations, $15,100,000,000.
(D) New primary loan guarantee commitments, $12,300,000,000.
Fiscal year 1999:
(A) New budget authority, $63,200,000,000.
(B) Outlays, $62,200,000,000.
(C) New direct loan obligations, $16,800,000,000.
(D) New primary loan guarantee commitments, $11,200,000,000.
(11) Health (550):
Fiscal year 1995:
(A) New budget authority, $123,800,000,000.
(B) Outlays, $122,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1996:
(A) New budget authority, $136,600,000,000.
(B) Outlays, $135,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1997:
(A) New budget authority, $150,900,000,000.
(B) Outlays, $149,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $200,000,000.
Fiscal year 1998:
(A) New budget authority, $166,600,000,000.
(B) Outlays, $165,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 1999:
(A) New budget authority, $184,100,000,000.
(B) Outlays, $182,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1995:
(A) New budget authority, $162,400,000,000.
(B) Outlays, $160,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $180,500,000,000.
(B) Outlays, $177,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $198,500,000,000.
(B) Outlays, $194,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $217,700,000,000.
(B) Outlays, $210,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $242,300,000,000.
(B) Outlays, $227,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) For purposes of section 710 of the Social Security Act, Federal Supplementary Medical Insurance Trust Fund:
Fiscal year 1995:
(A) New budget authority, $56,000,000,000.
(B) Outlays, $55,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $65,200,000,000.
(B) Outlays, $64,000,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $73,300,000,000.
(B) Outlays, $71,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $81,300,000,000.
(B) Outlays, $78,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $92,200,000,000.
(B) Outlays, $87,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(14) Income Security (600):
Fiscal year 1995:
(A) New budget authority, $219,900,000,000.
(B) Outlays, $220,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $234,500,000,000.
(B) Outlays, $229,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $249,100,000,000.
(B) Outlays, $242,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $261,000,000,000.
(B) Outlays, $253,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $272,600,000,000.
(B) Outlays, $264,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Social Security (650):
Fiscal year 1995:
(A) New budget authority, $6,800,000,000.
(B) Outlays, $9,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $9,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $8,300,000,000.
(B) Outlays, $11,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $9,800,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(16) Veterans Benefits and Services (700):
Fiscal year 1995:
(A) New budget authority, $37,200,000,000.
(B) Outlays, $36,600,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $32,900,000,000.
Fiscal year 1996:
(A) New budget authority, $37,600,000,000.
(B) Outlays, $36,600,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $27,400,000,000.
Fiscal year 1997:
(A) New budget authority, $38,500,000,000.
(B) Outlays, $38,300,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $25,800,000,000.
Fiscal year 1998:
(A) New budget authority, $38,600,000,000.
(B) Outlays, $38,500,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $25,600,000,000.
Fiscal year 1999:
(A) New budget authority, $39,200,000,000.
(B) Outlays, $39,100,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $25,300,000,000.
(17) Administration of Justice (750):
Fiscal year 1995:
(A) New budget authority, $18,300,000,000.
(B) Outlays, $17,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $20,800,000,000.
(B) Outlays, $19,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $21,600,000,000.
(B) Outlays, $20,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $22,700,000,000.
(B) Outlays, $22,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $23,900,000,000.
(B) Outlays, $22,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) General Government (800):
Fiscal year 1995:
(A) New budget authority, $14,000,000,000.
(B) Outlays, $13,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $13,500,000,000.
(B) Outlays, $14,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $13,400,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $13,100,000,000.
(B) Outlays, $13,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $13,500,000,000.
(B) Outlays, $13,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1995:
(A) New budget authority, $247,100,000,000.
(B) Outlays, $247,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $267,300,000,000.
(B) Outlays, $267,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $283,000,000,000.
(B) Outlays, $283,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $298,600,000,000.
(B) Outlays, $298,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $315,000,000,000.
(B) Outlays, $315,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) For purposes of section 710 of the Social Security Act, Net Interest (900):
Fiscal year 1995:
(A) New budget authority, $257,600,000,000.
(B) Outlays, $257,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $278,000,000,000.
(B) Outlays, $278,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $293,800,000,000.
(B) Outlays, $293,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, $309,200,000,000.
(B) Outlays, $309,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $324,800,000,000.
(B) Outlays, $324,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(21) The corresponding levels of gross interest on the public debt are as follows:
Fiscal year 1995: $311,800,000,000.
Fiscal year 1996: $331,300,000,000.
Fiscal year 1997: $347,900,000,000.
Fiscal year 1998: $365,300,000,000.
Fiscal year 1999: $383,600,000,000.
(22) Allowances (920):
Fiscal year 1995:

(A) New budget authority, −$4,100,000,000.
(B) Outlays, −$10,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, −$3,500,000,000.
(B) Outlays, −$2,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$3,600,000,000.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, −$2,900,000,000.
(B) Outlays, −$5,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$23,200,000,000.
(B) Outlays, −$14,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(23) Undistributed Offsetting Receipts (950):
Fiscal year 1995:
(A) New budget authority, −$36,100,000,000.
(B) Outlays, −$36,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, −$30,300,000,000.
(B) Outlays, −$30,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$30,300,000,000.
(B) Outlays, −$30,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, −$31,200,000,000.
(B) Outlays, −$31,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$31,600,000,000.
(B) Outlays, −$31,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(24) For purposes of section 710 of the Social Security Act, Undistributed Offsetting Receipts (950):
Fiscal year 1995:
(A) New budget authority, −$33,500,000,000.
(B) Outlays, −$33,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, −$27,100,000,000.
(B) Outlays, −$27,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, −$27,600,000,000.
(B) Outlays, −$27,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1998:
(A) New budget authority, −$28,300,000,000.
(B) Outlays, −$28,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, −$28,500,000,000.
(B) Outlays, −$28,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

TITLE II—BUDGETARY PROCEDURES

SEC. 21. SALE OF GOVERNMENT ASSETS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) FINDING.—The Congress finds that every budget resolution since that for fiscal year 1988 has included language prohibiting counting in the budget process the amounts realized from asset sales (other than loan assets).

(c) BUDGETARY TREATMENT.—For purposes of points of order under this concurrent resolution and the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from sales of assets (other than loan assets) shall not be scored with respect to the level of budget authority, outlays, or revenues.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "sale of an asset" shall have the same meaning as under section 250(c)(21) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Budget Enforcement Act of 1990); and

(2) the term shall not include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales at levels consistent with agency operations in fiscal year 1986.

(e) SUNSET.—Subsections (a) through (d) of this section shall expire September 30, 1998.

(f) CONFORMING AMENDMENT.—Section 8 of House Concurrent Resolution 64 (103d Congress), section 8 of House Concurrent Resolution 287 (102d Congress), section 7 of House Concurrent Resolution 121 (102d Congress), section 5 of House Concurrent Resolution 310 (101st Congress), section 6 of House Concurrent Resolution 106 (101st Congress), section 4 of House Concurrent Resolution 268 (100th Congress), and sections 7 and 8 of House Concurrent Resolution 93 (100th Congress) are repealed.

SEC. 22. SOCIAL SECURITY FIRE WALL POINT OF ORDER IN THE SENATE.

(a) FINDING.—The Senate finds that the concurrent resolutions on the budget for fiscal years 1993 and 1994 have prohibited subsequent concurrent resolutions on the budget from decreasing the balances of the social security trust fund.

(b) APPLICATION OF SECTION 301(i).—Notwithstanding any other rule of the Senate, in the Senate, the point of order established under section 301(i) of the Congressional Budget Act of 1974 shall apply to any concurrent resolution on the budget for any fiscal year (as reported and as amended), amendments thereto, or any conference report thereon.

(c) CONFORMING AMENDMENT.—Section 10(b) of House Concurrent Resolution 64 (103d Congress) and section 12(b) of House Concurrent Resolution 287 (102d Congress) are repealed.

SEC. 23. ENFORCING PAY-AS-YOU-GO.

(a) PURPOSE.—The Senate declares that it is essential to—

(1) ensure continued compliance with the deficit reduction embodied in the Omnibus Budget Reconciliation Act of 1993; and

(2) continue the pay-as-you-go enforcement system.

(b) FINDING.—The Senate finds that section 12(c) of the concurrent resolution on the budget for fiscal year 1994 created a point of order prohibiting legislation that would increase the deficit through fiscal year 2003.

(c) ENFORCEMENT.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or receipts legislation (including any such bill, joint resolution, amendment, motion, or conference report) that would—

(A) increase the deficit for the first fiscal year covered by the most recently adopted concurrent resolution on the budget;

(B) increase the deficit for the period of the 5 fiscal years covered by the most recently adopted concurrent resolution on the budget; or

(C) increase the deficit to a significant degree for the period of the 5 fiscal years following the first 5 years covered by the most recently adopted concurrent resolution on the budget;

when taken individually (as a bill, joint resolution, amendment, motion, or conference report, as the case may be), and when taken together with all direct spending and receipts legislation enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1993.

(2) DIRECT SPENDING AND RECEIPTS LEGISLATION.—For purposes of this subsection, direct spending and receipts legislation shall—

(A) exclude full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990;

(B) exclude emergency provisions so designated under section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985;

(C) include the estimated amount of savings in direct spending programs applicable to that fiscal year resulting from the prior year's sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year); and

(D) except as otherwise provided in this subsection, include all direct spending legislation as that term is defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(e) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(f) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(g) CONFORMING AMENDMENT.—Section 12(c) of House Concurrent Resolution 64 (103d Congress) is repealed.

(h) TECHNICAL CORRECTION.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as

amended by sections 13112(b) and 13208(b)(3) of the Budget Enforcement Act of 1990), the second sentence of section 904(c) of the Congressional Budget Act of 1974 (except insofar as it relates to section 313 of that Act) and the final sentence of section 904(d) of that Act (except insofar as it relates to section 313 of that Act) shall continue to have effect as a rule of the Senate through (but no later than) September 30, 1998.

(i) SUNSET.—Subsections (a) through (f) of this section shall expire September 30, 1998.

SEC. 24. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.

(a) INITIATIVES TO IMPROVE THE WELL-BEING OF FAMILIES THROUGH WELFARE OR OTHER REFORMS, TO PROVIDE FOR SERVICES TO SUPPORT OR PROTECT CHILDREN, OR TO IMPROVE THE HEALTH, NUTRITION, OR CARE OF CHILDREN.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for legislation to improve the well-being of families through welfare or other reforms (including promoting self-sufficiency through improvements in job training or employment programs), to provide for services to support or protect children (including assuring increased parental support for children through improvements in the child support enforcement program), or to improve the health, nutrition, or care of children, within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(b) INITIATIVES TO PROVIDE COMPREHENSIVE TRAINING OR JOB SEARCH ASSISTANCE OR TO REFORM UNEMPLOYMENT COMPENSATION.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to provide comprehensive training or job search assistance (including reemployment or job training programs or dislocated worker programs), or to reform unemployment compensation, or to provide for other related programs, within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(c) CONTINUING IMPROVEMENTS IN ONGOING HEALTH CARE PROGRAMS OR COMPREHENSIVE HEALTH CARE REFORM.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs, to provide for comprehensive health care reform, to control health care costs, or to accomplish other health care reforms within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(4) ADJUSTMENTS FOR AMENDMENTS.—(A) If the Chairman of the Committee on the Budget makes an adjustment for legislation pursuant to this subsection, upon the offering of an amendment to such legislation, the Chairman shall file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates if the enactment of such legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(i) fiscal year 1995; or

(ii) the period of fiscal years 1995 through 1999.

(B) These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution on the budget.

(C) The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(5) LIMITING THE GROWTH IN MANDATORY SPENDING.—Notwithstanding any other provision of this subsection, the Chairman of the Committee on the Budget shall not file revised allocations, functional levels, and aggregates unless the legislation as reported or the conference report as submitted will reduce (by virtue of either contemporaneous or previously passed legislation) outlays by $19,600,000,000 for the period of fiscal years 1995 through 1999.

(d) INITIATIVES TO PRESERVE AND REBUILD THE UNITED STATES MARITIME INDUSTRY.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for direct spending legislation that increases funding to preserve and rebuild the United States maritime industry within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; and

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(e) INITIATIVES TO REFORM THE FINANCING OF FEDERAL ELECTIONS.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for direct spending legislation that increases funding to reform the financing of Federal elections within such a com-

mittee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(f) TRADE-RELATED LEGISLATION.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for trade-related legislation (including legislation to implement the Uruguay Round of the General Agreement on Tariffs and Trade or to extend the Generalized System of Preferences) within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(g) REFORMS RELATING TO THE PENSION BENEFIT GUARANTY CORPORATION.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for reforms relating to the Pension Benefit Guaranty Corporation (including legislation to improve the funding of government-insured pension plans, to protect plan participants, or to limit growth in exposure of the Pension Benefit Guaranty Corporation) or other employee benefit-related legislation within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(h) REFORMS RELATING TO EMPLOYMENT TAXES ON DOMESTIC SERVICES.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for reforms relating to providing for simplified collection of employment taxes on domestic services within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(i) INITIATIVES TO REFORM THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for direct spending legislation that increases funding to reform the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(j) REFORMS TO CONSOLIDATE THE SUPERVISION OF DEPOSITORY INSTITUTIONS INSURED UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for reforms to consolidate the supervision of depository institutions insured under the Federal Deposit Insurance Act within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates

shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(k) INITIATIVES TO PRESERVE ENERGY SECURITY.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for initiatives to preserve United States energy security within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

BRADLEY (AND OTHERS) AMENDMENT NO. 1568

Mr. BRADLEY (for himself, Mr. FEINGOLD, Mr. DASCHLE, Mr. KERRY, Mr. BINGAMAN, Mr. DORGAN, and Mr. BRYAN) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III, insert the following:

SEC. . SENSE OF THE SENATE REGARDING TAX EXPENDITURES.

(a) FINDINGS.—The Senate finds that—

(1) continuing budget deficits and the accumulation of Federal debt have a detrimental impact on the Nation's long-term economic growth prospects;

(2) in the absence of further fiscal restraint, the Congressional Budget Office estimates that the Federal deficit will increase to $365,000,000,000 by 2004 and the national debt held by the public will grow to approximately $6,000,000,000,000;

(3) tax expenditures are growing significantly; and

(4) in some instances, tax expenditures may have the same effect as direct Federal spending and should be subject to the same level of budgetary review.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Congress should consider targets for the growth in tax expenditures similar to the targets for the growth of mandatory spending;

(2) such targets should be specified in any reconciliation instructions included in a budget resolution; and

(3) such targets should be enforceable separately from any revenue targets included in the reconciliation instructions.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 1569

Mr. SASSER (for Mr. BINGAMAN, for himself and Mr. DOMENICI) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the appropriate place in the resolution, insert the following new section:

SEC. . SENSE OF THE CONGRESS REGARDING HEALTH SERVICE DELIVERY AND WATER INFRASTRUCTURE IN THE INDIAN HEALTH SERVICE.

It is the sense of the Congress that—

(1) sufficient funding should be provided to the Indian Health Service to ensure that Indian Health Service hospitals and outpatient facilities in existence on the date of enactment of this resolution, and Indian Health Service hospitals and outpatient facilities scheduled to open during fiscal years 1994, 1995, and 1996, are fully staffed with the appropriate number of health care professionals needed to meet the health and medical needs of the American Indians and Alaska Natives who depend on the Indian Health Service for health care; and

(2) sufficient funding should be provided to the Indian Health Service to ensure that the Indian Health Service is capable of meeting basic public health and safety and sanitation requirements on Indian lands through timely and proper water infrastructure construction and upgrades.

COHEN AMENDMENT NO. 1570

Mr. SASSER (for Mr. COHEN) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At an appropriate place in the resolution, insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

It is the sense of the Senate that the budget authority and outlay figures for function 250 in this resolution do not assume any amounts for the National Aeronautics and Space Administration for any fiscal year from 1995 through 1999 in excess of the amounts proposed by the President for such fiscal year.

MACK (AND OTHERS) AMENDMENT NO. 1571

Mr. MACK (for himself, Mr. GRAMM, Mr. COVERDELL, and Mrs. HUTCHISON) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III, add the following:

SEC. . SENSE OF THE SENATE REGARDING A BALANCED BUDGET AND THE SPENDING REDUCTION COMMISSION.

(a) FINDINGS.—The Congress finds that—

(2) the Congressional Budget Office has affirmed that reductions in outlays of $34 billion per year below their current baseline will result in a balanced budget by the year 2000.

(2) the Spending Reduction Commission described in S. 1191 is a proven mechanism which will provide the necessary reductions in federal spending required to achieve a balanced budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that federal outlays should be reduced to reflect the aforementioned reductions from the Congressional Budget Office Baseline and that a Spending Reduction Commission should be created to propose annual spending cuts sufficient to reach the yearly spending reduction targets.

HUTCHISON (AND OTHERS) AMENDMENT NO. 1572

Mrs. HUTCHISON (for herself, Mr. KEMPTHORNE, Mr. BROWN, Mr. MCCAIN, Mr. BENNETT, Mr. ROTH, Mr. COVERDELL, and Mr. FAIRCLOTH) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

On page 5, decrease the amount on line 1 by $200,000,000.

On page 5, decrease the amount on line 2 by $400,000,000.

On page 5, decrease the amount on line 3 by $500,000,000.

On page 5, decrease the amount on line 4 by $600,000,000.

On page 5, decrease the amount on line 5 by $700,000,000.

On page 5, decrease the amount on line 11 by $200,000,000.

On page 5, decrease the amount on line 12 by $400,000,000.

On page 5, decrease the amount on line 13 by $500,000,000.

On page 5, decrease the amount on line 14 by $600,000,000.

On page 5, decrease the amount on line 15 by $700,000,000.

On page 5, decrease the amount on line 22 by $200,000,000.

On page 5, decrease the amount on line 23 by $400,000,000.

On page 5, decrease the amount on line 24 by $500,000,000.

On page 5, decrease the amount on line 25 by $600,000,000.

On page 6, decrease the amount on line 1 by $700,000,000.

On page 6, decrease the amount on line 7 by $200,000,000.

On page 6, decrease the amount on line 8 by $400,000,000.

On page 6, decrease the amount on line 9 by $500,000,000.

On page 6, decrease the amount on line 10 by $600,000,000.

On page 6, decrease the amount on line 11 by $700,000,000.

On page 6, decrease the amount on line 17 by $200,000,000.

On page 6, decrease the amount on line 18 by $400,000,000.

On page 6, decrease the amount on line 19 by $500,000,000.

On page 6, decrease the amount on line 20 by $600,000,000.

On page 6, decrease the amount on line 21 by $700,000,000.

On page 7, decrease the amount on line 1 by $200,000,000.

On page 7, decrease the amount on line 2 by $400,000,000.

On page 7, decrease the amount on line 3 by $500,000,000.

On page 7, decrease the amount on line 4 by $600,000,000.

On page 7, decrease the amount on line 5 by $700,000,000.

On page 36, decrease the amount on line 20 by $200,000,000.

On page 36, decrease the amount on line 21 by $200,000,000.

On page 37, decrease the amount on line 2 by $400,000,000.

On page 37, decrease the amount on line 3 by $400,000,000.

On page 37, decrease the amount on line 9 by $500,000,000.

On page 37, decrease the amount on line 10 by $500,000,000.

On page 37, decrease the amount on line 16 by $600,000,000.

On page 37, decrease the amount on line 17 by $600,000,000.

On page 37, decrease the amount on line 23 by $700,000,000.

On page 37, decrease the amount on line 24 by $700,000,000.

On page 70, decrease the amount on line 21 by $400,000,000.

On page 70, decrease the amount on line 22 by $400,000,000.

On page 70, decrease the amount on line 24 by $500,000,000.

On page 70, decrease the amount on line 25 by $500,000,000.

On page 71, decrease the amount on line 2 by $600,000,000.

On page 71, decrease the amount on line 3 by $600,000,000.

SIMPSON AMENDMENT NO. 1573

Mr. SIMPSON proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

On page 5, line 22, decrease the amount by $2,000,000,000.

On page 5, line 23, decrease the amount by $13,200,000,000.

On page 5, line 24, decrease the amount by $22,400,000,000.

On page 5, line 25, decrease the amount by $33,600,000,000.

On page 6, line 1, decrease the amount by $46,200,000,000.

On page 6, line 17, decrease the amount by $2,000,000,000.

On page 6, line 18, decrease the amount by $13,200,000,000.

On page 6, line 19, decrease the amount by $22,400,000,000.

On page 6, line 20, decrease the amount by $33,600,000,000.

On page 6, line 21, decrease the amount by $46, 200,000,000.

On page 7, line 8, decrease the amount by $2,000,000,000.

On page 7, line 9, decrease the amount by $15,200,000,000.

On page 7, line 10, decrease the amount by $37,600,000,000.

On page 7, line 11, decrease the amount by $71,200,000,000.

On page 7, line 12, decrease the amount by $117,400,000,000.

On page 8, line 7, decrease the amount by $2,000,000,000.

On page 8, line 8, decrease the amount by $13,200,000,000.

On page 8, line 9, decrease the amount by $22,400,000,000.

On page 8, line 10, decrease the amount by $33,600,000,000.

On page 8, line 11, decrease the amount by $46,200,000,000.

On page 9, line 14, decrease the amount by $1,300,000,000.

On page 9, line 15, decrease the amount by $8,100,000,000.

On page 9, line 16, decrease the amount by $13,200,000,000.

On page 9, line 17, decrease the amount by $19,500,000,000.

On page 9, line 18, decrease the amount by $26,500,000,000.

On page 26, line 16, decrease the amount by $200,000,000.

On page 26, line 23, decrease the amount by $600,000,000.

On page 27, line 6, decrease the amount by $1,000,000,000.

On page 27, line 13, decrease the amount by $1,300,000,000.

On page 27, line 21, decrease the amount by $600,000,000.

On page 28, line 3, decrease the amount by $3,700,000,000.

On page 28, line 10, decrease the amount by $6,200,000,000.

On page 28, line 17, decrease the amount by $9,700,000,000.

On page 28, line 24, decrease the amount by $13,900,000,000.

On page 30, line 21, decrease the amount by $100,000,000.

On page 31, line 3, decrease the amount by $800,000,000.

On page 31, line 10, decrease the amount by $1,500,000,000.

On page 31, line 17, decrease the amount by $2,200,000,000.

On page 31, line 24, decrease the amount by $3,000,000,000.

On page 33, line 18, decrease the amount by $100,000,000.

On page 34, line 1, decrease the amount by $500,000,000.

On page 34, line 9, decrease the amount by $800,000,000.

On page 34, line 17, decrease the amount by $1,100,000,000.

On page 34, line 25, decrease the amount by $1,500,000,000.

GRAMM (AND OTHERS) AMENDMENT NO. 1574

Mr. GRAMM (for himself, Mr. CRAIG, and Mr. COATS) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

On page 3, decrease the amount on line 5 by $10,380,000,000.

On page 3, decrease the amount on line 6 by $26,000,000,000.

On page 3, decrease the amount on line 7 by $27,600,000,000.

On page 3, decrease the amount on line 8 by $30,000,000,000.

On page 3, decrease the amount on line 9 by $32,300,000,000.

On page 3, decrease the amount on line 13 by $10,380,000,000.

On page 3, decrease the amount on line 14 by $20,000,000,000.

On page 3, decrease the amount on line 15 by $27,600,000,000.

On page 3, decrease the amount on line 16 by $30,000,000,000.

On page 3, decrease the amount on line 17 by $32,300,000,000.

On page 4, decrease the amount on line 7 by $10,380,000,000.

On page 4, decrease the amount on line 8 by $26,000,000,000.

On page 4, decrease the amount on line 9 by $27,600,000,000.

On page 4, decrease the amount on line 10 by $30,000,000,000.

On page 4, decrease the amount on line 11 by $32,300,000,000.

On page 4, decrease the amount on line 15 by $10,380,000,000.

On page 4, decrease the amount on line 16 by $26,000,000,000.

On page 4, decrease the amount on line 17 by $27,600,000,000.

On page 4, decrease the amount on line 18 by $30,000,000,000.

On page 4, decrease the amount on line 19 by $32,300,000,000.

On page 5, decrease the amount on line 1 by $34,437,000,000.

On page 5, decrease the amount on line 2 by $41,896,000,000.

On page 5, decrease the amount on line 3 by $46,641,000,000.

On page 5, decrease the amount on line 4 by $40,493,000,000.

On page 5, decrease the amount on line 5 by $45,034,000,000.

On page 5, decrease the amount on line 11 by $34,437,000,000.

On page 5, decrease the amount on line 12 by $41,896,000,000.

On page 5, decrease the amount on line 13 by $46,641,000,000.

On page 5, decrease the amount on line 14 by $40,493,000,000.

On page 5, decrease the amount on line 15 by $45,034,000,000.

On page 5, decrease the amount on line 22 by $10,584,000,000.

On page 5, decrease the amount on line 23 by $29,223,000,000.

On page 5, decrease the amount on line 24 by $35,986,000,000.

On page 5, decrease the amount on line 25 by $41,131,000,000.

On page 6, decrease the amount on line 1 by $40,215,000,000.

On page 6, decrease the amount on line 7 by $10,584,000,000.

On page 6, decrease the amount on line 8 by $29,223,000,000.

On page 6, decrease the amount on line 9 by $35,986,000,000.

On page 6, decrease the amount on line 10 by $41,131,000,000.

On page 6, decrease the amount on line 11 by $40,215,000,000.

On page 6, decrease the amount on line 17 by $204,000,000.

On page 6, decrease the amount on line 18 by $3,223,000,000.

On page 6, decrease the amount on line 19 by $8,386,000,000.

On page 6, decrease the amount on line 20 by $11,131,000,000.

On page 6, decrease the amount on line 21 by $7,915,000,000.

On page 7, decrease the amount on line 1 by $204,000,000.

On page 7, decrease the amount on line 2 by $3,223,000,000.

On page 7, decrease the amount on line 3 by $8,386,000,000.

On page 7, decrease the amount on line 4 by $11,131,000,000.

On page 7, decrease the amount on line 5 by $7,915,000,000.

On page 7, decrease the amount on line 8 by $204,000,000.

On page 7, decrease the amount on line 9 by $3,427,000,000.

On page 7, decrease the amount on line 10 by $11,813,000,000.

On page 7, decrease the amount on line 11 by $22,944,000,000.

On page 7, decrease the amount on line 12 by $30,859,000,000.

On page 8, decrease the amount on line 7 by $204,000,000.

On page 8, decrease the amount on line 8 by $3,223,000,000.
On page 8, decrease the amount on line 9 by $8,386,000,000.
On page 8, decrease the amount on line 10 by $11,131,000,000.
On page 8, decrease the amount on line 11 by $7,915,000,000.
On page 10, decrease the amount on line 3 by $100,000,000.
On page 11, increase the amount on line 6 by $100,000,000.
On page 11, decrease the amount on line 14 by $4,000,000,000.
On page 11, decrease the amount on line 15 by $1,300,000,000.
On page 11, decrease the amount on line 22 by $3,900,000,000.
On page 11, decrease the amount on line 23 by $2,500,000,000.
On page 12, decrease the amount on line 5 by $4,100,000,000.
On page 12, decrease the amount on line 6 by $3,200,000,000.
On page 12, decrease the amount on line 13 by $4,000,000,000.
On page 12, decrease the amount on line 14 by $4,000,000,000.
On page 12, decrease the amount on line 21 by $3,800,000,000.
On page 12, decrease the amount on line 22 by $3,900,000,000.
On page 13, decrease the amount on line 7 by $400,000,000.
On page 13, decrease the amount on line 8 by $200,000,000.
On page 13, decrease the amount on line 14 by $500,000,000.
On page 13, decrease the amount on line 15 by $400,000,000.
On page 13, decrease the amount on line 21 by $600,000,000.
On page 13, decrease the amount on line 22 by $500,000,000.
On page 14, decrease the amount on line 3 by $700,000,000.
On page 14, decrease the amount on line 4 by $600,000,000.
On page 14, decrease the amount on line 10 by $800,000,000.
On page 14, decrease the amount on line 11 by $800,000,000.
On page 14, decrease the amount on line 18 by $900,000,000.
On page 14, decrease the amount on line 19 by $300,000,000.
On page 15, decrease the amount on line 2 by $1,100,000,000.
On page 15, decrease the amount on line 3 by $900,000,000.
On page 15, decrease the amount on line 10 by $1,400,000,000.
On page 15, decrease the amount on line 11 by $1,300,000,000.
On page 15, decrease the amount on line 18 by $1,800,000,000.
On page 15, decrease the amount on line 19 by $1,800,000,000.
On page 16, decrease the amount on line 2 by $2,300,000,000.
On page 16, decrease the amount on line 3 by $2,200,000,000.
On page 16, decrease the amount on line 11 by $4,300,000,000.
On page 16, decrease the amount on line 12 by $900,000,000.
On page 16, decrease the amount on line 18 by $4,500,000,000.
On page 16, decrease the amount on line 19 by $2,100,000,000.
On page 16, decrease the amount on line 25 by $4,300,000,000.
On page 17, decrease the amount on line 1 by $3,200,000,000.
On page 17, decrease the amount on line 7 by $4,700,000,000.
On page 17, decrease the amount on line 8 by $4,000,000,000.
On page 17, decrease the amount on line 14 by $4,900,000,000.
On page 17, decrease the amount on line 15 by $4,500,000,000.
On page 17, decrease the amount on line 22 by $500,000,000.
On page 17, decrease the amount on line 23 by $300,000,000.
On page 18, decrease the amount on line 5 by $500,000,000.
On page 18, decrease the amount on line 6 by $600,000,000.
On page 18, decrease the amount on line 13 by $600,000,000.
On page 18, decrease the amount on line 14 by $700,000,000.
On page 18, decrease the amount on line 22 by $600,000,000.
On page 19, decrease the amount on line 5 by $900,000,000.
On page 19, decrease the amount on line 6 by $800,000,000.
On page 19, decrease the amount on line 14 by $1,700,000,000.
On page 19, decrease the amount on line 15 by $1,100,000,000.
On page 20, decrease the amount on line 5 by $2,600,000,000.
On page 20, decrease the amount on line 6 by $2,200,000,000.
On page 20, decrease the amount on line 13 by $3,100,000,000.
On page 20, decrease the amount on line 14 by $2,800,000,000.
On page 20, decrease the amount on line 21 by $4,200,000,000.
On page 20, decrease the amount on line 22 by $3,900,000,000.
On page 19, decrease the amount on line 22 by $2,200,000,000.
On page 19, decrease the amount on line 23 by $1,700,000,000.
On page 21, decrease the amount on line 6 by $8,300,000,000.
On page 21, decrease the amount on line 7 by $5,400,000,000.
On page 21, decrease the amount on line 14 by $7,500,000,000.
On page 21, decrease the amount on line 15 by $6,600,000,000.
On page 21, decrease the amount on line 22 by $7,600,000,000.
On page 21, decrease the amount on line 23 by $7,500,000,000.
On page 22, decrease the amount on line 5 by $6,800,000,000.
On page 22, decrease the amount on line 6 by $7,900,000,000.
On page 22, decrease the amount on line 13 by $9,000,000,000.
On page 22, decrease the amount on line 14 by $8,400,000,000.
On page 22, decrease the amount on line 23 by $4,800,000,000.
On page 22, decrease the amount on line 24 by $300,000,000.
On page 23, decrease the amount on line 7 by $4,400,000,000.
On page 23, decrease the amount on line 8 by $3,000,000,000.
On page 23, decrease the amount on line 15 by $4,300,000,000.
On page 23, decrease the amount on line 16 by $3,400,000,000.
On page 23, decrease the amount on line 23 by $4,700,000,000.
On page 23, decrease the amount on line 24 by $3,900,000,000.
On page 24, decrease the amount on line 7 by $4,100,000,000.
On page 24, decrease the amount on line 8 by $4,100,000,000.
On page 24, decrease the amount on line 17 by $6,900,000,000.
On page 24, decrease the amount on line 18 by $2,200,000,000.
On page 24, decrease the amount on line 25 by $8,500,000,000.
On page 25, decrease the amount on line 1 by $6,500,000,000.
On page 25, decrease the amount on line 8 by $9,900,000,000.
On page 25, decrease the amount on line 9 by $8,900,000,000.
On page 25, decrease the amount on line 16 by $11,000,000,000.
On page 25, decrease the amount on line 17 by $10,400,000,000.
On page 25, decrease the amount on line 24 by $12,100,000,000.
On page 25, decrease the amount on line 25 by $11,500,000,000.
On page 26, decrease the amount on line 8 by $1,200,000,000.
On page 26, decrease the amount on line 9 by $500,000,000.
On page 26, decrease the amount on line 15 by $1,900,000,000.
On page 26, decrease the amount on line 16 by $1,600,000,000.
On page 26, decrease the amount on line 22 by $2,700,000,000.
On page 26, decrease the amount on line 23 by $2,500,000,000.
On page 27, decrease the amount on line 5 by $2,900,000,000.
On page 27, decrease the amount on line 6 by $2,900,000,000.
On page 27, decrease the amount on line 12 by $3,700,000,000.
On page 27, decrease the amount on line 13 by $3,400,000,000.
On page 27, decrease the amount on line 20 by $100,000,000.
On page 27, decrease the amount on line 21 by $100,000,000.
On page 28, decrease the amount on line 2 by $100,000,000.
On page 28, decrease the amount on line 3 by $100,000,000.
On page 28, decrease the amount on line 9 by $100,000,000.
On page 28, decrease the amount on line 10 by $100,000,000.
On page 28, decrease the amount on line 16 by $100,000,000.
On page 28, decrease the amount on line 17 by $100,000,000.
On page 28, decrease the amount on line 23 by $200,000,000.
On page 28, decrease the amount on line 24 by $200,000,000.
On page 30, decrease the amount on line 20 by $7,200,000,000.
On page 30, decrease the amount on line 21 by $800,000,000.
On page 31, decrease the amount on line 2 by $9,600,000,000.
On page 31, decrease the amount on line 3 by $1,300,000,000.
On page 31, decrease the amount on line 9 by $11,300,000,000.
On page 31, decrease the amount on line 10 by $3,000,000,000.
On page 31, decrease the amount on line 16 by $7,100,000,000.
On page 31, decrease the amount on line 17 by $7,800,000,000.
On page 31, decrease the amount on line 23 by $17,200,000,000.
On page 31, decrease the amount on line 24 by $6,500,000,000.
On page 33, decrease the amount on line 17 by $700,000,000.

On page 33, decrease the amount on line 18 by $300,000,000.

On page 33, decrease the amount on line 25 by $1,200,000,000.

On page 34, decrease the amount on line 1 by $1,600,000,000.

On page 34, decrease the amount on line 8 by $1,900,000,000.

On page 34, decrease the amount on line 9 by $1,800,000,000.

On page 34, decrease the amount on line 16 by $2,000,000,000.

On page 34, decrease the amount on line 17 by $1,900,000,000.

On page 34, decrease the amount on line 24 by $1,700,000,000.

On page 34, decrease the amount on line 25 by $1,400,000,000.

On page 35, decrease the amount on line 8 by $337,000,000.

On page 35, decrease the amount on line 9 by $584,000,000.

On page 35, decrease the amount on line 15 by $204,000,000.

On page 35, increase the amount on line 16 by $669,000,000.

On page 35, increase the amount on line 22 by $721,000,000.

On page 35, increase the amount on line 23 by $1,476,000,000.

On page 36, increase the amount on line 5 by $2,172,000,000.

On page 36, increase the amount on line 6 by $2,534,000,000.

On page 36, increase the amount on line 12 by $3,273,000,000.

On page 36, increase the amount on line 13 by $4,092,000,000.

On page 36, decrease the amount on line 20 by $800,000,000.

On page 37, decrease the amount on line 21 by $100,000,000.

On page 37, decrease the amount on line 2 by $600,000,000.

On page 37, decrease the amount on line 3 by $1,700,000,000.

On page 37, decrease the amount on line 9 by $1,100,000,000.

On page 37, decrease the amount on line 10 by $1,800,000,000.

On page 37, decrease the amount on line 16 by $1,500,000,000.

On page 37, decrease the amount on line 17 by $2,300,000,000.

On page 37, decrease the amount on line 23 by $2,500,000,000.

On page 37, decrease the amount on line 24 by $3,400,000,000.

On page 38, decrease the amount on line 13 by $92,000,000.

On page 38, decrease the amount on line 14 by $92,000,000.

On page 38, decrease the amount on line 20 by $462,000,000.

On page 38, decrease the amount on line 21 by $462,000,000.

On page 39, decrease the amount on line 2 by $965,000,000.

On page 39, decrease the amount on line 3 by $965,000,000.

On page 39, decrease the amount on line 9 by $1,107,000,000.

On page 39, decrease the amount on line 10 by $1,107,000,000.

On page 39, decrease the amount on line 25 by $92,000,000.

On page 40, decrease the amount on line 1 by $92,000,000.

On page 40, decrease the amount on line 7 by $462,000,000.

On page 40, decrease the amount on line 8 by $462,000,000.

On page 40, decrease the amount on line 13 by $965,000,000.

On page 40, decrease the amount on line 14 by $965,000,000.

On page 40, decrease the amount on line 21 by $1,107,000,000.

On page 40, decrease the amount on line 22 by $1,107,000,000.

On page 41, decrease the amount on line 4 by $92,000,000.

On page 41, decrease the amount on line 5 by $462,000,000.

On page 41, decrease the amount on line 6 by $965,000,000.

On page 41, decrease the amount on line 7 by $1,107,000,000.

On page 41, increase the amount on line 11 by $7,800,000,000.

On page 41, increase the amount on line 12 by $3,800,000,000.

On page 41, increase the amount on line 18 by $4,900,000,000.

On page 41, increase the amount on line 19 by $800,000,000.

On page 41, increase the amount on line 25 by $5,600,000,000.

On page 42, increase the amount on line 1 by $3,100,000,000.

On page 42, increase the amount on line 7 by $8,700,000,000.

On page 42, increase the amount on line 8 by $8,300,000,000.

On page 42, increase the amount on line 14 by $20,100,000,000.

On page 42, increase the amount on line 15 by $11,800,000,000.

On page 70, increase the amount on line 21 by $41,896,000,000.

On page 70, increase the amount on line 22 by $29,223,000,000.

On page 70, increase the amount on line 24 by $46,641,000,000.

On page 70, increase the amount on line 25 by $35,986,000,000.

On page 71, increase the amount on line 2 by $40,493,000,000.

On page 71, increase the amount on line 3 by $41,131,000,000.

FEDERAL DISASTER PREPAREDNESS AND RESPONSE ACT OF 1993

AKAKA (AND GLENN) AMENDMENT NO. 1575

(Ordered referred to the Committee on Governmental Affairs.)

Mr. AKAKA (for himself and Mr. GLENN) submitted an amendment intended to be proposed by them to the bill (S. 1697) to improve the ability of the Federal Government to prepare for and respond to major disasters, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. ___. PREVENTION OF FRAUD FOLLOWING MAJOR DISASTERS.

(a) SHORT TITLE.—This section may be cited as the "Disaster Victims Crime Prevention Act of 1994".

(b) DEFINITIONS.—As used in this section:

(1) AGREEMENT.—The term "agreement", with respect to the provision of a consumer good or service, includes an offer or undertaking to provide or arrange for the provision of the consumer good or service without regard to whether an enforceable contract is entered into.

(2) CONSUMER GOOD OR SERVICE.—The term "consumer good or service" means a good, piece of equipment, or service provided primarily for personal, family, or household purposes, including food, water, ice, a chemical, a building supply, a tool, a petroleum product, a residential lease property, a residential construction, reconstruction, or repair service, or a service for the removal of debris (including a damaged tree) and garbage.

(3) PROVIDE.—The term "provide", with respect to a consumer good or service, means to sell, lease, or otherwise provide in exchange for consideration, the good or service.

(4) SUPPLIER.—The term "supplier" includes a seller, reseller, wholesaler, distributor, retailer, lessor, provider, or licensed or unlicensed contractor, subcontractor, or laborer, involved in the provision or distribution of a consumer good or service.

(c) ESTABLISHMENT OF ANTI-FRAUD STRIKE FORCES.—Following the declaration of the existence of a major disaster by the President, the Attorney General shall—

(1) consult with the United States Attorney for the district in which the disaster occurred and with State and local law enforcement officials to determine the extent to which victims of the disaster are being further victimized by fraudulent or otherwise unscrupulous activities of suppliers offering consumer goods and services for cleanup, repair, and other recovery from the effects of the disaster; and

(2) if it appears that the extent of the activities referred to in paragraph (1) is such that the resources of the officials are not sufficient to quickly and adequately investigate and prosecute the activities, establish an anti-fraud task force of investigators and prosecutors to combat the activities in the area affected by the disaster.

(d) FRAUD INVOLVING DISASTER VICTIMS.—

(1) SUPPLIERS OF CONSUMER GOODS AND SERVICES.—

(A) OFFENSE.—During the period beginning on the date the existence of a major disaster is declared by the President and ending 180 days after that date, and within the area to which the declaration applies, a supplier who by false pretenses, by the making of a representation that the supplier knows, or has reason to know, is false or misleading, or through fraudulent conduct, obtains money or any other thing of value in connection with an agreement to provide a consumer good or service for the cleanup, repair, or other recovery from the effects of a major disaster shall be punished as provided in subparagraph (B).

(B) PENALTY.—A supplier who commits an offense described in subparagraph (A) shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(C) PRESUMPTIONS.—For the purposes of subparagraph (A), a supplier shall be considered to obtain money or another thing of value by false pretenses if—

(i)(I) the supplier uses the money or other thing of value for any purpose other than to—

(aa) purchase materials to be used in carrying out the agreement;

(bb) pay for work performed or other expenses incurred in connection with the agreement; or

(cc) pay for a proportionate share of the overhead and profit of the supplier; and

(II) the person with whom the agreement was made has not authorized, in writing, the use of the money or other thing of value for a purpose other than a purpose described in item (aa), (bb), or (cc) of subclause (I); or

(ii) in the case of an agreement to provide or arrange for the provision of a residential construction, reconstruction, or repair service, or a service for the removal of debris (including a damaged tree) and garbage—

(I) the supplier receives more than 10 percent of the money or other thing of value under the agreement for the service and fails to—

(aa) apply for each permit necessary to carry out the agreement by the date that is 30 days after the date of the receipt of the money or thing of value; or

(bb) start carrying out the construction, reconstruction, repair, or removal by the date that is 90 days after the last necessary permit is obtained; and

(II) the person with whom the agreement was made has not authorized, in writing, a longer time period than the applicable period described in subclause (I).

(2) BENEFICIARIES OF FEDERAL ASSISTANCE.—

(A) OFFENSE.—A person who by false pretenses, by the making of a representation that the supplier knows, or has reason to know, is false or misleading, or through fraudulent conduct, obtains a grant or loan of money, a consumer good or service, or any other form of assistance, directly or indirectly, from the Federal Government for use in connection with the cleanup, repair, or other recovery from the effects of a major disaster shall be punished as provided in subparagraph (B).

(B) PENALTY.—A person who commits an offense described in subparagraph (A) shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(e) PRICE-GOUGING OF DISASTER VICTIMS.—

(1) OFFENSE.—

(A) IN GENERAL.—During the period beginning on the date the existence of a major disaster is declared by the President and ending 180 days after that date, and within the area to which the declaration applies, it shall be unlawful for a supplier to provide, or to offer to provide, any consumer good or service at an unconscionably excessive price (as determined under subparagraph (B)).

(B) DETERMINATION OF UNCONSCIONABLY EXCESSIVE PRICE.—

(i) IN GENERAL.—For the purpose of subparagraph (A), whether a price is unconscionably excessive shall be a question of law for a court to determine. There shall be considered to be prima facie evidence that a price is unconscionably excessive if—

(I)(aa) the amount charged represents a gross disparity between the price of the consumer good or service that is the subject of the transaction and the average price at which the consumer good or service was provided, or offered to be provided, by the supplier in the ordinary course of business during the 30-day period immediately prior to the declaration of the existence of the disaster; or

(bb) the amount charged grossly exceeds the average price at which the same or similar consumer goods or services was readily obtainable by consumers in the trade area during the 30-day period immediately prior to the declaration of the existence of the disaster; and

(II) subject to clause (ii), the amount by which the amount charged exceeds the average price referred to in subclause (I) is not attributable to increased costs incurred by the supplier in connection with the provision of the consumer good or service.

(ii) DETERMINATION OF INCREASED COSTS OF SUPPLIER.—In determining the increased costs incurred by a supplier under clause (i)(II), an increase in the replacement cost to the supplier of a good may not be taken into account unless the supplier has no reasonable assurance of recouping the increased replacement cost in a subsequent sale involving the good.

(2) ENFORCEMENT.—

(A) PENALTY.—A supplier who knowingly violates paragraph (1) shall be imprisoned not more than 1 year or fined not more than $10,000, or both. In addition, a court may require disgorgement of any gain unlawfully acquired and restitution to any injured party.

(B) ACTIONS BY VICTIMS.—A person, Federal agency, State, or local government that suffers loss or damage as a result of a violation of paragraph (1) may bring an action against a supplier in a district court of the United States for treble damages, disgorgement, special or punitive damages, reasonable attorney's fees, costs and expenses of suit, and any other appropriate legal or equitable relief, including injunctive relief.

(C) ACTIONS BY STATE ATTORNEYS GENERAL.—An attorney general of a State, or other authorized State official, may bring a civil action in the name of the State, on behalf of persons residing in the State, in a district court of the United States that has jurisdiction over the defendant for treble damages, disgorgement, special or punitive damages, reasonable attorney's fees, costs and expenses of suit, and any other appropriate legal or equitable relief, including injunctive relief.

(3) NO PREEMPTION.—Nothing in this subsection is intended to preempt State law.

(f) PROVISION OF FRAUD PREVENTION INFORMATION.—The Director of the Federal Emergency Management Agency shall—

(1) in consultation with the Attorney General, the Administrator of the Small Business Administration, State attorneys general, and other State officials with responsibility for fraud prevention, develop public information materials to assist victims of major disasters in detecting and avoiding suppliers who attempt to obtain money or other things of value from the victims in exchange for fraudulent or otherwise unscrupulous offers of consumer goods or services for cleanup, repair, and other recovery from the effects of the disasters; and

(2) provide for the distribution of the materials developed under paragraph (1) to the victims of each major disaster as soon as practicable after the declaration of the existence of the disaster by the President.

(g) COMMISSION OF OFFENSE FOLLOWING A MAJOR DISASTER TO BE CONSIDERED AN AGGRAVATING FACTOR.—The United States Sentencing Commission, in the exercise of the authority of the Commission under section 994 of title 28, United States Code, shall review and, if necessary, amend the sentencing guidelines promulgated under such section to provide that the commission of an offense under section 1341, 1343, or 2314 of title 18, United States Code, in connection with the provision of a consumer good or service for the cleanup, repair, or other recovery from the effects of a major disaster shall be an aggravating factor that may result in the imposition of a sentence that is twice as great as a sentence that would otherwise be imposed.

• Mr. AKAKA. Mr. President, today I am submitting an amendment to S. 1697, the Federal Disaster Preparedness and Response Act of 1993, on behalf of myself, Senator GLENN and Senator GRAHAM of Florida, to combat fraud against victims of Federal disasters. Our measure would make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

Over the past several years, the United States and its territories have experienced a number of devastating natural disasters. Many of these hurricanes, floods, earthquakes, tornadoes, wildfires, and blizzards were declared natural disasters by the President. Through instant, on screen media coverage, we have had a ringside seat to the destruction caused by these catastrophic events.

We have also witnessed how these disasters bring out the best in the American people and government at all levels. There are countless examples, from Red Cross volunteers passing out blankets and food, to citizens traveling hundreds of miles to help rebuild a stranger's home. Despite the outpouring of public support that follows these catastrophes, there are unscrupulous individuals who prey on trusting and unsuspecting victims. This measure would criminalize some of the activities undertaken by these unprincipled people whose sole intent is to defraud hardworking men and women.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. A July 29, 1993, Wall Street Journal article recounted that in the wake of last summer's Midwest flooding, Iowa officials discovered vendors raised the price of portable toilets from $60 a month to $60 a day. In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-related charities.

Nor will television viewers forget the scenes of beleaguered south Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

Eighteen months ago, Hurricane Iniki devastated the Island of Kauai. One of our worst examples of abuse involves a contractor accused of signing contracts with numerous homeowners, taking their money, and then failing to complete reconstruction on their homes.

While the Stafford Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, the Akaka-Glenn-Graham amendment would make it a Federal crime to fraudulently take money from a disaster victim and fail to provide the agreed-upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the States to impose restrictions on price increases prior to a

Federal disaster declaration, Federal penalties for price gouging should be imposed once a disaster has been declared. I am pleased to incorporate in this measure an initiative Senator GLENN began following Hurricane Andrew to combat price gouging and excessive pricing of goods and services.

Fortunately, citizens in Hawaii were spared spiralling cost increases after Hurricane Iniki hit last September because the State government acted swiftly to counteract attempts at price gouging by instituting price and rent freezes. When Hawaii was threatened by another hurricane last August, the States once more instituted a price freeze in order to protect Hawaii's consumers from escalating prices.

There already is tremendous cooperation among the various State and local offices that deal with fraud and consumer protection issues. During the Midwest flooding, officials from Florida lent their expertise to their counterparts in the Nation's heartland. This exchange of experience and practical solutions has created a strong support network.

However, a Federal remedy is needed to assist States when a disaster occurs. There should be a broader enforcement system to help overburdened State and local governments during a time of disaster. The Federal Government is in a position to ensure that residents within a federally declared disaster area do not fall victim to fraud. Federal agencies should assist localities to provide such a support system.

In addition to making disaster-related fraud a Federal crime, our bill would also require the Director of the Federal Emergency Management Agency to develop public information materials to advise disaster victims about ways to detect and avoid fraud. I have seen a number of antifraud material prepared by State consumer protection offices and believe this section would assist States to disseminate antifraud-related material following the declaration of a disaster by the President.

Our measure would also establish antifraud strike teams to prevent fraud against disaster victims. Following the declaration of a major disaster by the President, the U.S. Attorney General would consult with the U.S. attorney for the district in which the disaster occurred, and with State and local enforcement officials, to determine if disaster victims are being further victimized by faudulent activities.

I look forward to working with my colleagues in enacting this legislation.

Mr. President, I ask unanimous consent to include for the RECORD the Wall Street Journal article recounting price gouging during last summer's Midwest floods.

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

[From the Wall Street Journal, July 29, 1993]

Flotsam, jetsam and scam 'em? Rip-offs may rise as waters recede.

Iowa officials issue subpoenas to vendors of portable toilets suspected of jacking up rates to $60 a day from $60 a month. Carpet cleaners charging $350 an hour also are scrutinized. Missouri investigates mobile-home haulers who allegedly raised rates tenfold, while Minnesota is on the lookout for telemarketers fronting for phony charities. Meanwhile, many public-service ads caution against sending cash.

Midwestern state attorneys general are marshaling forces to battle price gouging and scams that may pop up. State consumer-protection officials met earlier this month with the attorney general of Florida—which was besieged by con men after Hurricane Andrew. Florida officials and an insurance-company investigator traveled to Des Moines to brief Iowa officials on scams.•

• Mr. GLENN. Mr. President, I am pleased to join with Senator AKAKA today in introducing legislation to combat fraud and price gouging in the wake of Presidentially declared natural disasters.

This amendment incorporates several provisions of a measure I introduced following Hurricane Andrew to make price gouging a Federal crime. Following that tragic event, I was dismayed by reports of unscrupulous profiteers preying upon the misfortunes of hurricane victims.

There was a report of one supplier charging $100 for a case of diapers, people paying $15 for a gallon of water, or $10 for a small bag of ice. Some folks even came in from out of State right after the hurricane to get unconscionable prices for generators, plywood, plastic sheathing, and the like.

Similarly, I know from Senator AKAKA that, unfortunately, some victims of Hurricane Iniki paid money to fly-by-the-night contractors for home or business repairs that never materialized. Instead, they literally took the money and ran.

Now, Mr. President, I think anyone would be hard pressed to defend those who make a quick buck off of other peoples' misery.

This legislation will put the force of Federal law and resources behind the efforts of State attorneys general to combat these despicable activities. In addition to making fraud and price gouging Federal crimes after Presidentially declared disasters, it will also authorize the creation of antifraud task forces using the tools that the Department of Justice, the State attorney general, and local law enforcement officials can offer. Finally, the measure would require the Federal Emergency Management Authority [FEMA] to develop public information materials for distribution on how to best detect and prevent fraud.

Through these efforts we will send a clear message that this sort of exploitive behavior will not be tolerated. We want people to know that their Government is committed to protecting their interests in the wake of a disaster, and get the message out to those who persist in this reprehensible conduct that they can expect significant penalties.

So I want to congratulate my friend from Hawaii and look forward to working with him on this legislation.•

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

KERRY AMENDMENT NO. 1576

Mr. FORD (for Mr. KERRY) proposed an amendment to the bill (S. 1636) to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) IN GENERAL.—Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence, by inserting before the period at the end the fol-

lowing: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.";

(5) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to cooperative agreement under section 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to cooperative agreement under section 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to cooperative agreement under section 119.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to three consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant chance in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

"(vi) This paragraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).."; and

(6) by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood to, is a member of the same clan or ethnological grouping as, or shares a common heritage with, an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a

Native inhabitant of Russia, Canada, or Greenland, including for the purpose of rendering of raw marine mammal parts into clothing or handicrafts through carving, painting, sewing, or decorating.".

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentences: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.".

(c) TAKING IN DEFENSE OF SELF OR OTHERS.—Section 101(c) (16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass.".

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by inserting "except for the incidental taking of marine mammals in the course of commercial fishing operations" before the period at the end;

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under the Animal Welfare Act (7 U.S.C. 2131 et seq.); and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in injury to a species, population, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) The geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies."; and

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

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of a sustainable population stock;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

"(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear stock in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

"(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear stock in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear stock in Canada.

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3), or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

(A) striking "or" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks throughout their range.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section as amended by this Act.

SEC. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d) as so redesignated by this Act, is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "and" at the end of clause (i); and

(B) by inserting at the end the following new clause:

"(iii) for care and maintenance of a marine mammal seized under section 104(c)(2)(D); and"; and

(2) in subsection (d) by striking "For purposes of carrying out this title, the" and inserting "The".

SEC. 7. APPLICATION TO OTHER TREATIES AND CONVENTIONS.

Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections:

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(b)(1), any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 118 for such species or stock.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENTS OF COMMERCE AND THE INTERIOR.—Section 116 is amended to read as follows:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the De-

partment of Commerce, for purposes of carrying out its functions and responsibilities under this title (other than sections 117 and 118) and title IV, $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118, $200,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this title, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(b) MARINE MAMMAL COMMISSION.—Section 207 is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission, for purposes for carrying out his title, $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1993.".

(c) REPEAL.—Section 7 of the Act entitled "An Act to improve the Operations of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1409), is repealed.

SEC. 10. STOCK ASSESSMENTS.

Title I (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.—Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), a prepare a draft stock assessment for which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the maximum population estimate, current and maximum net productivity rates, and current population trend, including description of the information upon which these are based;

"(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—(1) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stock which are specified as strategic stocks;

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under the Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

"(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

"(E) the potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks; and

"(F) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

"(e) EFFECT ON SECTION 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

"(c) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery) that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such registration is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (e); and

"(iv) comply with a take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A)(i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A)(i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A)(i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

"(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.,

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(d) MONITORING OF INCIDENTAL TAKES.—(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality and injury, or bycatch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A)(i) or (ii).

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) REPORTING REQUIREMENT.—The owner of operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner of operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement and take reduction plan designed to assist in the recover or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A)(i) or (ii), and may develop and implement such a plan for any other marine mammal stocks with interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established in this section. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(2) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A)(i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under subsection (c) and any substantial new information:

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury

"(D) recommend dates for achieving the specific objectives of the plan:

"(5)(A) For any stock in which incidental morality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plans implementation, such mortality and serious injury to a level below the potential biological removal level.

"(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (C)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fishery, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species of stock, Alaska Na-

tive organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

"(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(9) In implementing take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fisherman, through workshops and other means, on the importance of reducing the incidental morality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor, in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental morality and serious injury of marine mammals in the course of commercial fishing operations.

"(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment of court action. Such amendments shall be made in accordance with paragraph (7)(f) or (8)(f), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental mortality and serious injury of marine Mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum

extent practicable, reduce incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1994 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(h) PENALTIES.—Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of section 105 and 107, and may be subject to section 106 as the Secretary establishes by regulations.

"(i) ASSISTANCE.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(l) DEFINITIONS.—As used in this section and section 101(a)(5)(E), each of the terms 'fishery' and 'vessel of the United States' has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) the term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'strategic stock' means a marine mammal population or stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future; or

"(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under this Act.

"(20) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The minimum population estimate of the stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(21) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(22) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(23) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

"(24) The term 'take reduction plan' means a plan developed under section 118.

"(25) The term 'take reduction team' means a team established under section 118.

"(26) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(27) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 13. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" after "thereunder".

(c) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting "114, and 118 of this title and title IV".

SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(b) of this Act.

SEC. 15. TRANSITION, RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until September 1, 1995, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this Act, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to ap-

proach, by any means other than an aircraft, no closer than 100 yards to a humpback whale or any other whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 18. SCRIMSHAW EXEMPTIONS.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of the Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999. The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 116.".

SEC. 20. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following.

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary of Commerce shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 22. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as RTC-1 and 200. Such property shall include Pier R, the buildings known as RTC-1 and RTC-4, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY: EFFECT ON LIABILITY OF SECRETARY OF NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest to the property so conveyed shall immediately be conveyed to the public entity vested with the ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end of the following new section:

"SEC. 120. PACIFIC COAST TASK FORCE; GULF OF MAINE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the intentional lethal taking of pinnipeds in accordance with this section.

"(b) APPLICATION.—(1) State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

"(C) migrate through the Ballard Locks at Seattle, Washington.

"(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an ap-

plication, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal register requesting public comment on the application.

"(2) a Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the Pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the intentional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Pinniped-Fishery Interaction Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve the intentional lethal taking of any pinniped from a species or stock that is—

"(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(2) depleted under this Act; or

"(3) a strategic stock.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or which the Secretary finds are approaching such endangered species of threatened species status; or

"(B) are having broader impacts on the coastal ecosystem of Washington, Oregon, and California. The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—(1) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(A) fish behavior in the presence of predators generally;

"(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(D) other issues the Secretary considers relevant.

"(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment of this section, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

"(i) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.".

SEC. 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "In section 118 and title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) FURTHER AMENDMENTS TO TITLE IV.—The Act is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by subsection (b) of this section and the sections that are redesignated by subsection (b) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination: data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 406. Authorization of appropriations.
"Sec. 409. Definitions."

(d) CLERICAL AMENDMENTS.—The portion of the table of contents in the first section of the Act relating to title I is amended by adding at the end the following new items:

"Sec. 117. Stock assessments.
"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.
"Sec. 119. Marine mammal cooperative agreements in Alaska.
"Sec. 120. Pacific Coast Task Force; Gulf of Maine.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

SEC. 25. TRANSFER.

Of amounts appropriated by Public Law 103-139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Secretary of the Navy shall transfer $8,000,000 not later than April 15, 1994, to the Administrator of the Maritime Administration for the conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

McCAIN (AND GRAMM) AMENDMENT NO. 1577

Mr. McCAIN (for himself and Mr. GRAMM) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III, add the following:

SEC. . SENSE OF THE SENATE REGARDING EQUITABLE DISTRIBUTION OF REDUCTIONS IN DISCRETIONARY SPENDING.

The Senate finds that since the President's Fiscal Year 1995 defense budget request represents the tenth straight year of real cuts in defense; and, if the President's defense budget request is approved, since 1985 real defense spending will have been reduced by 45 percent by 1999; and, President Clinton, during his State of the Union address on January 25, 1994, promised no further cuts in defense spending. Then, it is the sense of the Senate that the annual levels of the 050 function should be reduced from the President's Fiscal Year 1995–1999 budget request only after other annual levels of non-defense discretionary spending in the budget resolution have been reduced, fairly and appropriately.

HARKIN AMENDMENT NO. 1578

Mr. HARKIN proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the appropriate place, insert the following, "It is the Sense of the Congress that given the federal budget deficit, the real reductions in discretionary spending in this resolution, and the existence of many more worthy programs competing for this funding, spending for the Star Wars (Ballistic Missile Defense) must not exceed the fiscal year 1994 appropriated level."

GRAHAM (AND OTHERS) AMENDMENT NO. 1579

Mr. SASSER (for Mr. GRAHAM for himself, Mr. WARNER, Mrs. BOXER, Mr. LEVIN, Mr. MACK, Mr. FAIRCLOTH, Mr. GLENN, Mr. THURMOND, Mr. COATS, Mr. KOHL, Mr. FEINGOLD, Mrs. HUTCHISON, Mr. NICKLES, Mr. BOND, Mr. LOTT, Mr. HELMS, Mr. FORD, Mr. COCHRAN, Mr. GRAMM, and Mr. LUGAR) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III, add the following new section:

SEC. 3. MINIMUM ALLOCATION PROGRAM.

(a) FINDINGS.—The Congress finds that—

* * *

established in 1982 to address inequities in the funding formula for Federal-aid highways;

(2) the minimum allocation program was designed to provide the greatest degree of flexibility practicable to States that receive funding under the formula referred to in paragraph (1) and includes an exemption of the apportionments from the obligation ceiling;

(3) the minimum allocation program provides additional flexibility by allowing a State a 4-year period during which amounts apportioned to the State may be obligated;

(4) the budget of the United States Government for fiscal year 1995 submitted by the President to Congress proposes to include minimum allocation apportionments under the obligation ceiling and also proposes to limit the authority of States to obligate apportionments under the minimum allocation program to 67 percent of the amount of the apportionments; and

(5) States have planned transportation programs on the basis of the provisions of the Intermodal Surface Transportation Efficiency Act of 1991, and the amendments made by the Act, relating to minimum allocation that confirmed core commitments to exemption and flexibility.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the minimum allocation program should remain exempt from the obligation ceiling; and

(2) the flexibility of the minimum allocation program should be an enduring and critical component of the provision of Federal assistance to States for Federal-aid highways.

(c) DEFINITIONS.—As used in this section:

(1) FEDERAL-AID HIGHWAYS.—The term "Federal-aid highways" has the meaning provided the term in section 101 of title 23, United States Code.

(2) MINIMUM ALLOCATION PROGRAM.—The term "minimum allocation program" means the program of allocation of funding to States under section 157 of title 23, United States Code.

(3) OBLIGATION CEILING.—The term "obligation ceiling" means the obligation ceiling under section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991.

HATCH AMENDMENT NO. 1580

Mr. SASSER (for Mr. HATCH) proposed an amendment to the concurrent resolution S. Con. Res. 63, supra; as follows:

At the end of title II, add the following:

SEC. . SENSE OF THE CONGRESS REGARDING FEDERAL LAW ENFORCEMENT PERSONNEL.

(a) FINDINGS.—The Congress finds that—

(1) violent crimes reported to law enforcement continue to increase with over 1,900,000 offenses being reported to law enforcement each year;

(2) drug dealing and the violent crime that accompanies it are at the heart of the Nation's current crime crisis;

(3) the problem of international drug trafficking is increasing and foreign narcotics syndicates continue to make the United States their primary target;

(4) drug abuse among our Nation's young people, after years of decline, has recently increased;

(5) interstate criminal street gangs, which deal in illicit narcotics and which are responsible for so much violent crime, are spreading into cities throughout the Nation;

(6) the Senate has passed a comprehensive anti-crime bill which increases authorizations for Federal and State law enforcement, increases penalties for violent crime, and enhances Federal law enforcement's role in combating violent street crime;

(7) the President's proposed budget for fiscal year 1995 cuts the number of Drug Enforcement Administration, Federal Bureau of Investigation, Organized Crime Drug Enforcement Task Force, and United States Attorney personnel;

(8) absent the President's proposed budget cuts to Federal law enforcement for fiscal year 1995, there are still 431 fewer FBI agents and 301 fewer DEA agents today than there were in 1992 and, according to the President's budget, there will not be a new FBI or DEA class until fiscal year 1996;

(9) an adequate Federal law enforcement and Federal prosecutor presence is critical to our Nation's effort to respond to the crime and drug problem; and

(10) President Clinton and Attorney General Reno have publicly stated their support for enhanced efforts to fight violent crime and drug trafficking.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that—

(1) current levels of agent strength within the DEA and FBI and the current number of assistant United States Attorneys are inadequate to meet the Federal Government's obligations to our Nation's law abiding citizens; and

(2) at a minimum, the agent strength for the FBI and DEA should be restored to end-of-fiscal year 1992 levels, and the number of Assistant United States Attorneys should not be reduced.

BANKRUPTCY AMENDMENTS ACT OF 1993 NATIONAL BANKRUPTCY REVIEW COMMISSION ACT

HELMS AMENDMENT NO. 1581

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes; as follows:

On page 211, strike lines 1 through 12.

CONGRESSIONAL BUDGET CONCURRENT RESOLUTION

COHEN (AND KERREY) AMENDMENT NO. 1582

Mr. COHEN (for himself and Mr. KERREY) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title II insert the following:

SEC. ___. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriations Act.

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

(1) Not later than 3 days after the date of enactment of an appropriation Act, the President may transmit to Congress a special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill or joint resolution that, if enacted, would only rescind that budget authority.

(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill or joint resolution for accounts within the jurisdiction of each such subcommittee.

(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974.

(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

(1)(A) Before the close of the second day of continuous session of the applicable House after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Congress in which the appropriation Act involved originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced as provided in the preceding sentence, then, on the third day of continuous session of that House after the date of receipt of that special message, any Member of that House may introduce the bill or joint resolution.

(B) The bill or joint resolution shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after the date of receipt of that special message. If the Committee on Appropriations fails to report the bill or joint resolution within that period, that committee shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(C) A vote on final passage of the bill or joint resolution shall be taken in that House on or before the close of the 10th calendar day of continuous session of that House after the date of the introduction of the bill or joint resolution in that House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of Congress on the same calendar day on which the bill or joint resolution is agreed to.

(2)(A) A bill or joint resolution transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after it receives the bill or joint resolution. A committee failing to report the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

(B) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of that House after the date on which the bill or joint resolution is transmitted. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on a bill or joint resolution under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives.

(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations; and

(2) continuity of a session of either House of Congress shall be considered as broken only by an adjournment of that House sine die, and the days on which that House is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of any period.

SEC. ___. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED REPEALS OF TAX EXPENDITURES.

(a) PROPOSED REPEAL OF TAX EXPENDITURE.—The President may propose, at the time and in the manner provided in subsection (b), the repeal of any provision in an Act that would result in a tax expenditure.

(b) TRANSMITTAL OF SPECIAL MESSAGE.—

(1) Not later than 3 days after the date of enactment into law of an Act containing a

provision described in subsection (a), the President may transmit to Congress a special message proposing to repeal any such provision contained in that Act and include with that special message a draft bill or joint resolution that, if enacted, would repeal such provision.

(2) Each special message shall include, with respect to the provision proposed to be repealed, a budget analysis of such provision.

(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—Each special message transmitted pursuant to subsection (b) shall be considered in accordance with the procedures provided for special messages in the preceding section of this resolution.

(d) DEFINITION.—For purposes of this section, the term "tax expenditure" shall have the meaning given such term in section 3(3) of the Congressional Budget Act of 1974.

KERREY (AND COHEN) AMENDMENT NO. 1583

Mr. KERREY (for himself and Mr. COHEN) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III, add the following:

SEC. ___. SENSE OF THE SENATE REGARDING FEDERAL COURTHOUSE CONSTRUCTION.

It is the sense of the Senate that—

(1) the President's fiscal year 1995 budget includes a request for 11 courthouses with a total estimated cost of over $1,000,000,000;

(2) while there may be significant need for new Federal courthouses, the need for programs that prevent youth violence before children get to courthouses is greater;

(3) there should be a moratorium for fiscal year 1995 on the construction of any new Federal courthouses which have not already been specifically approved by Congress; and

(4) priority should be given to programs for children and families like Head Start and grants for maternal and infant health care.

SPECTER (AND HATFIELD) AMENDMENT NO. 1584

Mr. SPECTER (for himself and Mr. HATFIELD) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III add the following new section:

SEC. ___. SENSE OF SENATE ON PAYMENT TO UNITED NATIONS OF UNITED STATES ARREARAGES IN CONTRIBUTIONS FOR PEACEKEEPING ACTIVITIES.

(a) SENSE OF SENATE ON AUTHORITY AND OUTLAYS.—It is the sense of the Senate that budget authority of $250,000,000 in fiscal year 1995 and outlays of $170,000,000 in that fiscal year based upon funds accruing under subsection (b) should be allocated to the committee or committees of the Senate having jurisdiction over contributions to the United Nations for peacekeeping activities for the purposes of permitting the payment of arrearages of the United States in commitments in fiscal year 1994 for such contributions.

(b) SENSE OF SENATE ON FUNDS.—It is the sense of the Senate that funds should be available for the budget authority of $250,000,000 and outlays of $170,000,000 referred to in subsection (a) as the result of—

(1) the reimposition by the United States of charges on foreign governments (other than Israel and Egypt) for the non-recurring costs of research, development, and production of major defense equipment licensed for commercial export to such governments; and

(2) the recoupment by the United States from such governments of administrative costs relating to foreign military sales; and

(3) the elimination of all financing assistance for such sales (other than sales to Israel and Egypt) by the United States.

JEFFORDS (AND OTHERS) AMENDMENT NO. 1585

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself, Mr. BROWN, and Mr. SIMON) submitted an amendment proposed by them to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

On page 5, line 2, decrease the amount by $1,150,000,000.

On page 5, line 3, decrease the amount by $1,250,000,000.

On page 5, line 4, decrease the amount by $1,325,000,000.

On page 5, line 5, decrease the amount by $1,425,000,000.

On page 5, line 12, decrease the amount by $1,150,000,000.

On page 5, line 13, decrease the amount by $1,250,000,000.

On page 5, line 14, decrease the amount by $1,325,000,000.

On page 5, line 15, decrease the amount by $1,425,000,000.

On page 5, line 23, decrease the amount by $975,000,000.

On page 5, line 24, decrease the amount by $1,225,000,000.

On page 5, line 25, decrease the amount by $1,325,000,000.

On page 6, line 1, decrease the amount by $1,425,000,000.

On page 6, line 8, decrease the amount by $975,000,000.

On page 6, line 9, decrease the amount by $1,225,000,000.

On page 6, line 10, decrease the amount by $1,325,000,000.

On page 6, line 11, decrease the amount by $1,425,000,000.

On page 6, line 18, decrease the amount by $975,000,000.

On page 6, line 19, decrease the amount by $1,225,000,000.

On page 6, line 20, decrease the amount by $1,325,000,000.

On page 6, line 21, decrease the amount by $1,425,000,000.

On page 7, line 2, decrease the amount by $975,000,000.

On page 7, line 3, decrease the amount by $1,225,000,000.

On page 7, line 4, decrease the amount by $1,325,000,000.

On page 7, line 5, decrease the amount by $1,425,000,000.

On page 7, line 9, decrease the amount by $975,000,000.

On page 7, line 10, decrease the amount by $2,200,000,000.

On page 7, line 11, decrease the amount by $5,725,000,000.

On page 7, line 12, decrease the amount by $7,150,000,000.

On page 8, line 8, decrease the amount by $975,000,000.

On page 8, line 9, decrease the amount by $1,225,000,000.

On page 8, line 10, decrease the amount by $1,325,000,000.

On page 8, line 11, decrease the amount by $1,425,000,000.

On page 24, line 17, increase the amount by $1,000,000,000.

On page 24, line 18, increase the amount by $1,000,000,000.

On page 24, line 25, increase the amount by $4,375,000,000.

On page 25, line 1, increase the amount by $3,850,000,000.

On page 25, line 8, increase the amount by $4,450,000,000.

On page 25, line 9, increase the amount by $4,375,000,000.

On page 25, line 16, increase the amount by $4,525,000,000.

On page 25, line 17, increase the amount by $4,525,000,000.

On page 25, line 24, increase the amount by $4,600,000,000.

On page 25, line 25, increase the amount by $4,600,000,000.

On page 38, line 13, decrease the amount by $25,000,000.

On page 38, line 14, decrease the amount by $25,000,000.

On page 38, line 20, decrease the amount by $100,000,000.

On page 38, line 21, decrease the amount by $100,000,000.

On page 39, line 2, decrease the amount by $150,000,000.

On page 39, line 3, decrease the amount by $150,000,000.

On page 39, line 9, decrease the amount by $225,000,000.

On page 39, line 10, decrease the amount by $225,000,000.

On page 39, line 25, decrease the amount by $25,000,000.

On page 40, line 1, decrease the amount by $25,000,000.

On page 40, line 7, decrease the amount by $100,000,000.

On page 40, line 8, decrease the amount by $100,000,000.

On page 40, line 14, decrease the amount by $150,000,000.

On page 40, line 15, decrease the amount by $150,000,000.

On page 40, line 21, decrease the amount by $225,000,000.

On page 40, line 22, decrease the amount by $225,000,000.

On page 41, line 11, decrease the amount by $1,000,000,000.

On page 41, line 12, decrease the amount by $1,000,000,000.

On page 41, line 18, decrease the amount by $5,500,000,000.

On page 41, line 19, decrease the amount by $4,800,000,000.

On page 41, line 25, decrease the amount by $5,600,000,000.

On page 42, line 1, decrease the amount by $5,500,000,000.

On page 42, line 7, decrease the amount by $5,700,000,000.

On page 42, line 8, decrease the amount by $5,700,000,000.

On page 42, line 14, decrease the amount by $5,800,000,000.

On page 42, line 15, decrease the amount by $5,800,000,000.

On page 70, line 21, increase the amount by $1,125,000,000.

On page 70, line 22, increase the amount by $950,000,000.

On page 70, line 24, increase the amount by $1,150,000,000.

On page 70, line 25, increase the amount by $1,125,000,000.

On page 71, line 2, increase the amount by $1,175,000,000.

On page 71, line 3, increase the amount by $1,175,000,000.

McCONNELL (AND OTHERS) AMENDMENT NO. 1586

Mr. DOMENICI (for Mr. MCCONNELL, for himself, Ms. MIKULSKI, and Mr. MACK) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of the resolution, add the following new section:

SEC. .—PURPOSE: To express the Sense of the Senate regarding U.S. policy in Eastern and Central Europe

It is the sense of the Senate that, the assumptions underlying the levels of spending set forth in this resolution regarding the national defense (050) and international affairs (150) budget categories include an assumption that the United States will oppose through appropriate means attempts by the Russian Federation to intimidate, use military force or engage in economic coercion to establish a sphere of influence over the former republics of the Soviet Union, the Baltics, or Central and Eastern European nations, consistent with provisions continued in the Freedom Support Act and the Foreign Assistance Appropriations Act of 1994.

LOTT AMENDMENT NO. 1587

Mr. LOTT proposed an amendment to the motion to recommit Senate Concurrent Resolution 63, supra; as follows:

Mr. President, I move to recommit Senate Concurrent Resolution 63 to the Committee on the Budget with instructions to report to the Senate, within 3 days (not counting any day the Senate is not in session), a revised concurrent resolution on the budget for the fiscal years 1995, 1996, 1997, 1998, and 1999 which specifies by function any reductions in budget authority and outlays necessitated by a lowering of the discretionary spending limits contained in section 601 of the Congressional Budget Act of 1974, provided that no such reduction come from the National Defense Function (050) or the Allowances Function (920).

The Committee on the Budget is further instructed to report to the Senate a revised concurrent resolution on the budget for fiscal years 1995, 1996, 1997, 1998, and 1999 which includes all provisions adopted by the Senate during consideration of Senate Concurrent Resolution 63.

ROBB AMENDMENT NO. 1588

Mr. ROBB proposed an amendment to amendment No. 1587 proposed by Mr. LOTT to the motion to recommit Senate Concurrent Resolution 63, supra; as follows:

Mr. President, I move to recommit Senate Concurrent Resolution 63 to the Committee on the Budget with instructions to report to the Senate, forthwith a revised concurrent resolution on the budget for the fiscal years 1995, 1996, 1997, 1998, and 1999 which specifies by function any reductions in budget authority and outlays necessitated by a lowering of the discretionary spending limits contained in section 601 of the Congressional Budget Act of 1974, provided that no such reduction come from the National Defense Function (050) or the Allowances Function (920).

The Committee on the Budget is further instructed to report to the Senate a revised concurrent resolution on the budget for fiscal years 1995, 1996, 1997, 1998, and 1999 which includes all provisions adopted by the Senate during consideration of Senate Concurrent Resolution 63.

CHAFEE (AND OTHERS) AMENDMENT NO. 1589

Mr. DOMENICI (for Mr. CHAFEE for himself, Mr. WALLOP, Mr. MURKOWSKI, and Mr. COHEN) proposed an amendment to concurrent resolution, Senate Concurrent Resolution 63, supra; as follows:

SEC. . SENSE OF SENATE REGARDING DIESEL FUEL DYEING REGULATIONS.

(a) FINDINGS.—The Senate finds that changes made to the collection point of the diesel fuel excise tax made as part of the Omnibus Reconciliation Act of 1993 and the Internal Revenue Service regulations implementing such changes have caused economic hardship, created market distortions, and added burdens to users and suppliers of diesel fuel by—

(1) requiring businesses, primarily small entrepreneurs, to invest thousands of dollars in equipment, or choose between taxable and nontaxable users of diesel fuel, in order to comply with the new rules;

(2) imposing cumbersome notification requirements for marketers and distributors of diesel fuel and home heating oil; and

(3) creating shortages of fuel due to storage tank limitations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Internal Revenue Service should make every effort to ensure its regulations implementing the changes to the collection point for the diesel fuel excise tax will minimize the economic hardship, market distortions, unnecessary burdens, and supply shortages;

(2) such regulations should, to the extent possible, be consistent with Environmental Protection Agency regulations implementing the diesel desulfurization program; and,

(3) if the Internal Revenue Service lacks the authority to issue revised regulations consistent with this resolution, then Congress should consider legislation that will eliminate these hardships, distortions, burdens, and shortages.

HATCH (AND HUTCHISON) AMENDMENT NO. 1590

Mr. DOMENICI (for Mr. HATCH, for himself and Mrs. Hutchison) proposed an amendment to the concurrrent resolution, Senate Concurrent Resolution 63, supra; as follows:

At the end of the resolution, insert the following new section:

SEC. ___. SENSE OF SENATE THAT TAXES NOT BE INCREASED BECAUSE TAXPAYERS ARE MARRIED.

(a) FINDINGS.—The Senate finds that—

(1) successful stable marriages are an essential part of a successful stable society;

(2) the breakdown of marriages has been one of the causes of our unacceptable crime, illiteracy, school dropout, drug abuse, and illegitimacy rates;

(3) the Federal Government has a moral and ethical obligation to help promote stable marriages or at least to not undermine them financially;

(4) the Internal Revenue Code currently contains a number of provisions that financially penalize couples for becoming or remaining married (so called "marriage penalties");

(5) marriage penalties are in effect an annual Federal tax on marriage licenses;

(6) the Omnibus Budget Reconciliation Act of 1993 added new marriage penalties to the Internal Revenue Code and expanded some existing marriage penalties;

(7) marriage penalties financially discriminate against the most fundamental and important unit in our society—the family—and are especially harmful to our Nation's children; and

(8) there is no policy justification for the Federal Government to financially penalize couples simply because they choose to become or remain legally married.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that no taxpayer, regardless of age, sex, income, or number of dependents, should be required to pay more in Federal taxes under any provision of the Internal Revenue Code because that taxpayer is legally married.

PACKWOOD (AND MOYNIHAN) AMENDMENT NO. 1591

Mr. DOMENICI (for Mr. PACKWOOD for himself and Mr. MOYNIHAN) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

In section 23 of the pending Resolution, on page 49, beginning on line 7 strike the following: "to a significant degree".

DANFORTH (AND OTHERS) AMENDMENT NO. 1592

Mr. Domenici (for Mr. DANFORTH for himself, Mr. DOLE, Mr. BOND, and Mrs. KASSEBAUM) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE REGARDING CERTAIN DEPARTMENT OF ENERGY REDUCTIONS-IN-FORCE.

It is the sense of the Senate that—

(1) a reduction-in-force at the Department of Energy's Kansas City Plant should not be carried out until—

(A) the National Defense Authorization Act for fiscal year 1995 and the Energy and Water Development Appropriations Act for fiscal year 1995 become law; or

(B) Congress has otherwise approved such an action; and

MURKOWSKI (AND STEVENS) AMENDMENT NO. 1593

Mr. DOMENICI (for Mr. MURKOWSKI, for himself and Mr. STEVENS) proposed an amendment to the concurrent resolution Senate Concurrent Resolution 63, supra; as follows:

At the end of title III, insert the following:

SEC. ___. SENSE OF THE CONGRESS REGARDING MINERALS MANAGEMENT.

It is the sense of the Congress that the budget authority and outlay totals set forth in this resolution assume sufficient funding under budget function 300 (Natural Resources and Environment) to ensure—

(1) the ability of the Minerals Management Service to run an effective Outer Continental Shelf resource evaluation program that responds to increased interest on OCS areas, including Alaska;

(2) the ability of the United States Geological Survey to continue to perform mineral resource surveys at the same levels as in previous years; and

(3) the continued effective functioning of all current Bureau of Mines offices.

ORGAN AND BONE MARROW TRANSPLANTATION AMENDMENTS

KENNEDY AMENDMENT NO. 1594

Mr. CONRAD (for Mr. KENNEDY) proposed an amendment to the bill H.R. 2659 to amend the Public Health Service Act to revise and extend programs relating to the transplantation of organs and bone marrow; as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Transplant Program Reauthorization Act of 1994".

SEC. 2. ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 371 of the Public Health Service Act (42 U.S.C. 273(a)) is amended to read as follows:

"(a)(1) The Secretary may make grants for the consolidation and expansion of qualified organ procurement organizations described in subsection (b).

"(2) The Secretary may make grants to, and enter into cooperative agreements and contracts with, qualified organ procurement organizations described in subsection (b) and other public or nonprofit private entities for the purpose of increasing organ donation through—

"(A) the planning and conducting of programs to provide information and education to the public on the need for organ donations;

"(B) the training of individuals in requesting such donations; or

"(C) the provision of technical assistance to organ procurement organizations and other entities in the health care system.

"(3)(A) In making awards of grants, cooperative agreements and contracts under subparagraphs (A) and (B) of paragraph (2), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to minority or other populations for which there is a greater degree of organ shortages relative to the general population.

"(B) In making awards of grants, cooperative agreements and contracts under paragraph (2)(C), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to organ procurement organizations and hospitals with lower rates of procurement relative to other such organizations or hospitals.".

(b) QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—Section 371(b) of such Act (42 U.S.C. 273(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "for which grants may be made under subsection (a)" and inserting "described in this section";

(B) by realigning the margin of subparagraph (E) so as to align with the margin of subparagraph (D); and

(C) in subparagraph (G)—

(i) in the matter preceding clause (i), by striking "directors or an advisory board" and inserting "directors (or an advisory board, in the case of a hospital-based organ procurement organization established prior to September 1, 1993)"; and

(ii) in clause (i)—

(I) by striking "composed of" in the matter preceding subclause (I) and inserting "composed of a reasonable balance of"; and

(II) by inserting before the comma in subclause (II) the following: ", including individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of an individual who has donated an organ";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2);

(4) in paragraph (2) (as so redesignated)—

(A) by redesignating subparagraphs (B) through (K) as subparagraphs (C) through (L), respectively,

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) conduct and participate in systematic efforts, including public education, to increase the number of potential donors,";

(C) by inserting before the comma in subparagraph (F) (as so redesignated) the following: ", which system shall, at a minimum, allocate each type of organ on the basis of—

"(i) a single list encompassing the entire service area;

"(ii) a list that encompasses at least an entire State; or

"(iii) a list that encompasses an approved alternative local unit (as defined in paragraph (4)),

of individuals who have been medically referred to a transplant center in the service area of the organization in order to receive a transplant of the type of organ with respect to which the list is maintained;";

(D) by striking subparagraph (I) (as so redesignated) and inserting the following new subparagraph:

"(I) be a member of and abide by the rules and requirements of the Organ Procurement and Transplantation Network established under section 372,"; and

(E) by striking subparagraph (K) (as so redesignated) and inserting the following new subparagraph:

"(K) evaluate annually, and report to the Organ Procurement and Transplantation Network established under section 372, on the effectiveness of the organization in acquiring potentially available organs, particularly among minority populations, and the variation of procurement across hospitals within the organ procurement organization region, and identify a plan to increase procurement, particularly among minority populations and other populations for which there is a greater degree of organ shortages relative to the general population, and at hospitals with low rates of procurement, and"; and

(5) by adding at the end thereof the following new paragraphs:

"(3)(A) The Office of Technology Assessment shall conduct a study for the purpose of defining—

"(i) the appropriate standards by which to judge the quality of performance of organ procurement organizations; and

"(ii) the proper criteria for a determination of inadequate service from an organ procurement organization.

"(B) Not later than 2 years after the date of enactment of this paragraph, the Office of Technology Assessment shall complete the study required under subparagraph (A) and prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary, a report describing the findings made as a result of the study.

"(C) For purposes of this paragraph the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this paragraph.

"(4)(A) As used in paragraph (2)(F), the term 'alternative local unit' means—

"(i) a unit composed of two or more contiguous organ procurement organizations; or

"(ii) a subdivision of an organ procurement organization that operates as a distinct procurement and distribution unit as a result of special geographic, rural, or minority population concerns but that is not composed of any subunit of a metropolitan statistical area.

"(B) The Organ Procurement and Transplantation Network shall make recommendations to the Secretary concerning the approval or denial of alternative local units. The Network shall assess whether the alternative local units will better promote organ donation and the equitable allocation of organs.

"(C) The Secretary shall approve or deny any alternative local unit principle or designation recommended by the Network. If the Secretary does not provide otherwise prior to the expiration of the 90-day period beginning on the date on which the application is submitted, the recommendations of the Network under subparagraph (B) with respect to the application of the alternative local unit shall go into effect.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b)(5) shall apply to organ procurement organizations beginning January 1, 1995.

SEC. 3. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

Section 372(b) of the Public Health Service Act (42 U.S.C. 274(b)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i)—

(i) by striking "(including organizations that have received grants under section 371)"; and

(ii) by striking "; and" at the end thereof and inserting "(including both individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of individuals who have donated an organ, the number of whom shall make up not less than 40 percent of the total number of board members); and"; and

(B) in clause (ii), by inserting "including a patient affairs committee" after "committees,"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking clause (i) and inserting the following new clause:

"(i) with respect to each type of transplant, a national list of individuals who have been medically referred to receive a transplant of the type of organs with respect to which the list is maintained (which list shall include the names of all individuals included on lists in effect under section 371(b)(2)(F), and";

(B) in subparagraph (B), by inserting ", including requirements under section 371(b)," after "membership criteria";

(C) by redesignating subparagraphs (E) through (L), as subparagraphs (F) through (M), respectively;

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) assist organ procurement organizations in the equitable distribution of organs among transplant patients,";

(E) in subparagraph (K) (as so redesignated), by striking "and" at the end thereof;

(F) in subparagraph (L) (as so redesignated), by striking the period and inserting

", including making recommendations to organ procurements organizations and the Secretary based on the annual reports required under section 371(b)(2)(K),";

(G) in subparagraph (M) (as so redesignated), by striking the period and inserting a comma; and

(H) by adding at the end thereof the following new subparagraphs:

"(N) submit to the Secretary for review and approval any change in the amount of fees imposed by the Network for the registration of individuals on the lists maintained under subparagraph (A)(i), such change to be considered as approved if the Secretary does not provide otherwise prior to the expiration of the 90-day period beginning on the date on which the change is submitted to the Secretary,

"(O) make available to the Secretary such information, books, and records regarding the Network as the Secretary may require,

"(P) submit to the Secretary, on an annual basis, a report on the clinical and scientific status of the organ transplantations, and

"(Q) meet such other criteria regarding compliance with this part as the Secretary may establish.".

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) STUDY.—

"(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining and making recommendations concerning—

"(A) the composition of the boards of directors of organ procurement organizations and of the Organ Procurement and Transplantation Network on the date of enactment of this section, and the effect of the Organ Transplant Program Reauthorization Act of 1994 on the composition and functioning of such boards;

"(B)(i) the number and percentage of cadaveric organ transplants for foreign nationals and nonresident aliens categorized by organ procurement organization and by transplant center and information on any reciprocal agreements between organ procurement organizations and foreign countries or territories;

"(ii) the number and percent of the organizations referred to in clause (i) above the organ procurement transplant network guideline of 10 percent; and

"(III) any information on the current rate of organ donation by individuals other than United States citizens or legal residents;

"(C) organ donation rates and the impact of various organ allocation systems on organ procurement rates; and

"(D) the equitable allocation of organs nationwide, including an analysis of the relative probability of receiving an organ for patients with similar characteristics for each category of transplanted organ by organ procurement organization and recommendations for developing a regional allocation system in order to ensure that—

"(i) patients in one region have an equivalent probability of receiving an organ as do patients with similar characteristics in another region; and

"(ii) patients within a region have an equivalent probability of receiving an organ as do other patients with similar characteristics in that region.

"(2) EQUITABLE ALLOCATION.—In carrying out paragraph (1) with respect to subparagraph (D), the Comptroller General shall—

"(A) recommend regions for allocating organs to encompass as large a geographic area as is practical, taking into account medical appropriateness, and the geographic proximity of patients with comparable priority for receiving an organ;

"(B) take into account the impact on organ donation and procurement rates; and

"(C) consult with experts in the area of organ allocation and organ donations and consider their recommendations regarding the establishment of regions in the country for the purpose of allocating organs.

"(b) REPORT.—Not later than 2 years after the date of enactment of the Organ Transplant Program Reauthorization Act of 1994, the Comptroller General of the United States shall complete the study required under subsection (a) and prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.".

SEC. 5. GENERAL PROVISIONS.

(a) LIMITATION.—Section 374(b) of the Public Health Service Act (42 U.S.C. 274b(b)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "371(a)(3)" and inserting "371(a)(2)".

(b) REPEAL.—Section 376 of the Public Health Service Act (42 U.S.C. 274d) is repealed.

(c) TRANSFER.—Section 378 of the Public Health Service Act (42 U.S.C. 274g) is amended—

(1) by transferring such section to part H of title III; and

(2) by inserting such section after section 377.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 378 of the Public Health Service Act (42 U.S.C. 274g) is amended by striking "1991" and all that follows through the period and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) EXCEPTION.—The amendments made by section 2(b)(4)(C) shall become effective 9 months after the date of enactment of this Act. Prior to such date, section 371(b)(3)(E) of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act, shall remain in effect.

KENNEDY (AND KASSEBAUM) AMENDMENT NO. 1595

Mr. CONRAD. (for Mr. KENNEDY, for himself and Mrs. KASSEBAUM) proposed an amendment to amendment No. 1594 proposed by Mr. KENNEDY to the bill H.R. 2659 to amend the Public Health Service Act to revise and extend programs relating to the transplantation of organs and bone marrow; as follows:

At the appropriate place, add the following new section:

SEC. ___. COMPREHENSIVE CHILD IMMUNIZATION.

(a) SHORT TITLE; REFERENCES AND PURPOSE.—

(1) SHORT TITLE.—This section may be cited as the "Comprehensive Child Immunization Act of 1993".

(2) REFERENCES.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(3) PURPOSE.—It is the purpose of this section to ensure that children in the United States are appropriately immunized against vaccine preventable infectious diseases at the earliest appropriate age.

(b) MONITORING OF CHILDHOOD IMMUNIZATIONS.—Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle 3—Improved Immunization Delivery and Monitoring Systems

"Part A—List of Vaccines and Administration

"SEC. 2141. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—

"(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

"(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

"(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

"(A) The number of immunizations with the vaccine that children should receive.

"(B) The ages at which children should receive the immunizations.

"(C) The dose of vaccine that should be administered in the immunizations.

"(D) Any contraindications regarding administration of the vaccine.

"(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

"(2) VARIATIONS IN MEDICAL PRACTICE.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

"(3) RULE OF CONSTRUCTION.—

"(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

"(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by

the advisory committee specified in subsection (a)(2)(B).

"(c) GENERALLY APPLICABLE RULES OF CONSTRUCTION.—This section does not supersede any State law or requirements with respect to receiving immunizations (including any such law relating to religious exemptions or other exemptions under such State laws).

"(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of this section, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"Part B—State Registry System for Immunization Information

"SEC. 2145. PURPOSE.

"It is the purpose of this part to authorize the Secretary, in consultation with State public health officials, to establish State registry systems to monitor the immunization status of all children.

"SEC. 2146. GRANTS FOR IMMUNIZATION REGISTRIES.

"(a) IN GENERAL.—For the purpose described in section 2145, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2151. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2150 on behalf of the chief executive officer of such State.

"(b) DESIGN OF STATE REGISTRIES.—To carry out the purpose described in section 2145, a State registry established under this part shall be designed to—

"(1) provide accurate and up to date surveillance data regarding immunization rates at the State and local levels;

"(2) assist in identifying localities with inadequate immunization rates to target for necessary remedial assistance;

"(3) assist in the effective administration and management of immunization programs at State and local levels by providing data to guide immunization program efforts;

"(4) assist the State in providing and receiving information on the immunization status of children who move across geographic boundaries that are covered by different State or local registries; and

"(5) facilitate the linkage of vaccine dosage information to adverse events reported to the Centers for Disease Control and Prevention under section 2125(b) and disease outbreak patterns, for the purpose of monitoring vaccine safety and effectiveness.

"(c) ELIGIBLE USE OF FUNDS.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

"(1) collecting the data described in section 2147;

"(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

"(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2141;

"(4) notifying parents, as appropriate, if children have not received immunizations in accordance with such schedule;

"(5) coordinating and exchanging information with other State registries to allow the monitoring of the immunization status of children changing State of residence; and

"(6) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(d) REQUIREMENT REGARDING STATE LAW.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

"(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry;

"(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State; and

"(C) has in effect such laws and regulations as may be necessary to ensure the following safeguards for the rights of parents:

"(i) An exemption for the parent, upon the request of the parent, from the requirements established by the State, pursuant to this part, for the collection of data described in subsections (b) and (c) of section 2147, or the collection of any other data regarding any child of the parent that the State may require for incorporation in the State immunization registry.

"(ii) Restrictions ensuring that no information relating to a child or to the parent or guardian of a child that is collected or maintained by the State immunization registry pursuant to this part, or the national immunization surveillance program established under section 2153, will be used as a basis for the criminal prosecution or the commencement of a criminal investigation of a parent or guardian.

"(2) RULES OF CONSTRUCTION.—

"(A) With respect to the agreements made by a State under this part, other than paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) The provisions of this part do not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2147. REGISTRY DATA.

"(a) IN GENERAL.—For purposes of section 2146(c)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c).

"(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved after the date of the implementation of the registry (in no event shall such date be later than October 1, 1996).

"(2) Demographic data on the child.

"(3) The name of one or both of the parents of the child. If the child has been given up for adoption, any information regarding the identity of the birth parent or parents of the child may not be entered into the registry, or if entered, shall be deleted.

"(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

"(c) DATA REGARDING INDIVIDUAL IMMUNIZATIONS.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

"(1) The name, age, and address of the child.

"(2) The date on which the vaccine was administered to the child.

"(3) The name and business address of the health care provider that administered the vaccine.

"(4) The address of the facility at which the vaccine was administered.

"(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

"(6) The type of vaccine.

"(7) The lot number or other information identifying the particular manufacturing batch of the vaccine.

"(8) The dose of vaccine that was administered.

"(9) A notation of the presence of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware, in accordance with section 2125.

"(10) The presence of contraindications noted by the health care provider with respect to administration of the vaccine to the child.

"(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary, in consultation with State public health officials, may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

"(d) LIMITATION.—The Secretary may not establish information reporting requirements in addition to those described in subsection (c) if such requirements are unduly burdensome.

"(e) DATE CERTAIN FOR SUBMISSION TO REGISTRY.—The Secretary may make a grant under section 2146 only if the State involved agrees to ensure that, with respect to a child—

"(1) the data described in subsection (b) are submitted to the registry under such section as soon as possible but in no event later than 8 weeks after the date on which the child is born; and

"(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry as soon as possible but in no event later than 4 weeks after the date on which the vaccine is administered to the child.

"(f) UNIFORMITY IN METHODOLOGIES.—The Secretary shall, in consultation with State public health officials, establish standards regarding the methodologies used in establishing and operating registries under section 2146, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide maximum flexibility to the States while also retaining a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and exchange of the data maintained in such registries.

"(g) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2146 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to transfer that information contained in the State registry pursuant to section 2146 to other States upon the request of such States for such information.

"SEC. 2148. FEDERAL STANDARDS ON CONFIDENTIALITY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2146. Such standards shall, with respect to a State, provide that the State is to have in effect laws or regulations regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

"(2) USE OF DISCLOSURE.—

"(A) No personally identifiable information relating to a child or to the parent or guardian of such child that is collected or maintained by the State registry may be used or disclosed by any holder of such information except as permitted for—

"(i) the monitoring of a child's immunization status;

"(ii) oversight, audit, and evaluation of the immunization delivery and registry systems;

"(iii) activities relating to establishing and maintaining a safe and effective supply of recommended childhood vaccine;

"(iv) processing of insurance claims for payment for vaccine administration (but only to the extent necessary for processing claims); and

"(v) administration of the National Vaccine Injury Compensation Program under subtitle 2.

"(B) Information regarding immunizations provided as described in subparagraph (A)(i) may be used or disclosed only with the written authorization of the individual to whom it refers or to the parent with custody of such individual.

"(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2146 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"SEC. 2149. PROVIDER PARTICIPATION.

"(a) IN GENERAL.—The State shall monitor and enforce compliance by health care providers with the requirements of sections 2147 and 2148 and section 2155(b) for all doses of pediatric vaccine administered in the State. The State shall establish procedures satisfactory to the Secretary for discontinuing the distribution of federally purchased or State purchased vaccine for any health care provider who fails to comply with the requirements of section 2147 and for reinstating such vaccine supply to such provider upon receiving from such provider—

"(1) the reports necessary to make current and complete the information that would have been furnished to the State registry between the dates of the provider's termination and reinstatement; and

"(2) satisfactory assurances regarding the provider's future compliance.

"(b) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2146 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

"SEC. 2150. APPLICATION FOR GRANT.

"An application by a State for a grant under section 2146 is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part;

"(3) contains any information required in this part to be submitted to the Secretary; and

"(4) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2151. DETERMINATION OF AMOUNT OF ALLOTMENT.

"The Secretary shall determine the amount of the allotments required in section 2146 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2152 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2146.

"SEC. 2152. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, other than section 2153, there are authorized to be appropriated $152,000,000 for fiscal year 1994, $125,000,000 for fiscal year 1995, and $35,000,000 for each of the fiscal years 1996 through 1999.

"SEC. 2153. NATIONAL IMMUNIZATION SURVEILLANCE PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a national immunization surveillance program for the purpose of assessing the effects of the programs and activities provided for in this subtitle towards appropriately immunizing children and facilitating State immunization registries. The national immunization surveillance program shall—

"(1) provide technical assistance to States for the development of vaccination registries and monitoring systems; and

"(2) receive aggregate epidemiologic data (that is in a format that is not person specific) collected by States as provided for in section 2147 at intervals determined appropriate by the Secretary for the purpose of—

"(A) compiling accurate and up-to-date surveillance data regarding immunization rates at the State level in order to assess the progress made towards achieving nationally established immunization goals;

"(B) assisting in the effective administration and management of immunization programs at the State level by providing technical assistance to guide immunization program efforts at the request of the State;

"(C) providing technical assistance to States and localities to facilitate monitoring the immunization status of children who move across geographic boundaries that are covered by different State or local registries at the request of such States or localities; and

"(D) monitoring the safety and effectiveness of vaccines by linking vaccine dosage information with adverse events reporting under section 2125(b) and disease outbreak patterns.

"(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize the release of person specific information to the Secretary for the purpose of immunization surveillance.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section in each of the fiscal years 1994 through 1999.

"SEC. 2154. REPORT.

"Not later than January 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the planning, development, operation and effectiveness of the national immunization surveillance program and the State immunization registries.

"Part C—Distribution of Vaccines, Public Outreach and Education

"SEC. 2155. DISTRIBUTION OF VACCINES.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS.—The Secretary shall provide for the distribution, without charge, of recommended pediatric vaccines (in accordance with section 2141) purchased by the Secretary to health care providers who serve children and who—

"(A) are members of a uniformed service, or are officers or employees of the United States;

"(B) are health centers (as defined in section 2163); or

"(C) provide services under section 503 of the Indian Health Care Improvement Act or pursuant to a contract under section 102 of the Indian Self Determination Act.

"(2) STATES.—The Secretary shall provide for the distribution, without charge, of those recommended pediatric vaccines that are purchased by the Secretary and provided to States for the purposes of immunizing medicaid-eligible children, and additional vaccines that may be purchased by the Secretary for children within those States.

"(b) DUTIES OF HEALTH CARE PROVIDERS.—

"(1) FREE PROVISION TO CHILDREN.—A health care provider or entity receiving vaccine under this section may use such vaccine only for administration to children and may not impose a charge for such vaccine. A provider or health care entity may impose a fee that reflects actual regional costs as determined by the Secretary for the administration of such vaccine, except that a provider may not deny a child a vaccination due to the inability of the child's parent to pay an administration fee.

"(2) REPORTING REQUIREMENTS.—A health care provider receiving vaccine under this section shall report the information required under section 2147 to the applicable State registry operated pursuant to a grant under section 2146 if such State registry exists. The provider shall additionally report to such State registry any occurrence reported to the Secretary pursuant to section 2125(b). The provider shall also provide regular and periodic estimates to the State of the provider's future dosage needs for recommended childhood vaccines distributed under this section. All reports shall be made with such frequency and in such detail as the Secretary, in consultation with State public health officials, may prescribe.

"SEC. 2156. IMPROVED IMMUNIZATION DELIVERY, OUTREACH AND EDUCATION.

"(a) FEDERAL EFFORTS.—The Secretary, acting through the Centers for Disease Control and Prevention and in conjunction with State health officials and other appropriate public and private organizations, shall conduct the following activities to improve Federal, State and local vaccine delivery systems and immunization outreach and education efforts:

"(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

"(A) IN GENERAL.—The Secretary, in conjunction with State health officials and other appropriate public and private organizations, shall develop and implement a National Immunization Public Awareness Campaign to assist families (through bilingual means if necessary) of children under the age of 2 years, and expectant parents, in obtaining knowledge concerning the importance of having their children immunized and in iden-

tifying the vaccines, schedules for immunization, and vaccine provider locations, appropriate with respect to their children.

"(B) IMPLEMENTATION.—In implementing the Campaign under subparagraph (A), the Secretary shall ensure that—

"(i) new and innovative methods are developed and utilized to publicly advertise the need to have children immunized in a timely manner;

"(ii) print, radio and television media are utilized to convey immunization information to the public; and

"(iii) with respect to immunization information, efforts are made to target pregnant women and the parents of children under the age of 2.

"(2) INTERAGENCY COMMITTEE ON IMMUNIZATION.—The Secretary, in conjunction with the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Education, shall carry out activities through the Interagency Committee on Immunization to incorporate immunization status assessments and referral services as an integral part of the process by which individuals apply for assistance under—

"(A) the food stamp program under the Food Stamp Act of 1977;

"(B) section 17 of the Child Nutrition Act of 1966;

"(C) the Head Start Act;

"(D) part A of title IV of the Social Security Act;

"(E) title XIX of the Social Security Act;

"(F) any of the housing assistance laws of the United States; and

"(G) other programs determined appropriate by any of the Secretaries described in this paragraph.

"(3) EXPANDED OPPORTUNITY FOR NATIONAL SERVICE.—The Secretary, in conjunction with the Commission on National and Community Service and other independent agencies, is encouraged to develop opportunities for participants in national and community service programs to contribute to local initiatives for the improvement of immunization services, including public outreach and education efforts.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—

"(A) The Secretary may award grants to States to enable such State to develop, revise and implement immunization improvement plans as described in paragraph (2).

"(B) To be eligible to receive a grant under subparagraph (A), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) DESIGN.—A State immunization improvement plan shall be designed to improve immunization delivery, outreach, education and coordination within the State. Such plan shall provide for the creation of—

"(A) a vaccine provider education campaign and the distribution of any other materials determined to be appropriate by State health officials—

"(i) to enable such providers to make the best use of vaccination opportunities; and

"(ii) to educate such providers concerning their obligation to report immunization information with respect to their patients to State registries;

"(B) expanded capacity for the delivery of immunizations through—

"(i) increasing the number or type of facilities through which vaccines may be made available and the capacity of such facilities to immunize more children;

"(ii) developing alternative methods of delivering vaccines, such as mobile health clinics;

"(iii) increasing the number of hours during which vaccines are made available by providers within the State; or

"(iv) coordinating with federally qualified health centers to reach and immunize underserved children through education, outreach, tracking, and the provision of services;

except that, the Secretary may waive any specific requirement of this subparagraph if the Secretary determines that State immunization delivery efforts are sufficient without the imposition of such requirement;

"(C) population-based assessment criteria through which the State is able to assess the effectiveness of immunization activities in the State, which may be fulfilled through the implementation of a State immunization registry under section 2146;

"(D) a public awareness campaign, in conjunction with the National Campaign established under subsection (a)(1), to provide parents with information about the importance of immunization, the types and schedules for the administration of vaccines, and the locations of vaccines providers;

"(E) coordinated community outreach activities among public or private health programs, including local health departments and health centers, and other public or private entities, to encourage and facilitate the ability of parents to obtain immunization services for their children; and

"(F) other activities that are not inconsistent with the purposes of this subtitle, subject to the approval of the Secretary.

"(3) IMMUNIZATION IMPROVEMENT PLAN APPROVAL.—

"(A) GOALS.—As part of the immunization improvement plan of a State, the State shall establish immunization rate goals for children residing within the State.

"(B) APPROVAL.—The immunization improvement plan developed by a State under this subsection shall be submitted to the Secretary for approval prior to the distribution of grant funds to the States under this subsection. The Secretary shall periodically review the progress that the State has made under such plan in achieving the goals established under subparagraph (A).

"(C) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grant awards will be equitably distributed between rural and urban areas. In determining such distribution, the Secretary shall take into account the added costs of supporting the health care delivery infrastructure in sparsely populated areas. The Secretary shall give special consideration to those States that have low childhood immunization rates and that submit plans that demonstrate the State's substantial effort and commitment to improving such rates.

"(D) REPORTING.—A State shall annually prepare and submit to the Director of the Centers for Disease Control and Prevention a report concerning the implementation of the State immunization improvement plan.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

"SEC. 2157. PERFORMANCE BASED GRANT PROGRAM.

"(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Centers for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

"(b) PAYMENTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

"(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 64 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

"(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

"(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

"(2) USE OF FUNDS.—

"(A) CONDITION.—As a condition of receiving amounts under this section a State that uses a combination of Federal and State funds in achieving the immunization goals described in paragraph (1) shall agree to reinvest, in activities related to improving immunization services, that percentage of the payments to the State under paragraph (1) that is equal to the amount of Federal contributions to immunization services in the State as compared to the amount of the State contributions to such services.

"(B) DISCRETIONARY USE.—A State that has demonstrated that the use of State-only funds was responsible for the increase in the immunization rate which qualified such State for payments under paragraph (1), may use amounts awarded under this section for other purposes, at the discretion of the State.

"(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

"(c) DEFINITION.—For purposes of this section, the term 'fully immunized' means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

"Part D—General Provisions

"SEC. 2161. REPORT.

"Not later than October 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs, efficiency, and effectiveness of procedures established to deliver vaccine to health care providers.

"SEC. 2162. NATIONAL VACCINE PROGRAM.

"The Secretary shall authorize a report to be prepared by the National Academy of Sciences concerning the role of the National Vaccine Program established under this title in achieving progress towards the nationally established immunization goals for the year 2000, and recommendations with respect to

the changes in such Program that would facilitate greater progress towards achieving such goals.

"SEC. 2163. DEFINITIONS.

"For purposes of this subtitle—

"(1) HEALTH CARE PROVIDER.—The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

"(2) HEALTH CENTER.—The term 'health center' means—

"(A) a federally-qualified health center, as defined in section 1905(l)(2) of the Social Security Act; or

"(B) a public or nonprofit private entity receiving Federal funds under—

"(i) section 329, 330 or 340;

"(ii) section 340A (relating to grants for health services for residents of public housing); or

"(iii) section 501(a)(2) of the Social Security Act (relating to special projects of regional and national significance).

"(3) IMMUNIZATION.—The term 'immunization' means an immunization against a vaccine-preventable disease.

"(4) PARENT.—The term 'parent', with respect to a child, means a legal guardian of the child.

"(5) PEDIATRIC VACCINE.—The term 'pediatric vaccine' means a vaccine included on the list established under section 2141.

"(6) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Republic of the Marshall Islands, Micronesia, the Northern Mariana Islands, and Palau.".

(c) NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.—

(1) AMENDMENT OF VACCINE INJURY TABLE.—

(A) ADDITION OF VACCINES.—Section 2114 (42 U.S.C. 300aa-14) is amended by adding at the end thereof the following new subsection:

"(f) ADDITION OF VACCINES TO TABLE.—

"(1) IN GENERAL.—The Vaccine Injury table contained in subsection (a) shall also include any recommended childhood vaccine included in the list promulgated by the Secretary under section 2141.

"(2) REVIEW OF INFORMATION AND REVISION.—Not later than 2 years after the addition of a new vaccine to the table contained in subsection (a), and on a regular basis thereafter, the Secretary shall review information obtained under sections 2125 and part B of subtitle 3, and based on such review (and other relevant information) shall, as appropriate, develop with respect to such new vaccine—

"(A) revisions with respect to illnesses, disabilities, injuries or conditions covered by such table;

"(B) appropriate specifications of the time period for the first symptom or manifestation of onset or of significant aggravation of such illnesses, disabilities, injuries or condition after vaccine administration, for purposes of receiving compensation under the Program; and

"(C) recommendations as to the amount of tax that should be imposed under section 4131 of the Internal Revenue Code of 1986 for each dose of vaccine.

"(3) LIMITATION.—The Secretary may modify the table contained in subsection (a) pursuant to paragraphs (1) and (2) only in accordance with subsection (c).

"(4) REVISION.—For purposes of section 2116(b), the addition of vaccine to the table contained in subsection (a) by operation of this subsection shall constitute a revision of the table.".

(B) ATTORNEYS FEES.—Section 2115(e) (42 U.S.C. 300aa-15(e)) is amended by adding at the end thereof the following new paragraph:

"(4) The special master may award reasonable attorneys fees whether or not an election has been made under section 2121(a) to file a civil action concerning such petition.".

(C) CONSENT FOR ANNUITY.—Subparagraphs (A) and (B) of section 2115(f)(4) are amended by striking ", with the consent of the petitioner," each place that such appears.

(C) TIME PERIODS FOR FEES AND COSTS.—

(i) IN GENERAL.—Section 2115(e) (42 U.S.C. 300aa-15(e)) (as amended by paragraph (3)) is further amended by adding at the end thereof the following new paragraph:

"(5) With respect to a petitioners' application for attorneys' fees and costs—

"(A) if the respondent enters no objection to such application within 21 days of the date on which the application was filed (unless such time period is extended by the special master with the consent of the petitioner) the special master shall enter a decision on such application within 30 days of such filing;

"(B) if the respondent files an objection to such application and the special master does not enter a decision with respect to the application within 60 days after the date on which the objection is filed, the special master involved shall, upon the written request of the petitioner, enter a decision within 15 days after the filing of such request; and

"(C) if the respondent files an objection to such application and the petitioner moves to reduce costs and fees as provided for in the objection, the special master shall enter a decision within 5 days after the receipt of the petitioner's motion.

The chief special master, upon the request of a special master, may waive the time limitations applicable to the special master under this paragraph if the special master demonstrates that complicating factors exist with respect to the issues involved to which the time limitation applies.".

(B) APPLICATION.—The amendment made by subparagraph (A) shall apply to all petitioners' applications for attorneys' fees and costs filed under section 2115(e) of the Public Health Service Act which are pending on the date of enactment of this Act.

(E) AUTHORIZATION OF APPROPRIATIONS.—Section 2115(j) (42 U.S.C. 300aa-15(j)) is amended by striking "$80,000,000 for each succeeding fiscal year" and inserting in lieu thereof "$110,000,000 for each succeeding fiscal year".

(F) LIMITATION OF ACTIONS.—Section 2116(b) (42 U.S.C. 300aa-16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(2) EXTENSION OF TIME FOR DECISION.—

(A) JURISDICTION.—Section 2112(d)(3)(D) (42 U.S.C. 300aa-12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for not more than 6 months at a time)".

(B) REPORT ON COLLECTIONS.—Section 2117 (42 U.S.C. 300aa-17) is amended by adding at the end thereof the following new subsection:

"(c) REPORT.—The Attorney General shall, on January 1 of each year, prepare and submit to the appropriate committees of Congress a report concerning amounts collected under this section.".

(C) INCREASED RESPONSIBILITIES OF COMMISSION.—Section 2119(f) (42 U.S.C. 300aa-19(f)) is amended—

(i) by striking "and" at the end of paragraph (4);

(ii) by striking the period at the end of paragraph (5) and inserting ", and"; and

(iii) by adding at the end thereof the following new paragraph:

"(6) monitor the balance of the Vaccine Injury Trust Fund established by section 9510 of the Internal Revenue Code and, as appropriate, recommend changes in the tax per dose of vaccine imposed under section 4131 of such Code.".

(3) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(A) INFORMATION.—Section 2126(b) (42 U.S.C. 300aa-26(b)) is amended—

(i) by striking "by rule" in the matter preceding paragraph (1);

(ii) in paragraph (1), by striking "90" and inserting "30"; and

(iii) in paragraph (2), by striking ", appropriate health care providers and parent organizations".

(B) REQUIREMENTS.—Section 2126(c) (42 U.S.C. 300aa-26(c)) is amended—

(i) in the matter preceding paragraph (1), by inserting "shall be based on available data and information," after "such materials"; and

(ii) by striking out paragraphs (1) through (10) and inserting in lieu thereof the following new paragraphs:

"(1) a concise description of the benefits of the vaccine;

"(2) a concise description of the risks associated with the vaccine;

"(3) a statement of the availability of the National Vaccine Injury Compensation Program;

"(4) a statement of the availability from the Secretary of more detailed written information concerning the information required under paragraphs (1), (2), and (3), that shall be made available to the parent, legal guardian, or other responsible person upon request; and

"(5) such other relevant information as determined appropriate by the Secretary.".

(C) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 (42 U.S.C. 300aa-26(a) and (d)) are amended by inserting "or to any other individual" immediately after "to the legal representative of any child" each place that such occurs.

(D) PROVIDER DUTIES.—Subsection (d) of section 2126 (42 U.S.C. 300aa-26(d)) is amended—

(i) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases."; and

(ii) by striking "or other information" in the last sentence.

(4) AUTHORIZATION OF APPROPRIATIONS.—Part A of subtitle 2 of title XXI (42 U.S.C. 300aa-10 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2120. (a) SECRETARY.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986, to the Secretary, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.

"(b) ATTORNEY GENERAL.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Attorney General, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.

"(c) COURT OF FEDERAL CLAIMS.—For purposes of administering this part, there are

authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Court of Federal Claims, $3,000,000 for each of the fiscal years 1994, 1995 and 1996.".

(d) MISCELLANEOUS PROVISIONS.—Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) and (4), respectively.

(e) AMENDMENTS TO THE FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992.

(1) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(2) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is further amended—

(A) in the first sentence of paragraph (1), by inserting after "Service" the following: "with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals"; and

(B) by adding at the end the following new paragraph:

"(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

"(A) that the provision of the services to such individuals benefits health center patients and general populations that could be served by the health center through community-wide intervention efforts within the communities served by such health center, and facilitates the provision of services to health center patients; or

"(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.".

(3) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—

(A) IN GENERAL.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "the entity—" and inserting the following: "the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—".

(B) FINDING.—Section 224 of such Act (42 U.S.C. 233) is amended by adding at the end thereof the following new subsection:

"(1) With respect to subsection (h), the finding of the Secretary that an entity meets all of the requirements under such subsection shall apply for the period specified by the Secretary, and shall be binding for all parties unless the Secretary reverses such finding for good cause shown at a later date.".

(4) PAYMENT OF JUDGMENTS.—Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

(5) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

READJUSTMENT COUNSELING SERVICE AMENDMENTS OF 1993

LEAHY AMENDMENT NO. 1596

Mr. CONRAD (for Mr. LEAHY) proposed an amendment to the bill (S. 1226) to amend title 38, United States Code, to provide for the organization and administration of the Readjustment Counseling Service, to improve eligibility for readjustment counseling and related counseling, and for other purposes; as follows:

On page 20, strike out line 20 and insert in lieu thereof the following:

by such service.

"(3) The Secretary may provide to the parents, spouse, and children of any member of the Armed Forces who (as determined by the Secretary) is a prisoner of war, or is missing in action, such counseling as the Secretary determines appropriate to assist such persons with the mental or psychological problems associated with the status of such member as a prisoner of war or as missing in action, as the case may be.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 24, 1994, at 9:30 a.m., in open session, to consider pending nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CONRAD. 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 Thursday, March 24, beginning at 9:45 a.m., to conduct a markup on the nominations of William Reinsch, to be Undersecretary of Commerce for Export Administration; Raymond Vickery to be an Assistant Secretary of Commerce; Maria Haley to be a member of the Board of Directors of the Export-Import Bank; Elaine McReynolds to be Federal Insurance Administrator at FEMA.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to conduct a hearing on charitable solicitation fraud, on March 24, 1994, beginning at 2 p.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, at 9:30 a.m., March 24, 1994, to receive testimony on the effect of the administration's Superfund Reauthorization Proposals on the Department of Energy's Environmental Restoration and Waste Management Program.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CONRAD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, March 24, at 9 a.m., to conduct a business meeting to consider S. 1547, the Safe Drinking Water Act of 1993.

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

COMMITTEE ON FINANCE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, March 23, 1994, at 10 a.m., to consider S. 1814, regarding the tax treatment of crop insurance proceeds and disaster payments, and to hear testimony on the subject of medicaid issues in health care reform.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CONRAD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on pending legislation concerning compensation COLA, the VA home loan guaranty program, adjudication issues, and other matters. The hearing will be held on March 24, 1994, at 2:30 p.m. in room 418 of the Russell Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CONRAD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive legislative presentations from AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America, Veterans of World War I, Association of the U.S. Army, The Retired Officers Association, and Military Order of the Purple Heart. The hearing will be held on March 24, 1994, at 9:30 a.m., in room 345 of the Cannon House Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be author-

ized to meet during the session of the Senate on Thursday, March 24, 1994, at 2:30 p.m., to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 24, 1994, at 2 p.m., to hold a hearing on the Peace, Prosperity, and Democracy Act—S. 1856: Implications for Sub-Saharan Africa.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 24, 1994, at 9:30 a.m., to hold a hearing to review U.S. policy toward East Asia.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND THE HUMANITIES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources, Subcommittee on Education, Arts and the Humanities be authorized to meet for a hearing on Professional Development: ESEA Reauthorization during the session of the Senate on March 24, 1994, at 10 a.m.

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

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, March 24, 1994, to receive the annual report of the Postmaster General of the United States.

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

SUBCOMMITTEE ON MILITARY READINESS AND DEFENSE INFRASTRUCTURE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on Military Readiness and Defense Infrastructure of the Committee on Armed Services be authorized to meet at 2 p.m., on Thursday, March 24, 1994, in open session, to receive testimony on the operation and maintenance accounts and on the defense business operations fund in review of the defense authorization request for fiscal year 1995 and the future years defense program.

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

SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 24, 1994, at 4:30 p.m., to hold a markup on S. 1485.

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

ADDITIONAL STATEMENTS

TRIBUTE TO EMMETT R. JOHNSON

• Mr. SHELBY. Mr. President, I rise today to pay tribute to Mr. Emmett R. Johnson, president emeritus of the Baptist Health System [BHS].

As a student at North Texas State University, Emmett Johnson was determined to become a Baptist hospital administrator. Now, more than four decades later, Mr. Johnson has retired as president of the Baptist Health System, the State of Alabama's largest health care system. Emmett Johnson has developed a system of health care facilities that include Montclair Baptist Medical Center [BMC] and Princeton BMC, both in Birmingham, Dekalb BMC in Fort Payne, Cherokee BMC in Centre, and Citizens BMC in Talladega, AL.

His determination to deliver quality health care to rural areas is evidenced by the BHS contracts to manage or affiliate with county and community hospitals in rural areas, saving the hospitals money through BHS' volume purchasing and sharing BHS expertise in physician recruitment, employee development, marketing, and communications.

Since Mr. Johnson's arrival at Baptist Health System in 1975, major additions to both Birmingham hospitals have been completed, new hospitals have been constructed in Centre and Fort Payne, four professional office buildings have been built in Birmingham and one office building has been constructed in Fort Payne. Adding to the list of accomplishments, two retirement highrise buildings have been completed adjacent to Princeton BMC and Galleria Woods, a full-service, planned retirement community, has also been constructed in the Birmingham area.

The first accredited hospice programs in Alabama for terminally ill patients and their families were developed at BHS by Emmett Johnson. The two hospice programs have now served more than 4,000 patients and their families and are models for new programs across the country.

Also, under Mr. Johnson's direction, both Birmingham hospitals established cancer programs, designated by the American College of Surgeons as Comprehensive Community Cancer Centers, offering a full range of screening, diagnosis, treatment, and rehabilitation. The Alabama Heart Institute at Montclair BMC has gained regional prominence and shares the expertise of its physicians with many rural areas through the Alabama Coordinated Cardiac Emergency Support System [ACCESS], a team approach between Montclair and rural hospitals. With the latest treatments and techniques, ACCESS allows Montclair physicians to offer a quick response to heart attack victims in rural areas. Across the city of Birmingham, at Princeton BMC, the Princeton Heart Institute is equipped to perform heart transplants and is a leader in laser angioplasty.

Adding to his accomplishments, Emmett Johnson was instrumental in making Monclair BMC the State's first hospital to use the Percutaneous Transluminal Coronary Angioplasty procedure, a special procedure to open clogged arteries using a heart catheter and a small balloon catheter. Under his guidance, the State's first accredited sleep disorders center and the first Mitral Valve Prolapse Center in the Nation were established at Montclair BMC. Moreover, Montclair BMC now has the Ford Headache Clinic, one of the few programs in the country dedicated to treating severe headaches.

Under Emmett Johnson's watch in 1986, Alabama's first hospital unit was dedicated specifically to the treatment and care of bone marrow transplant patients at Princeton BMC. The unit provides nursing care by a specially trained staff for patients undergoing bone marrow transplantation and is one of only about 50 in the country.

In his years at the helm of the Baptist Health System, Emmett Johnson demonstrated an uncanny ability to foresee problems and move to solve them. A major problem facing the hospital industry is the critical shortage of nurses. Under Mr. Johnson's guidance, BHS has been a major source of nurses for the Birmingham area, jointly operating the Ida V. Moffett School of Nursing with Samford University.

Emmett Johnson has worked diligently to make the Baptist Health System an integral part of the Alabama community and has taken leadership roles in a number of organizations that contribute to that effort. He has served as cochairman of the United Way of Central Alabama; has been a member of the Rotary Club of Birmingham; and, has served two terms on the board of directors of the Birmingham Area Chamber of Commerce. He also was a member of the Better Business Bureau and has served on the board of the Salvation Army.

Emmett Johnson's expertise in the health care field has not gone unnoticed by his colleagues. In 1984, Northwestern University awarded him the Laura Jackson Award in recognition of

his outstanding leadership in hospital administration. Also, in 1986, he received the Award of Merit from the American Protestant Hospital Association.

There have been few leaders in the health care industry who combine a deep commitment to the health care industry and a ministry to the sick with a track record of financial and market performance as Mr. Johnson has demonstrated over the past 45 years. Under his guidance, the Baptist Health System of Birmingham, AL, has become one of the premier regional health care systems in the Nation and the largest provider of health care services in Alabama. I want to congratulate Mr. Johnson and wish him well as he retires from Baptist Health System.•

WOMEN IN CORPORATE AMERICA

• Mrs. FEINSTEIN. Mr. President, for too long women working in corporate America have been bumping their heads on the glass ceiling, that invisible but very real barrier to corporate advancement that has prevented talented and hardworking women from ascending to the top levels of management. It has been an unfortunate blemish on this country's otherwise unrivaled record of corporate achievement.

The good news is, there are some companies who are willing to be real leaders when it comes to equal opportunity. These visionary corporations are not only breaking away from the pack, but they are also breaking the glass ceiling, offering new hope that the rest of corporate America may finally wake up and realize that holding back talent is a losing business strategy.

I would like to recognize three visionary companies today because they have all earned special recognition this year from Catalyst, an organization dedicated to effect change in the workplace for women. The companies are the Bank of Montreal, the McDonald's Corp. and Pitney Bowes. They have all won the 1994 Catalyst Award, a prestigious award that honors businesses for innovative efforts to advance women.

McDonald's has long been a leader on the employment front, with a strong record of hiring, training, and promoting women and minorities. The Golden Arches are being recognized by Catalyst for its innovative Partnership with Women program, a company wide commitment that has produced the Women Operators' Network [WON], a strong and growing network of women that makes them real players when it comes to opportunity, ownership, and respect. The Women Operators' Network is an outstanding model for any company interested in involving more women in its future and truly giving them the power they need to break through the glass ceiling.

In particular, the Women Operators' Network is helping spouses of existing McDonald's restaurant owners the training necessary to gain their own owner/operator status. Through that partnership, McDonald's has produced an impressive 300 percent increase in female ownership during the past 5 years. Many of these women are right at the top of the system when it comes to operational excellence, bottom line success, and community involvement.

Most of us recognize the Golden Arches represent something unique in American business. Now we know the Arches also represent opportunity. It's a nice addition to the menu. I salute McDonald's for making a real difference for women in the workplace.•

FOLLOWING THE 5-YEAR BUDGET PLAN: AN ECONOMIC STRATEGY THAT WORKS

• Mr. DASCHLE. Mr. President, at this time last year, Congress took a bold step. It broke with the status quo, 1-year-at-a-time budget mentality. It mustered great political courage and drew the line on the special interests. By passing the President's budget plan, Congress rejected the politically expedient in favor of the fiscally responsible.

This was no ordinary budget plan. In fact, it was unprecedented in scope; a 5-year plan that will affect spending and revenue decisions through fiscal year 1998.

Tough spending caps were set for each of the 5 years covered by the plan. And by the time the 5 years are up, our budget deficit will have been reduced by almost $500 billion.

Now, 1 year later, Congress has another important budget decision to make. In essence, it is this: Do we stay the course set out by the 5-year plan, or do we return to the status quo of annual budgeting?

Based on the evidence, the answer is clear. We should stay the course agreed to by the Congress and the President.

Since the enactment of the 5-year budget plan, we have seen significant improvement in our economy. Consider the economic facts.

The economy is now expanding at a much faster rate than before passage of the budget plan. During the Bush Presidency, the average annual rate of growth was a mere 1.5 percent. The rate remained below 2 percent for the first two quarters of 1993.

With passage of the budget plan last August, however, the economy received a jumpstart. Growth for the final quarter of 1993 was an impressive 7.5 percent. For 1994, it is estimated that the rate will level off at approximately 3 percent—twice the rate of annual growth for the years 1989–92.

According to the Joint Economic Committee, we are experiencing the strongest industrial growth in the past 5 years. Housing starts are at their highest level for the same period. There has also been a sharp increase in business investment, which, over time, will result in further economic gains.

For Americans concerned about their prospects for employment, the declining unemployment rate is encouraging news. In fact, since January 1993, 1.9 million new private sector jobs have been created. Compare this to 1.2 million new private sector jobs over the entire Bush Presidency, and the progress on the jobs front is easily seen.

Most importantly, we have begun to make real progress on controlling Federal spending and reducing our massive budget deficit.

In fiscal year 1994, we cut spending below the previous year's level in 500 programs. For fiscal year 1995, the President has proposed termination of more than 100 programs and spending reductions for at least 200 more.

These spending cuts are bringing the Federal budget deficit down. At the end of fiscal year 1993, just after the 5-year budget plan was enacted, the deficit stood at $255 billion. According to an estimate done by the Congressional Budget Office, this will fall to $171 billion for fiscal year 1995.

This would be a 33-percent reduction in the deficit in just 2 years—a clear signal that our current budgetary course is producing the results we want.

Now is no time to rest on our laurels, however. The budget deficit is still much too high. Too many Americans are out of work or are unable to make in on the wages they bring home. There are obligations that our Nation must live up to, such as the promises made to seniors with respect to Social Security and Medicare.

For the foreseeable future, our budgetary challenge is to find a way to provide adequate funding for those programs of greatest importance to our Nation while reducing the deficit and living within our means.

This is an extremely tall order. Yet the President's budget proposal for fiscal year 1995 points the way toward meeting this challenge.

The budget resolution we consider today meets the spending caps set forth in last year's budget agreement. And within these constraints, the President has begun to reorder national spending priorities.

For example, increases are proposed for Head Start, education reform and the hiring of additional police officers. Education and anticrime measures are very important to Americans from all walks of life, and I'm pleased that the President's proposal recognizes that.

I do want to emphasize that my spending priorities differ somewhat from those of the administration. For instance, I do not agree with the pro-

posed cuts in funding and staffing for the Indian Health Service and the Veterans Health Administration.

Our country is poised for national health reform, but the particulars of this effort are not yet known. At this point, there is no way to determine what resources the IHS and VHA will need in order to adjust to a reformed health care system. Meanwhile, many veterans and native Americans remain unable to secure the health care they need and deserve at the facilities designated by their Government to serve them.

Health reform offers the IHS and VHA the chance to expand access to health care and to improve the quality of that care. Reducing resources at this time would effectively take that chance away.

I also oppose the proposed cuts in funding for two programs that provide assistance for low-income Americans. One is an almost 50-percent reduction in the Low-Income Home Energy Assistance Program [LIHEAP]. This cut would hit hard in my home State of South Dakota, as well as in many other regions of the country that have struggled through a bitterly cold winter.

Likewise, I disagree with the proposed 60-percent reduction in funding for the section 515 rural rental housing program. This program has played a valuable role in South Dakota by providing insured loans to finance rental and cooperatively owned housing for low- and middle-income families, the elderly, and the handicapped.

While we need to reduce Federal spending, we should not do so on the backs of the most vulnerable in our society.

Mr. President, today marks the real beginning of the tough budget debate for fiscal year 1995. This budget resolution lays out the parameters of that debate.

I support this resolution, and I hope it can be passed without delay. We must reorder our spending priorities to meet the basic needs of all citizens, while still remaining true to the fiscal constraints embodied in this resolution. I look forward to working with my colleagues, Democrats and Republicans alike, to do just that.•

THE 25TH ANNIVERSARY OF THE UNIVERSITY OF CONNECTICUT'S URBAN SEMESTER PROGRAM

• Mr. DODD. Mr. President, this year marks the 25th anniversary of the University of Connecticut's Urban Semester Program, and I would like to take a few moments to salute this innovative initative.

Students taking part in this program spend a semester in the city of Hartford, where they take part in public service internships and weekly seminars on urban topics. Students don't just learn about the reality of urban America from a textbook: They live it.

Student activities range from social work to civil rights, from local government to environmental activism, from community organizing to human services.

Now is fitting time to honor the urban semester program because we are witnessing the creation of a new national service program that embraces the same principles on which the University of Connecticut's program was founded.

National service, like urban semester, is a win-win-win program. The communities where the volunteers serve win from the infusion of talent and energy that the volunteers provide. The volunteers themselves also win by gaining valuable experience and the satisfaction that comes from service. Finally, and most importantly, we all win from the renewal of the ideal of service that both urban semester and the President's national service initiative symbolize.

It should therefore come as no surprise that urban semester has received rave reviews from both community leaders in Hartford and students who have participated. Indeed, many University of Connecticut students look back on their urban semester as the highlight of their college careers.

Urban semester has been so successful because it recognizes a simple truth: Education is about much more than touching books, it is about touching lives. I therefore believe it is appropriate to commend this program on its 25th anniverary.•

FROM THE WHOLESALER TO THE HUNGRY

• Mr. SIMON. Mr. President, I recently learned of a new and innovative end hunger program achieving success in Chicago. The name of the project is: The Produce People Share; a produce reclamation effort.

This project, a collaborative effort of the Greater Chicago Food Depository and wholesalers at the South Water Market, reclaims more than 50,000 pounds of fresh fruits and vegetables each week. The produce is then distributed, free of charge, to hundreds of agencies serving people in need.

This is a remarkable effort on the part of all involved. In fact, the program began in Los Angeles as the brainchild of retired wholesaler Mickey Weiss. What he noticed was a large percentage of produce, edible-but-notsellable, was being wasted on a daily basis.

Hunger and poor nutrition are shockingly widespread. These conditions sap the vitality of children in school, weaken people's abilities to perform in the workplace, and undermine the lives of the elderly. Tens of millions of Americans suffer inadequate diets and the serious consequences to public health that result.

I applaud the efforts of those in Chicago and across the Nation involved in this worthy project. Hopefully, this will entice more people in the food industry to become involved in the circumstances of those in need.•

THE MULTIFAMILY HOUSING PROPERTY DISPOSITION REFORM ACT OF 1994

• Mr. D'AMATO. Mr. President, I rise today to offer my support for the Multifamily Housing Property Disposition Reform Act of 1994. This legislation addresses growing problems that greatly concern me with the Federal Housing Administration [FHA] multifamily property disposition program. In addition, this legislation will save American taxpayers some $470 million by reducing holding costs incurred by HUD.

The FHA property disposition process at the Department of Housing and Urban Development [HUD] is virtually at a standstill because HUD lacks the funding needed to dispose of the hundreds of properties in its inventory. As more and more FHA-insured developments fall into foreclosure the cost burden to the Federal Government increases, the management problem is exacerbated, and the potential for further distress in our neighborhoods is worsened. This bill creates the flexibility necessary to rectify this problem in order to maintain the actuarial soundness of the fund while at the same time balancing the need for providing affordable housing opportunities.

This legislation will give the Department new tools and invigorate existing authorities to facilitate disposition. It also provides new methods designed to prevent defaults from occurring and will minimize the potential for future losses while protecting the rights of low-income tenants currently residing in these developments.

This bill also improves two other key HUD programs. The legislation improves the workability of the HOME Investment Partnership Program with changes that include making the HOME matching requirements uniform for all HOME-funded activities, clarifying that targeting is based on families served rather than dollars expended, and broadening the availability of HOME funds to assist homeownership activities. It also improves the Section 108 Community Development Loan Guarantee Program by expanding its eligible activities and by providing additional incentives for communities to take advantage of this program.

Mr. President, I would like to express my sincere thanks to Senator BOND, ranking member of the Senate Subcommittee on Housing and Urban Affairs, Senator SARBANES, chairman of the Senate Subcommittee on Housing and Urban Affairs, and Senator RIEGLE,

chairman of the Banking Committee for their commitment to the issues addressed in this legislation. I would also like to thank Fallie Calder on my staff, Jon Kamark on Senator BOND's staff, Jeannine Jacokes on Senator RIEGLE's staff, and Paul Weech, Kris Warren, Robin Campbell, Cheryl Fox, and Lori Bamberger on Senator SARBANES' staff for their hard work and dedication.•

GREEK INDEPENDENCE DAY

• Ms. MIKULSKI. Mr. President, I rise today to join my colleagues in celebrating Greek Independence Day. On this day, we reflect on how much we owe to the Greek people and their ancestors, and we remember the sacrifices they have made to remain free. We also honor the friendship between Greece and America and our historic democratic link.

Mr. President, I come from an ethnically diverse city, Baltimore, where neighborhoods still carry the flavor of our ancestors. We know the value of democracy and we cherish our freedom. We also pay homage to our forefathers who came to America in search of freedom and opportunity, and to those who spent lifetimes fighting to preserve freedom.

It is fitting then, that we honor the great and noble people of Greece, whose ancestors gave the world the precious gift of democracy. In the 2,400 years since Pericles and the Golden Age of Athenian democracy, the democratic ideal has triumphed over kings, over emperors, and over dictators of the right and left. Today, there are more democratically elected governments than at any time in history. Democracy is so much a part of our lives today that we take it for granted only a government chosen by its people can survive. But it took 2,400 years of conflict to come to this point.

Today we also salute the valiant Greek people, who have fought alongside Americans in every major international conflict of this century. We remember their great sacrifice in World War II, when over 600,000 Greeks fell to the Fascists, an incredible 9 percent of Greece's population at the time.

Mr. President, independence did not come easily for Greece. Her history is full of struggles against dictators from the west, conquerors from the east, and subversion from within. Her people had to fight over and over for their freedom. That is why Greeks understand—as only those who have been through a baptism of fire can really understand—what it means to be a free people.

We also celebrate the strong and vital link between Greeks and Americans, two proud peoples united by their common democratic heritage. The Greeks who flocked to America in the early part of this century with their enormous energy and talent helped build the great engine that now powers the American economy. Their very successful Greek-American descendants now occupy leadership positions in business, in the legal and medical professions, and in American politics. One of the Greek-American community's most illustrious sons, I am proud to point out, serves in the U.S. Senate in the person of my friend and esteemed colleague, the senior Senator from Maryland, PAUL SARBANES.

Mr. President, I am very proud to join in today's celebration of Greek Independence Day.•

GREEK INDEPENDENCE DAY

• Mr. SIMON. Mr. President, today I would like to reaffirm my support for Senate Joint Resolution 162, which designates March 25, 1994, as "Greek Independence Day." It is an honor for me to be among the cosponsors of this resolution commemorating the struggle of the Greek people against foreign domination.

As many generations of Americans have looked back to the model of ancient Greek democracy for inspiration, today's Americans can take pride in celebrating modern Greek democracy. When Greece was fighting for its liberation exactly 173 years ago, volunteers from all over Europe flocked to its defense. It is difficult to find another cause in modern history more fervently advocated by people supporting democracy and the rule of law.

In the same enterprising spirit as our Greek allies, the United States has also grown into a stable and prosperous democracy. Today is an occasion to acknowledge the strong ties of mutual trust and understanding which have been woven between Athens and Washington, and between countless Greek villages and towns with towns throughout the United States. Let us not forget that the democratic national undertakings in both Greece and the United States were once regarded with skepticism in other parts of the world and their peaceful development was frequently questioned.

The ideals of the Athenian Republic provided the intellectual foundation for the Framers of our Constitution. Socrates, Plato, and countless other figures from Greek history furnished us with invaluable models as well as an enlightened patriotism. Americans will always be in debt to Greece for the inspiration she has given to us through the arts, science, and politics.

It is less well known that the Greek patriots we are honoring today honored the United States by translating our Declaration of Independence as a model for the Greek Declaration of Independence. Greece also played an important role in standing up against communism after World War II. Furthermore, even though Greece lost 600,000 citizens from the fighting in World War II, Greece is an ally that has supported the United States in every major conflict in this century.

Sizable immigration from Greece to the United States has brought an abundant wealth of talent to our country. Greek-Americans have been a positive impact in every sector of American society. Greek-Americans have not only maintained many of their important traditions in the United States but also made many of these customs part of Americana. In addition, Greece has given the world the Olympic Games. The principles of hospitality and fair and friendly competition have provided an avenue for countries of the world to realize that we all share the same goals.

Since gaining its independence, Greece has become a prosperous and reliable partner of the United States. As a country firmly anchored in the European Union and the NATO alliance, Greece bears a significant responsibility for the stable development of the eastern Mediterranean. It is important that the United States and Greece work together to end the violence in the former Yugoslavia and promote tolerance and political dialog with all the interested parties.

As the Greek merchants of antiquity helped spread their goods and civilization across the Mediterranean, modern-day Greece is a country that the newly democratic nations of the world can look toward for inspiration. In a world of great turmoil, people everywhere can also look to the history of Greece for strength and guidance.

Finally, let me once more commend the Greek patriots who bravely fought for democracy and have laid the cornerstone for understanding between countries of the world.•

RECOGNITION OF THE MUSIC TEACHER NATIONAL ASSOCIATION 1994 NATIONAL CONVENTION

• Mr. JEFFORDS. Mr. President, today I rise as vice chairman of the Congressional Arts Caucus and strong supporter of arts education to offer public recognition to a group of teachers and students that has converged on the Nation's Capital for the Music Teachers National Association—[MTNA] —1994 national convention.

The hundreds of music teachers and student competitors gathered here is testament to the importance of, and support for, arts education in America. Clearly, these teachers and the dedicated students deserve recognition of their accomplishments.

Music teachers and students from every State in the Nation will be present. The convention will recognize the accomplishments of music students through its national competitions in composition and performance. These outstanding young musicians, from ele-

mentary-school age through college level, hail from 35 States and probably represent some of the finest musical talent in the United States. I believe they deserve recognition by the Senate and would ask that the names and hometowns of the finalists in the competition be printed in the RECORD immediately following my statement.

Mr. President, in my mind, the arts enrich America and add something to our quality of life which cannot be measured. The arts make us think, question, reflect, and ponder. They help identify society and define who we are as a people. Indeed, they build confidence and self-esteem. Including the arts in the education of the American people, is essential to maintaining our nation's cultural vitality. Arts education is not just for the young, it is cradle to grave. The accomplishments of these young musicians and their teachers is just a piece of the artistic contributions they will give to society throughout their lives.

In closing, Mr. President, on behalf of all my colleagues in the Senate, I would like to congratulate all of the students for their long hours of hard work and accomplishments, as well as the teachers, for their dedication and commitment to teaching the art of music in America.

The list of finalists follows:

STUDENT COMPETITION FINALISTS

Clifford Dale Moore II, Anniston, AL, David Talley, Annitson, AL Sarah Fourt, Phoenix, AR, Benjamin Ragsdale, Fayetteville, AR, Chalon (Aaron) Ragsdale, Fayetteville, AR, Jacqueline Vaughn, Conway, AR, Myiia Okeema Watson-Davis, Scottsdale, AZ, Seung-Yeon Hong, Carmichael, CA, Rebecca Merblum, Unionville, CT, Linnea Baronofski, Newark, DE, and Carolyn Betty, Hockessin, DE, and Jason T. Blank, Wilmington, DE.

Yves Dharamraj, Belleair Bluffs, FL, Sonia Gonzalez, Tallahassee, FL, Maria-Karnina Iskandar, Tampa, FL, Virginia Armitage, Norcross GA, Macarena Ferrer, Columbus, GA, Macarena Pesutic, Columbus, GA, Saskia Pineda, Columbus, GA, Miles Richardson, Columbus, GA, Louis Hanzlik, Norwalk, IA, Megan Hanzlik, Norwalk, IA, Erica Hecht, Sioux City, IA, and Julie Maykowski, Des Moines, IA.

Molly Ulrickson, Manning, IA, Rita VanDen Broek, Sioux Center, IA, Jennifer Welp, Norwalk, IA, Peter Henderson, Moscow, ID, Michelle Gamble, Edwardsville IL, Brian Lee, Wheaton, IL, Edward Moore, Urbana, IL, Andrew Park, Northbrook, IL, Leah Kristine Adams, Fort Wayne, IN, Sara Caswell, Bloomington, IN, Todd Craven, Batesville, IN, and Wayne Eric Gargrave, Bloomington, IN.

Amy Fear, Wichita, KS, Malin Huffman, Wichita, KS, Robert Kania, Lawrence, KS, Stefanie Leivian, Wichita, KS, Steven Waddell, Wichita, KS, Douglas Burian, Danville, KY, Susan Doreen Buller, Jeanerette, LA, Jon Crochet, Lafayette, LA, Timothy Dunn, Lexington, MA, Dawn Perlner, Acton, MA, and Yukiko Sekino, Lexington, MA.

Holly Brown, Kalamazoo, MI, David Chang, Grand Blanc, MI, Aaron Engleman, Kalamazoo, MI, Matthew Ownby, Kalamazoo, MI, Richard Postma, Kalamazoo, MI, Nikki Razey, Kalamazoo, MI, Amy Wright, Kalamazoo, MI, Angela Fuller, Minneapolis, MN, Ashley Garritson, Ballwin, MO, Melanie Hadley, Ozark, MO, Paul Hadley, Ozark, MO, and Catherine Owen, Kansas City, MO.

Doug Smith, Warrensburg, MO, Kimberly Finke, Billings, MT, Joel Paul Coffey, Charlotte, NC, Christian Ellenwood, Greensboro, NC, James Gregory, Winston-Salem, NC, Kenneth Meyer, III, Greenville, NC, Rick Hoffenberg, Princeton, NJ, Jeremy Mayne, Albuquerque, NM, Neal Harmon, Rochester, NY, Christine Kar-Yee Wong, New York, NY, Kelly Harrier, Columbus, OH, and Benjamin Adam Hausmann, Bowling Green, OH.

Elizabeth Hedman, Cleveland, OH, Anna Polonsky, Columbus, OH, Clint Kraus, Stillwater, OK, Marc Nelson, Indiana, PA, Alexandra Pecchold, Chadds Ford, PA, Sean Whitaker, Curwensville, PA, Jason Worzbyt, Home, PA, Sharon Mulfinger, Greenville, SC, Jasmin Tiodang, Rock Hill, SC, Elizabeth Kurowski, Mount Juliet, TN, Richard Adams, Dallas, TX, and Eric Branscome, Nacogdoches, TX.

Jamie Henry, Nacogdoches, TX, Steve Kostelnik, Austin, TX, Sharon L. Lacey, Longview, TX, Olivia Liang, Houston, TX, Kelley Riddle, Spring, TX, Stephanie Schweigart, Houston, TX, Diana Tiffany, Kingsville, TX, Mayumi Tsujikami, Carrollton, TX, Kristin Ward, Nacogdoches, TX, Steven Ward, Nacogdoches, TX, and Roger Wright, Houston, TX.

Jeff Baer, Salt Lake City, UT, Emily Barrett, Provo, UT, Janae Codner, Provo, UT, Dusting R. Gledhill, Provo, UT, Will Kimball, Provo, UT, Marcos Krieger, Pleasant Grove, UT, Lara Jean Lambert, Provo, UT, Kyshana Lowe, Provo, UT, Sariah Mourik, Provo, UT, Andrew Stamp, Salt Lake City, UT, Camille VanDyke, Salt Lake City, UT, Jee-Hyun Choe, Fairfax, VA, and Kristen Grattan, Vienna, VA. Kar-mun C. Woo, Burke, VA, Megan Williams, Essex Junction, VT, David Beck, Jr., Ellensburg, WA, Archie Chen, Spokane, WA, Aaron Cummings, Tacoma, WA, Phillip J. Griffin, Seattle, WA, Matthew Kelzenberg, Tacoma, WA, Ji-Hye Kim, Bellevue, WA, Clara Lee, Mercer-Island, WA, Shannon O'Dell, Redmond, WA, Christine Padaca, Tacoma, WA, Brett Paschal, Greenacres, WA, Rachael Winard, Redmond, WA, and Eric Nowlin, Madison, WI.•

COMMUNITY DEVELOPMENT, CREDIT ENHANCEMENT, AND REGULATORY IMPROVEMENT ACT

• Mr. BINGAMAN. Mr. President, last week the Senate passed S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993. I supported this legislation because it will foster community development, encourage lending to small business, reduce paperwork for lending institutions, and protect the consumer.

I support S. 1275 because it will have a positive impact on local economic growth. Our communities will benefit in several ways. Economically distressed communities will be given improved access to capital and development services. Also, additional capital will become available for consumers in the community and the private sector secondary market for small business loans. In effect, there will be more jobs created from the new businesses and consumer spending.

This bill will ensure the safety and soundness of the banking system and reduce unnecessary regulatory burden and redtape that is often an impediment to lending. This means the cost of credit, which is normally passed onto the consumer, will be reduced. In my home State of New Mexico, banks that have been burdened by unnecessary redtape will now have more time and resources to dedicate toward helping local businesses and consumers to invest in themselves and their communities. It is for these reasons that I support this bill.•

POSSESSORY INTEREST IN CONCESSIONS REFORM

• Mr. SIMON. Mr. President, earlier this week—with my support—the Senate passed S. 208, the National Parks Concessions Reform Act. As a cosponsor of this bill, I am hopeful that these changes will improve the concessions system in our national parks, and create a more level playing field for all involved. In addition, S. 208 will mean tens of millions in additional funds being available for maintaining our national parks each year.

I want to add a word of caution, however, with regard to the possessory interest issue. I commend those on both sides of this issue for their success in arriving at a compromise, but we need to be sensitive to how the possessory interest provisions will affect the current concessionaires. The changes made by S. 208 are considerable, and could have a significant impact on businesses with a long and reliable history of providing concessions services in our national parks. We should proceed with caution as we work out the details of these changes.

Mr. President, I thank my colleagues who supported this measure, and I want to specifically acknowledge my friend from Arkansas, Senator BUMPERS, for his commitment and his leadership with S. 208.•

WOMEN TO RACE FOR AMERICA'S CUP

• Mrs. FEINSTEIN. Mr. President, I would like to bring to the attention of the Senate and to the entire Nation the historic achievement of the 16-member all-female team that will race next year for the America's Cup in San Diego.

It is a truly remarkable achievement. It is an accomplishment which transcends the sport of sailing, one that breaks down barriers for women everywhere. As chronicled in a March 10 article in the Washington Post, until now, no female team has ever competed for the America's Cup. In fact, no woman has ever served as a crew member in an actual America's Cup race.

And let no one underestimate their chances. Six of them are Olympic medalists in sailing and rowing and four are former national yachtswomen of the year. They will race with state of the art boats, one of which has already won an America's Cup. I believe their chances are very good indeed, Mr. President, and that one day we may be congratulating these women for a much larger achievement.

I have often said that when I ran for the U.S. Senate in 1992, it was the first time in my life when I felt that being a woman was not a disadvantage. It is through the singular achievements of women like these that the road is paved for all women to make equally important strides in other fields. These 16 women have played a crucial role in enabling women to compete on an equal setting with men, and in shattering the glass ceiling once and for all.

This Senator will watch their progress with great interest. They have a big fan back in Washington who is rooting for them the whole way.●

SAFE SCHOOLS ACT

● Mr. WOFFORD. Mr. President, by the time the final school bell rings each day, about 100,000 American children have brought guns to school. And those guns will have killed or injured 40 children. Fear and intimidation are robbing our children of their education, their hopes for the future, and, in some cases, their lives.

The Safe Schools Act, which the Senate is now considering as part of the Goals 2000 legislation, would help schools across the country to craft their own solutions to the spreading epidemic of youth violence. This legislation is a good first step—but we need to do more. When Congress reauthorizes the Elementary and Secondary Education Act, we must build on the Safe Schools Act—to provide parents, teachers and students with resources to support their own approaches to violence in and around our schools.

Mr. President, Steve Bumbaugh recently wrote about his experiences in a Washington, DC school, and I ask that it be included in the RECORD immediately following my remarks.

The article follows:

[From the Washington Post]

THE YEAR OF LEARNING DANGEROUSLY

(By Steve Bumbaugh)

One of my kids was comparing the Articles of Confederation to the Constitution. Another was unlocking the mysteries of pi. Another was visiting a book report with my coworker, Phyllis. It was shaping up to be one of those days you look forward as teacher. And when you're teaching in D.C. public schools, these good moments can't be taken for granted. For the good can turn bad at any moment.

Just after 11 a.m. we heard "pop-pop-pop-pop" coming from outside of our basement classroom at Eastern High School followed by screams and the sound of frantic running. I looked at my kids. They looked at me. Firecrackers, I was hoping. Maybe a gun fired into the air. I had the sick feeling, though, that this was not the case.

A few minutes later, we learned the worst: Yards away from my classroom, a 17-year-old had just been shot four times by another 17-year-old student.

It's strange to think now that we had chosen to bring our program to Eastern because of its safety. Safety, of course, is a relative term. My 67 students were adopted by the "I Have a Dream" Foundation six years ago when they were seventh-graders at Kramer Junior High School in Anacostia—an even more dangerous place. Today, as seniors, they're spread out in schools throughout the area; most attend Eastern. But I guess violence is no longer something we can skirt geographically or strategize against. Just a week ago one of my students suffered a broken jaw when he was attacked by a group of boys in the same stairwell where this shooting occurred. Two weeks before that one of my students at another school was stabbed in a hallway. Today, as I write this, an Eastern assistant principal has just been punched by teenagers trespassing in the school. In four of the five D.C. high schools where I regularly work with students, there has been gunfire in the school or on campus during school hours this year.

It is difficult for me to explain to outsiders how, and how much, this perpetual stream of violence matters. How, to teachers like me, the constant stress is an assault on our ability to educate. Who can teach algebra when constantly mistaking the playful screams of teenagers frolicking for screams of serious trouble? Yet we grownups bear the least of violence's burden. It's the kids who must cope with the intrinsic provocations and temptations of adolescence and at the same time attempt to survive in a teenage world too rough for most adults to comprehend.

When I look at my kids I wonder: Who among them will know to type their research papers and turn them in on time, when many in their class will do neither? Which of them will understand how essential it is to be at school early, when so many of their classmates arrive late or don't come at all? And, more fundamental, who can worry about such trivialities when a handful of teenagers are shooting in the hallways and frightening numbers of their peers are being killed and maimed out on the street?

To me these are not abstract questions. I was born to a single mother on the Southside of Chicago. I was afforded a few miracles as a child, and I ended up graduating from Yale. Who is providing miracles to teenagers these days? In the brutal teenage world of 1994, how many of my kids will be able to realize their potential?

Sometimes it's easier to shut out the violence. Three years ago, when our program was housed at Kramer, we all became numb to what we saw. There was the boy stabbed in the back, crawling towards an assistant principal and collapsing in a puddle of his own blood. There was the night I came out of Kramer after a tutoring session and had to duck for cover as bullets hit the door above my head. Afterward, I watched incredulously as a group of boys scooped up their victim's body, threw it into the back seat of their car and sped off. Later that year I watched a female P.E. teacher hold the hand of a boy who'd been shot on the school's playground. She smiled at the boy and reassured him: Everything would be all right.

Yet even Kramer seemed a safe haven compared to what I've seen in the neighborhoods where my students live. One evening I was driving a boy home and we saw the body of a man lying across the sidewalk. He had been shot in the head while he was getting a haircut and managed to stumble outside before he died. One summer afternoon when I was in a barber shop, I convinced the friend of one of my students to walk away from an argument he was having with another boy. When I returned to the shop a half an hour later, the boy I had counseled was in the alley behind the shop. He was dead. The boy with whom he had argued had apparently shot him in the head. One Saturday morning when I was leaving the Anacostia library after tutoring some students, a young man pulled a gun on me and threatened to kill me if I didn't stop "grittin" on him. His friends laughed at his bravado.

The day of the Eastern High School shooting, it was clear that the accumulation of such experiences takes its toll on even the strongest of us. Even on Ralph Neal, the imposing principal of Eastern. That Eastern is generally regarded as the best high school in the eastern half of the city is in part a tribute to his swift discipline and stern demeanor. When Neal walks through the corridors, the toughest students straighten their backs and fidget nervously.

An hour after the shooting, Neal called an assembly in the auditorium. Students filled most of the seats, and the walls were lined with teachers, staff people, police officers and parents who had rushed to the school when they heard that there had been a shooting. Only a fraction of the parents gathered this day attend the PTA meetings in which report cards are distributed. It took fear and desperation to bring so many of us to the same place.

Despite the crowd, silence fell when Neal stepped up to the podium to speak.

After explaining that a boy had been shot outside the cafeteria, he implored the students not to take matters into their own hands. He asked students to tell an adult if they knew their peers were bringing weapons into the school. Then Neal, a rugged veteran of the city's toughest schools, began to cry.

A gasp swept through the auditorium. Soon some of the teachers, students and parents were also crying. Usually, we cope with the mayhem around us by wearing a mask of indifference, by pretending not to be bothered. But when your last line of defense between what should be and what is starts to cry, who can keep the mask up?

Still, as a teacher, you learn that progress is measured in small steps. Those tears were steps. They were hope.

In the four years I've been with my students I've grown to love them as if they were my own little sisters and brothers. I am indescribably moved when our program can help improve a student's life. Three years ago when our foundation sent four students to a strict, predominantly white boarding school in rural Ohio, I was nervous about how my kids would cope with so many adjustments. Now we have seven students at Mt. Vernon Academy, all of whom will graduate in May, and most of whom will go on to college. Last year, when one of my shy students from Ballou High School worked up the nerve to sing a solo in front of 300 people, she wowed the crowd. As they gave her a standing ovation, I bragged like a proud father. These are the things I live for.

But after four years of passing from one crisis to another, never knowing what lunacy lurks beneath the veneer of a calm day, I've grown tired. I overestimated my ability to affect the lives of my students, and I feel

handcuffed by an overburdened system that is not equipped to educate some of the brightest minds in our city. I'm tired of going to the funerals of teenage boys with whom I've joked around and played ball. I'm tired of my heart breaking when I find out that another one of my girls is pregnant. I'm tired of pleading with kids to return to school, and knowing that they probably won't. I'm tired of watching energetic kids grow into perpetually tired, depressed young adults. I'm tired of having nightmares after I've seen someone who was shot or stabbed. I'm tired of coming to school on Mondays and having to hear my students discuss their neighborhood's weekend body count. I'm tired.

I can console myself that my journey into Washington's inner city ends in June, when most of my students will graduate from high school. I will leave this town and go to the safe environments of graduate school. If I choose, I'll never have to return to another rough neighborhood in my life. Many of my students, of course, don't have these options. On a day when a classmate gets shot in school, most return home to neighborhoods where they may hear gunfire at night. Most will pass drug dealers and drunks on the walk from the bus stop to their homes. Some will go to homes where siblings, cousins, aunts and uncles crowd into too small a space. Some will go home to take care of nieces and nephews, younger siblings or their own children, and never get around to the homework that's due tomorrow. Some will return to homes where parents expend so much energy just trying to make it to the next day that they don't take the time to read the newspaper or pick up a book. For too many of my students, there is simply no respite from the perpetual crisis that strangles their community.

After Wednesday's shooting, I left school at 3 and walked up the street to get a slice of pizza. On the way there I ran into a group of 3- and 4-year-olds walking down the sidewalk with daycare workers. One little boy ran from the group and grabbed my leg. He looked up at me through huge black eyes. A mischievous grin brightened his dark brown face. Only three years old, he already knew that he was so cute he could get away with wrapping himself around the legs of perfect strangers. One of the daycare workers extricated him from my thigh as I laughed.

I paused on the sidewalk and watched the children disappear around the corner. I wondered what kind of life awaited that beautiful little boy. Is his mother a teenager? Does he know his father? Will his brother be shot dead one day or will his sister have a baby when she is 15? Does his mother read stories to him and tuck him into bed, or does she struggle with a drug problem and slap him when he asks her questions? Who will teach this little boy to read? Who will make him go to school on time and do his homework? Who will reward him for being gentle?

We should be ashamed that such questions have to be asked, and more ashamed that the answer is often no one. We should hang our heads in disgrace when beautiful brown children grow up to be hard-hearted adults who ravage their own communities because of the crimes committed against them.•

MENTAL HEALTH AWARENESS WEEK

• Mr. SIMON. Mr. President, today, along with 21 of my colleagues, I am introducing a joint resolution designating the week of October 2, 1994 through October 8, 1994, as Mental Illness Awareness Week.

For the past 10 years, Congress has designated a week in October as Mental Illness Awareness Week. The goal of this resolution is to educate the American public about mental illness and to dispel the myths associated with this type of disease. The American Psychiatric Association continues to play a leading role in the effort to educate the American public.

Mental illness affects all social, ethnic, and national groups. Approximately 40 million Americans, one out of five adults, suffer from diagnosable mental disorders. Available statistics reveal that out of this 40 million, between 7 and 12 million children suffer from serious mental disorders. One-third of our elderly population suffers from significant symptoms of mental illness.

Approximately one-third of homeless individuals have psychiatric disorders. Often, these individuals have been discharged from hospitals and receive inadequate follow-up services.

Individuals who are HIV positive are vulnerable to mental illness as well. Approximately 20 to 25 percent of those with the HIV virus will develop psychiatric problems along with the first signs of this disease; more than 60 percent of AIDS patients will ultimately suffer neuropsychiatric consequences.

Statistics also reveal that the vast majority of the 30,000 who commit suicide annually have a metal or addictive disorder.

Women are twice as likely to experience a major depression as men. An estimated 12 percent of women experience some form of major depression over their lifetime.

Mental illness affects not only individuals, but society as well. Direct treatment costs and indirect costs from lost productivity associated with mental illness amount to billions of dollars each year. For fiscal year 1993, however, total Federal expenditures on research into the causes and treatment of mental illness was only $583 million. We must do much better. Only one out of four Americans with mental illness seeks appropriate treatment even though treatment can help 80 percent of those affected.

Each day the media reveals the human tragedies associated with mental illness. Yet we often do not really understand the severity of the problem until it affects someone close to us. At that point, the stigma attached to mental illness becomes very real. Asked to rank 21 categories of disability, from the least offensive to the most, respondents placed mental illness at the bottom of the list. In American society, ex-convicts stand higher on the ladder of social acceptability.

This resolution attempts to educate our society about mental illness and to combat the stigma surrounding this type of disease. People struggling with mental disorders are not evil. They are not incapable of surviving in society. In fact, with proper treatment, the vast majority of those who confront a period of mental illness during their lives can move on to be fully productive, self-sufficient members of society.

Public apathy and misunderstanding must be overcome if we are to help the mentally ill to lead productive lives. I ask my colleagues to join in this effort by cosponsoring this joint resolution.•

MONTANA'S LADY GRIZ

• Mr. BAUCUS. Mr. President, it is with great pride that I point the Senate's attention to the accomplishments of a remarkable group of women athletes from Montana.

The University of Montana, located in Missoula, MT, is, by most standards, a relatively small school. Small in numbers yes, but strong with an attitude of excellence both in academics and athletics. It is the home of some of the finest women athletes in this Nation—the Lady Griz basketball team.

This past weekend, the Lady Griz, lead by their long-time coach, Robin Selvig, played in the second round of NCAA playoffs against the Cardinals of Stanford University, on the Cardinals' home court. Although I am a Stanford alumnus, this was one instance where I was rooting against my alma mater.

The Cardinals are a team who usually win their games by 10–15 points. Unfortunately, the Lady Griz lost. However, the final score was 66–62. The Lady Griz made a definite impression, not only on their opponents, but everyone who had the opportunity to watch. This was sportswomanship at its finest. It is a great opportunity to extend my hearty congratulations to the Lady Griz and the University of Montana!

I ask that the names of each of these outstanding players and their coaching staff be printed in the RECORD immediately following these remarks:

The information follows:

No., Player, Hometown/School.

10, Kristin Omid, Stevensville, Mont./Stevensville HS.

11, Carla Beattie, Philipsburg, Mont./Granite HS.

12, Skyla Sisco, Malta, Mont./Malta HS.

15, Greta Koss, Malta, Mont./Malta HS.

22, Sherri Brooks, Livingston, Mont./Park County HS.

23, Kristy Langton, Stevensville, Mont./Stevensville HS.

25, Lora Morast, Kaltspell, Mont./Flathead HS.

31, Trish Olson, Missoula, Mont./Big Sky HS.

33, Dawn Sievers, Miles City, Mont./Idaho, Custer Co. HS.

35, Kelly Pilcher, Missoula, Mont./Big Sky HS.

41, April Sather, Havre, Mont./Havre HS.

43, Ann Lake, Missoula, Mont./Big Sky HS.

45, Jodi Hinrichs, Fairfield, Mont./Fairfield HS.

51, Dawn Sackman, Helmville, Mont./Drummond HS.

53, Malia Kipp, Browning, Mont./Browning HS.

55, Jill Frohlich, Missoula, Mont./Hellgate HS.

Head Coach: Robin Selvig (Montana, 1974) (358–88, 15 Seasons).

Assistant Coaches: Annette Whitaker-Rocheleau (Montana, 1982); Shannon Cate (Montana, 1993).

Student Assistant Coach: Joy Anderson.

Manager: Tasha Woods.

Head Athletic Trainer: Dennis Murphy.

Student Athletic Trainer: Jodi DeMaers.•

THE EXXON VALDEZ OIL SPILL

• Mr. MURKOWSKI. Mr. President, on March 24, 1989, the T/V *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound spilling almost 11 million gallons of north slope crude oil. This was the largest oilspill in U.S. history and is the most scrutinized disaster of its kind.

Exxon was assessed $900 million under the civil settlement, fined $150 million under the criminal settlement—of which $125 million was forgiven for Exxon's cooperation during the cleanup, and was required to pay $50 million each to the Federal Government and the State of Alaska as remedial and compensatory payments.

The crude oil that spilled from the *Exxon Valdez* spread to more than 1,200 miles of Alaska coastline, including portions of national forests, parks, and wildlife refuges managed by the Federal Government.

This coastline is richly populated with fish and wildlife, such as herring, salmon, sea otters, whales, bald eagles, and seabirds. Tragically, the spill killed hundreds of thousands of indigenous marine birds and marine mammals in and around the waters of Prince William Sound, fish hatcheries were rendered lifeless, and the wildlife populations are still recovering today.

The spill introduced oil into the food chain which jeopardized not only the living species, but their future offspring and natural reproductive capabilities.

Despite the continuing recovery process, overall we have made great progress in the 5 years following the *Exxon Valdez* oilspill and have accumulated a wealth of invaluable knowledge for the prevention and cleanup of oilspills.

WHAT HAVE WE LEARNED?

(1) SCIENCE STUDIES

Many have studied both the impact of the spill on habitat and wildlife and the rate and extent of environmental recovery, but there is still no consensus as to the spill's effects. Optimistic findings regarding the damage caused by the spill have been pitted against more guarded forecasts produced by government agencies.

Numerous reports have detailed the damage to harbor seals, sea otters, pink salmon, Pacific herring, common murres, and harlequin ducks.

Other species have proved nature's resilience. Thirteen killer whales disappeared from Prince William Sound pod between 1988 and 1990; state scientists say that group is going again. As many as 300 bald eagles died in the spill. Five years later, a draft plan for Prince William Sound restoration notes that eagles already may have recovered, along with some populations of black oyster catchers and sockeye salmon near Kodiak.

Mother nature has undoubtedly done her job—storms have removed about half of the oil embedded on some coastline. Many beaches are clean. Population forecasts for bald eagles are good. The tourists are back.

(2) REGIONAL CITIZENS ADVISORY COUNCIL

In 1990, Congress passed comprehensive legislation to reduce the likelihood of future oil spills, and establish better spill response plans.

A key element of the 1990 Oil Pollution Act was the creation of the Regional Citizens Advisory Council [RCAC]. We made it possible for those people with the most to lose from an oil spill to have a voice in the events that would impact their homes and livelihoods.

Eighteen member organizations, including villages, towns, small cities and boroughs, Native and conservation groups, tourism and recreational interests are represented on the Regional Citizens Advisory Council. The RCAC provides important services such as environmental monitoring, research, input on contingency planning, and provides information to the public as requested. This new level of citizen involvement is a lasting, positive legacy of the 1990 legislation.

BACKGROUND OF SETTLEMENT

Another legacy has been litigation. Many suits are just now going to trial in State and Federal court, but the State of Alaska and Exxon have settled their dispute.

On October 8, 1991, the U.S. district court approved an agreement that settled the claims of the United States and the State of Alaska against Exxon for various criminal violations and for recovery of civil damages resulting from the oil spill.

In the civil settlement, Exxon agreed to pay the State of Alaska $900 million over a period of 10 years to restore resources and human uses injured by the spill.

A trustee council consisting of six Federal and State trustees is responsible for spending the money. The State of Alaska trustees include: the Commissioner of the Department of Environmental Conservation, the Commission of the Department of Fish and Game, and the Alaska Attorney General.

The Federal trustees include the lead representatives in Alaska of: the U.S. Department of the Interior, the U.S. Forest Service, U.S. Department of Agriculture, Oceanic and Atmospheric Administration, and the U.S. Department of Commerce.

The $900 million civil settlement requires Exxon to deposit funds each year beginning December 1991 and ending September 2001. The State has received three payments totaling $340 million as of March 1994. The State of Alaska will receive $70 million a year through the year 2001.

ENDOWMENT

The crucial decision facing the trustees today is how best to use the funds. In November, I introduced legislation to create an endowment to provide for part of the long-term stewardship costs associated with recovery of damaged resources and services of the Exxon Valdez Oil Spill [EVOS] area by encouraging the conservation of funds to finance long-term studies.

Specifically, the legislation does the following: It establishes in the Treasury of the United States an endowment fund into which the trustees may choose to transfer any portion of the civil settlement funds; it amends Title XXX of the Energy Policy Act of 1992, allowing the Secretary of Energy, with the unanimous consent of the trustees, to invest a portion of the corpus and income of the endowment fund in such a way to generate sufficient income to carry out the purposes of restoration; and it allows, upon the request of the trustees, the secretary to transfer income earned to the trustees to spend on restoration.

A summary of public comment on alternatives of the Draft Exxon Valdez Oil Spill Restoration Plan shows that approximately two-thirds of 699 responses favored establishing an endowment or savings account of some kind and approximately two-thirds of all people who favored an endowment through the earnings should be used for monitoring and research.

The purpose of creating an endowment is to encourage the conservation of settlement funds for needed long-term research and ecosystem studies, catastrophic failures of the multi-million dollar Prince William Sound herring and pink salmon fisheries this year raise serious questions about the effectiveness of restoration and enhancement activities resulting from the Exxon settlement funds, government scientists have been unable to explain the disastrous disappearance of herring and pink salmon from the Sound in 1993; they lack an understanding of the Sound's natural cycles, of water temperatures and food chains. Moreover, the Yukon drainage fishery has steadily declined from a healthy subsistence and commercial opportunity to total closure today. No one knows why—what caused the run failure in the Yukon drainage? Funds are needed for studies since, to date, only

ineffective and inadequate data and research programs exist. Fishing is Alaska's leading employer and second leading private sector industry in terms of gross benefits to the State, behind only the petroleum industry.

Creation of an endowment would ensure that we continue to expand our base in scientific knowledge—rather than just buy up more trees.

The Work Plan Allocations for 1992, 1993, 1994 as of March 1994, including 42 percent land acquisition, are as follows: $7.5 million—which was combined with $14.5 million from other sources for the purchases of 24,000 acres of private in holdings in Kachemak Bay; $38,700,000 for purchase of 42,000 acres of private land near Seal Bay on Afognak Island. Trustees are reported to be looking at 17 other land purchases on Kodiak, the Kenai Peninsula and Prince William sound totaling 240,000 acres.

With more than 99 percent of Alaska already in Federal, State, or Native corporation ownership, using any of the settlement funds to increase the amount of government-owned lands is unwise.

Already about 60 percent of Alaska is managed by Federal agencies. Nearly 80 percent of the Federal land is under restrictions that are staggering: 54 million acres in national parks, preserves and national monuments; 75 million acres in national wildlife refuges; 22 million acres in national forests; and 24 million acres are in the National Petroleum Reserve, the Steese National Conservation Area, the White Mountains National Recreation Area, and in Federal wild and scenic rivers.

Buying lands benefits perhaps a handful of private land owners and allows certain government agencies to expend their fiefdoms, but the public benefits little. Adding a few hundred thousand more acres to the millions and millions of acres in Federal and State parks, preserves, forests, wildlife refuges and other protected land areas of the Prince William Sound makes little difference to the wildlife and fisheries of the region.

Rather than frittering away more money to convert more private land to public land, the Exxon settlement funds should be used to enhance scientific knowledge and restoration well into the future.

We need to know why salmon and herring runs have failed—and how to fix or compensate for the damage. We need to learn how Prince William Sound resources and systems operate, whether they have characteristics that are unique to the Sound, and how our management programs should be adjusted to account for the scientific facts we uncover.

Settlement monies should not be wasted on politically correct land purchases that have little or nothing to do with the resources that were affected by the oil spill, and on which the economic and social fabric of Prince William Sound rely.

CONCLUSIONS

While there has been a great deal of success in achieving the clean-up and natural recovery in Prince William Sound since March 24, 1989, the environment, wildlife and local communities are a reminder that Alaska is still working to overcome the long-term effects of the spill.

Native Alaskans in the villages of Chenega Bay and Tatitlek still face oiled mussel beds and fewer numbers of seal and deer to hunt, while the residents of Cordova suffer drastic reductions in the number of returning pink salmon.

Concerns remain about how the State should spend its compensatory payments designated for the restoration of the natural resources damaged by the oil spill.

Long-term ecological studies are lucrative to Alaska, as well as the oil industry and U.S. Government, and should be secured financially for future use. The endowment fund is intended to do just that.

Private citizens have civil lawsuits filed against Exxon for damages that are still pending. They are set to begin in May, while many of these families and individuals struggle to hold onto what they still have. In the past 2 years, banks have repossessed 70 fishing vessels for area residents unable to make their payments.

The past 5 years have taught us a lot about the interdependency of humanity and nature. Most important of all should be the lesson that history has shown us today how to prepare for tomorrow.●

LEGISLATION TO AUTHORIZE VA PILOT PROGRAMS TO PARTICIPATE IN STATE HEALTH CARE REFORM PROGRAMS

● Mr. MURKOWSKI. Mr. President, I rise today to join with my colleague from West Virginia in introducing legislation which would authorize VA to participate in health care reform plans enacted by individual States and provide VA with the tools and flexibility necessary for that participation.

One of the strengths of our Federal system of government is found in the constellation of our 50 States, each one a proving ground where the ideas of government and public policy can be germinated, developed, tried and tested. Each of our States has the responsibility to craft solutions to the problems facing its citizens. With each of the States constituting itself as a laboratory of ideas, the Founders created an environment where the process of natural selection of ideas can lead to the evolution of policies. The Congress can select the best of these ideas when we write national policy.

Mr. President, as the Congress begins the debate on national health care reform, we do so in a Union where many of our States have already grasped that nettle. Hawaii, Washington, Oregon, Minnesota, Vermont, Tennessee, Florida and others either have already, or are now in the process of, enacting or implementing programs of health care reform.

Congress would do well to observe their efforts and to learn from the lessons of their experience. One of the most important lessons which we must learn is the lesson taught by, and taught to, the Department of Veterans Affairs [VA] as VA adapts its health care system to the changing health care environment of the reforming States.

The VA health care system is too important of a national asset to be placed at risk by a reform which does not take its unique capabilities and its imperative obligations into account. Each year, VA treats over 2½ million veterans. Mr. President, today as we speak, over 84,000 veterans are receiving inpatient care from VA. Today, as the Congress proceeds with its business, over 63,000 veterans will seek and receive outpatient treatment from VA.

These veterans, and the health care system created by the Congress to care for them, depend upon us to get it right when we enact legislation which will govern one-seventh of the national economy and which will set the stage within which the VA health care system must either thrive or whither.

That is why I am pleased to join with my friend, and chairman of the Committee on Veterans' Affairs, the Senator from West Virginia in introducing legislation which will authorize VA to implement pilot programs of eligibility reform in up to five States which are reforming their health care system. By authorizing waiver of regulations and procedures which constrict local decisionmaking, the legislation would give local VA leaders the tools they will need to adapt to a rapidly changing local environment. By authorizing VA to participate in local health care plans, and the funding streams that support them, VA will have access to both the patients and resources needed to provide the complete continuum of care that defines quality medical practice today.

Mr. President, in embracing the call for health care reform, the Congress has launched veterans and the Department of Veterans Affairs on a jounrey whose outcome cannot be confidently predicted without more information. This legislation is the first step in preparing for that journey and will help provide veterans and the Congress with the information we will need to set the stage for VA's role in the century to come.●

GREEK INDEPENDENCE DAY

• Mr. BROWN. Mr. President, every year since 1986 Congress has passed a resolution celebrating March 25th as Greek Independence Day. The importance of this day should not go unnoticed. I would like to take this opportunity to commemorate this occasion.

The links between Greece and the United States grow stronger every year. During the early 1900's, one in every four Greek males emigrated to the United States. These Greek-Americans, with their emphasis on family and education, became an extremely successful and vital part of America's culture. Greece is one of only three nations in the world allied with the United States in every major international conflict in this century. Over 600,000 Greeks, nearly 9 percent of the Greek population, died fighting on the side of the Allies in World War II. Immediately following World War II, Greece was forced into yet another war, struggling against the communist rebels. Upon the defeat of the communists, President Eisenhower said of Greece,

> Greece asked no favor except the opportunity to stand for those rights which it believed, and it gave to the world an example of battle—a battle that thrilled the hearts of all free men and free women everywhere.

March 25, 1994 marks the 173d anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. During the reign of the Ottoman Empire, which lasted for almost 400 years, Greeks were deprived of many civil and human rights that for centuries had been a part of daily life in Greece. Schools and churches were closed, young boys were kidnapped and raised to serve the Sultan. The revolution that ultimately ended this occupation began in 1821 with a Greek declaration of independence. Many volunteers from various U.S. cities sailed to Greece to participate in the war for independence.

Greek success in defeating the Ottoman Empire and re-establishing democracy is an important accomplishment not only for Greece, but for the rest of the free world. March 25th represents the defeat of an oppressive state and the revival of a democracy that began 2000 years ago. In addition to inspiring us, the ancient Greeks offered us a warning about the fragile nature of democracy and freedom. Polybius, writing about the cycles and evolution of governments, warned that democracies tended to break down, overwhelmed by self-interest and greed.

Edward Gibbon, writing of the ancient Athenians, put the same warning this way:

> In the end, more than they wanted freedom, they wanted security. When Athenians finally wanted not to give to society, but for the society to give to them; when the freedom they wished for most was the freedom from responsibility, then Athens ceased to be free.

I commend the wisdom and insight of these comments. We extend our congratulations again to this nation that was truly the birthplace of western democracy.•

BELARUSIAN INDEPENDENCE DAY

• Mr. SIMON. Mr. President, Sunday, March 27 marks the 76th anniversary of the Proclamation of Independence of the Republic of Belarus. I am honored to share in the celebration of Belarusians throughout the world.

The Republic of Belarus declared its independence from the Soviet Union in 1991, and since then has fought to establish itself and its identity as a solid democracy in the heart of Eastern Europe.

The citizens of Belarus cannot forget their forebearers' efforts to establish political and economic independence in 1918, amidst the chaos surrounding the Bolshevik takeover in Russia. Tragically, the country was overrun by the Red Army and forced to join the Union of Soviet Socialist Republics. However, with the dissolution of the Soviet Union in 1991, Belarus was one of the first former Soviet republics to receive official diplomatic recognition by the United States—on December 25, 1991—and the first foreign mission to open in the capital city of Minsk was that of the United States.

I do not need to remind my colleagues of the incredible suffering the people of Belarus have sustained as a result of fallout from the Chernobyl nuclear disaster in neighboring Ukraine. Although the Soviet Union is gone, problems remain with how to safely dispose of former Soviet nuclear weapons and how to provide energy needs without using unsafe nuclear reactors. Recognizing these dangers, the United States and the new government of Belarus negotiated an agreement to facilitate the dismantling of Belarus' portion of the former Soviet nuclear stockpile. The United States is also working to ensure that Chernobyl is not repeated. I applaud the Belarusian government's leadership and cooperation on these issues.

Many of the freedoms that we as Americans take for granted are rights that the people of Belarus still struggle to realize. There exists in Belarus today a dedicated core of reformers who continue to struggle against the forces of an entrenched Communist bureaucracy. Recently, the Parliament of Belarus replaced the old, Soviet-era constitution with a new document, one that seeks to end fully all Belarusian ties with its former Communist past. I support the reformers' efforts and congratulate them on their successes. I hope that the United States can continue to strengthen its political, economic, and cultural ties with Belarus. Increased interaction will help to consolidate the U.S. relationship with Belarus—founded on shared values and common interests, and aided by the concerns and activism of many Americans of Belarusian descent.

I congratulate the people of Belarus on their Independence Day and want to express my support for their efforts to realize the potential of their newly found political and economic freedoms.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. BRYAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select committee received notification under rule 35 for Karen Robb, a member of the staff of Senator DECONCINI, to participate in a program in Japan sponsored by the Japanese Ministry of Foreign Affairs, from March 28 through April 6, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Robb in this program.

The select committee received notification under rule 35 for Margaret Cummisky, a member of the staff of Senator INOUYE, to participate in a program in China sponsored by the Chinese People's Institute of Foreign Affairs, from March 28 through April 8, 1994.

The Committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Cummisky in this program.

The select committee received notification under rule 35 for Jim Jones, a member of the staff of Senator MURRAY, to participate in a program in Hong Kong and China sponsored by the Hong Kong Chamber of Commerce, from March 27 through April 3, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Jones in this program.

The select committee received notification under rule 35 for Wayne Boyles, a member of the staff of Senator HELMS, to participate in a program in South Korea sponsored by the A-San Foundation March 26–April 2, 1994.

The Committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Boyles in this program.

The select committee received notification under rule 35 for Chuck Blahous, a member of the staff of Senator SIMP-

SON, to participate in a program in China sponsored by the Chinese People's Institute for Foreign Affairs, from March 28, through April 8, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Blahous in this program.

The select committee received notification under rule 35 for Kristi Stewart, a member of the staff of Senator PRESSLER, to participate in a program in Korea sponsored by the A-san Foundation, from March 26 through April 2, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Stewart in this program.

The select committee received notification under rule 35 for Timothy Goeglein, a member of the staff of Senator COATS, to participate in a program in China sponsored by the Chinese People's Institute for Foreign Affairs, from March 28 through April 8, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Goeglein in this program.

The select committee received notification under rule 35 for Erin Day, a member of the staff of Senator MATHEWS, to participate in a program in China sponsored by Chinese People's Institute of Foreign Affairs, from March 28 through April 8, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Day in this program.

The select committee received notification under rule 35 for Edward Maixner, a member of the staff of Senator DORGAN, to participate in a program in China and Hong Kong sponsored by the Hong Kong Chamber of Commerce, from March 27 through April 4, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Maixner in this program.

The select committee received notification under rule 35 for Lisa Stocklan, a member of the staff of Senator SMITH, to participate in a program in Germany sponsored by the Konrad-Adenaur Foundation, from April 25 through May 1, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Stocklan in this program.

The select committee received notification under rule 35 for Beth Garrett, a member of the staff of Senator BOREN, to participate in a program in Korea sponsored by the A-san Foundation, from March 26 through April 2, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Garrett in this program.●

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION AMENDMENTS ACT

Mr. CONRAD. Mr. President, I understand that S. 1969, the Worker Adjustment and Retraining Notification Amendments Act introduced earlier today by Senator METZENBAUM is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. CONRAD. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1969) to amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

Mr. CONRAD. Mr. President, I now ask for its second reading.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard. The bill will lay over and will receive its second reading on the next legislative day.

THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION AMENDMENTS ACT

Mr. METZENBAUM. Mr. President, today I rise to introduce the Worker Adjustment and Retraining Notification Amendments Act. This legislation amends our Federal plant closing notice law—also known as the WARN Act—to address serious problems in coverage, compliance, and enforcement.

This legislation is a companion to the Reemployment Act I introduced on behalf of the Clinton administration earlier this week. Just as WARN was originally enacted to ensure the success of our current Federal dislocated worker program, we need to strengthen the WARN Act today to ensure that the Reemployment Act can successfully serve our workforce in the years to come.

I authored the original plant closing law and our current dislocated worker program 6 years ago in an effort to minimize the devastating impact of job losses on workers, their families, and their communities. Of course, the best solution to this problem is to keep layoffs and plant closings from occurring in the first place. We need a strong jobs policy to keep our manufacturing base healthy, and to create and preserve American jobs.

But invariably, there will be businesses that are forced to downsize or shut down altogether, regardless of the state of the economy. We cannot prevent businesses from making those decisions. But we can require employers to give workers and communities fair warning of layoffs, so they can plan for the transition, keep their dignity, and start new lives. That's just what WARN was intended to do.

The link between an effective advance notice law, and a successful dislocated worker program, is indisputable. Government agencies, academics, businesses and workers all agree that when workers and local communities receive advance notice, dislocated worker programs work better, participation rates are substantially higher, more workers get jobs sooner, and unemployment compensation claims are lower. In short, everybody wins.

For example, the General Accounting Office has reported that:

> far more workers seek assistance when help is available before or at the time of job loss than when it is available only after the workers have lost their jobs or benefits.

Moreover, as the Clinton administration has recognized,

> [e]xperience over the years has consistently shown that early assistance, particularly assistance prior to actual termination/layoff, reduces the period of unemployment experienced by the workers.

By getting dislocated workers back to work faster, the Office of Technology Assessment says, advance notice can save hundreds of millions of dollars in unemployment compensation benefits each year.

Six years have passed since WARN's enactment, and it is time to see how well the legislation has worked. First, let's remember what the Act's opponents predicated during Senate debates in 1987 and 1988. Senator HATCH repeatedly claimed that WARN would "stifle job growth and foster high rates of unemployment." He also asserted that it would damage U.S. competitiveness abroad. In his view, "mandatory notice requirements hurt employees far more than they help employees."

Similarly, Senator THURMOND stated that the Act would "create industrial paralysis." Senator GRAMM asserted that WARN would "produce fewer jobs, less growth, and lower wages." President Reagan called it a "ticking time bomb."

Well, here we are 6 years later. Hundreds of thousands of American workers have benefited from the WARN Act by receiving 60 days' advance notice of layoffs. According to the U.S. General Accounting Office, employers are now about twice as likely to give workers advance notice of a layoff as they were before WARN was enacted. And guess what--the Act has had no negative impact at all on employment or our competitiveness.

The business community claimed that WARN Act compliance would cost each employer $15,000 per year. In reality, this estimate was wildly inflated. Last year, the GAO found that:

> [d]espite predictions that providing advance notice to workers would be costly, 61 percent of the employers who filed notices reported that they experienced little or no costs ($500 or less [per employer]).

The WARN Act's opponents also claimed that businesses would be denied credit if they announced an imminent layoff or plant closing. It didn't

happen. They claimed there would be an onslaught of employee sabotage. It didn't happen. They claimed businesses would lose customers. It didn't happen. They claimed businesses would be forced into bankruptcy. It didn't happen.

In short, western civilization has not collapsed, as some in the business community predicated. The sun still comes up in the morning. America's employers are still perfectly capable of running their businesses as they see fit. And most importantly, hundreds of thousands of workers, as well as their families and communities, have had the benefit of 60 days' notice of layoffs and plant closings.

In fact, the GAO reports that roughly half of the employers that provided advance notice believed workers were able to find new employment faster as a result. As a Texas State government official has explained, "most employers view the WARN Act as a benefit, because they are as interested as anyone in seeing their employees put back to work as soon as possible." The Clinton administration has also recognized that providing advance notice is good for business: "By getting laid off workers reemployed sooner, WARN may reduce the unemployment insurance costs for employers and create community good will."

Most importantly, workers have used the 60 days to seek new employment, enroll in training programs, pay off their bills, and, if necessary, plan for harder times. For many of these workers, WARN meant the difference between making a successful transition to new career and losing everything they had. Take Tamala Thackston, for example.

Thackston worked for the U.S. Shoe Corporation in Ripley, OH for 17 years, until the company told her it would shut down the plant in 60 days. The company also notified the State, which sent a rapid response team in to help Thackston and the other workers evaluate their individual job counseling and retraining needs. Thackston helped set up a labor-management committee and a job fair. After considering her options, she promptly enrolled in a medical assistant training course, which began shortly after her termination. Without 60 days' notice, she could not have signed up for the course in advance, and her unemployment benefits would have run out before completing the course. Thackston graduated 6 months later, and began a new job as a medical assistant in New Richmond, OH the very next day.

Thousands of employers have also provided notice to State and local governments, allowing rapid response efforts that help workers find new jobs. Last year, a Texas State official described WARN's "tremendous benefit" to state dislocated worker units:

With adherence to the WARN Act, our State dislocated worker unit is able to establish a relationship with company officials and employee representatives, is able to work with the local service providers to plan budgets, survey those to be dislocated, gather support from other community service agencies. . . . Responsiveness is a critical factor; all [employers giving WARN Act notices] are contacted within 48 hours, with most formal on-site meetings held within 5 to 7 working days. . . . This translates into quicker reentry into the job market, lessened unemployment insurance claims, savings in social service programs such as AFDC, and Food Stamps, and creates an environment where the negative impact to employees and employers is lessened when possible. Without [WARN Act] compliance, we open the morning newspaper and learn of another 1,100 people who have been laid off without notice, without hope, and without the knowledge to access the title III (dislocated worker) program.

Clearly, the WARN Act has lived up to its promise in helping workers and communities cope with the staggering consequences of plant closings and layoffs, without causing hardship to American businesses. But unfortunately, all of the news is not so rosy. In its 1993 report on the WARN Act, the GAO found major problems with the plant closing law in terms of coverage, compliance, and enforcement.

First, although hundreds of thousands of workers have been well served by the WARN Act, an even larger number of workers who lost their jobs in mass layoffs were not protected by WARN because of its threshold requirements. The GAO found that 64 percent of the mass layoffs recorded in a 2-year period were not covered by the Act. Even among layoffs affecting 250 or more workers, 41 percent were exempt from WARN. In many cases, employers appear to have intentionally manipulated workforce reductions to evade the WARN Act's requirements. As one management attorney in Detroit put it to a conference of employers, the WARN Act's thresholds are so big you could put aircraft carriers through them.

According to the GAO, WARN's current threshold requirements—which trigger the Act's advance notice provisions—present a number of problems. First, they leave millions of vulnerable workers unprotected from sudden termination. Second, they present too many opportunities for employers to avoid WARN Act liability by manipulating their downsizing efforts. Third, the complexity of these requirements makes it hard for workers to know whether they are covered, particularly at worksites where the workers are unorganized.

In a 1992 survey by Northeastern University Professor John Portz, state dislocated worker unit officials recognized these coverage loopholes as one of the most significant reasons for the limited effectiveness of the WARN Act. Similarly, in a 1992 report on the EDWAA dislocated worker program, the Department of Labor noted state officials' concern that "important layoffs were not covered by WARN, including large layoffs of less than one-third of the workforce." The legislation I am introducing today lowers and simplifies the WARN Act's thresholds to ensure adequate coverage of plant closings and mass layoffs.

Second, employer compliance with the WARN Act has been extremely low. According to the GAO, two-thirds of the employers covered by the Act either failed to provide advance notice (54 percent) or provided less than 60 days' advance notice (13 percent). Only one-third of the covered employers were found to have provided 60 days' notice to workers and communities as required by the Act. Similarly high rates of noncompliance were reported in the 1992 Portz Survey of State dislocated worker officials, as well as individually by State officials in New York, Texas, and Massachusetts.

These compliance problems are closely linked to a third deficiency in the WARN Act—a weak enforcement mechanism. When Congress enacted WARN in 1988, it did not assign any Federal or State agency the responsibility for administering or enforcing the Act. Congress did give workers the right to sue to enforce their rights, but remedies were limited to 60 days' back pay. As the Clinton administration has recognized, "the enforcement provisions of the law have not been adequate".

In the 1992 Portz Survey, State officials agreed that private actions were inadequate as the sole mechanism for enforcement, and that the existing remedy—60 days' back pay—was too weak. Similarly, the 1991 Massachusetts Conference Report on WARN explained that

Enforcement through the courts by workers being required to bring suit is not adequate. Workers do not have the means to sue in many cases; damages are inadequate; judgment takes too long and compensation comes long after the time it is needed—when the person is laid off.

The GAO's data suggest that there have been over 10,000 violations of the WARN Act since its enactment, but the vast majority of these violations have gone unenforced. Since 1988, only about 100 lawsuits have been filed under the Act, representing a staggeringly low enforcement rate of about 1 percent.

Those evaluating the effectiveness of the WARN Act—the GAO, the 1992 Portz Survey of state officials, the 1991 Massachusetts Conference on WARN—have all concluded that Congress should give the Department of Labor authority to enforce the WARN Act. Thus, the legislation I am introducing today authorizes DOL to investigate complaints of WARN Act violations, and to file lawsuits on behalf of workers. This enforcement mechanism will serve as a strong complement to the existing private right of action: it will increase awareness of the Act's re-

quirements among employers and workers, assist workers in determining whether their rights have been violated, and serve workers who are unable to find or afford an attorney to enforce their rights.

The GAO, State officials and commentators have also pointed to the Act's limited remedies as a significant cause of the WARN Act's compliance and enforcement problems. The problems are two-fold. First, for many employers, the remedy of 60 days' back pay is an insufficient deterrent to violating the Act; all the employer risks is having to pay the same wages it would have paid anyway if it had given adequate notice. Second, experience has shown that this remedy is an insufficient incentive for workers to bring suit to enforce the Act. State officials—in the 1992 Portz Survey, the 1991 Massachusetts Conference Report, and congressional testimony—have uniformly recommended that Congress strengthen the remedies available for WARN Act violations, to provide a stronger deterrent to employer violations, and to encourage workers to enforce the Act through private lawsuits.

The bill thus allows prevailing plaintiffs to recover, in addition to the existing remedies, interest and liquidated damages in an amount equal to the back pay award. These additional remedies have been available for decades under a host of comparable Federal labor laws, such as the Fair Labor Standards Act, the Family and Medical Leave Act, and the Age Discrimination in Employment Act. Under the Fair Labor Standards Act, for example, employers found guilty of minimum wage or overtime violations are liable for liquidated damages equal to the amount of back pay owed, unless good faith and reasonableness are shown.

The legislation I am introducing today includes a number of additional modifications to strengthen the Act. These changes include a longer notice period of 90 days for larger layoffs of 100 or more workers, clarification of the Act's "good faith" defense, a notice posting requirement to inform workers of their WARN rights, and a 2-year statute of limitations.

These various modifications address the current deficiencies in the WARN Act, and fulfill the Act's original promise of ensuring that workers and communities receive advance notice of plant closings and layoffs. Of course, employers cannot provide advance notice in every instance. Even with these modifications, however, an employer may still be exempt from the WARN Act if (1) the layoff lasts less than 6 months, (2) the layoff results from the termination of a time-specific contract or project, (3) the employer was seeking capital or new business to avert the layoff, (4) the layoff results from unforeseen business circumstances, or (5) the layoff is caused by a natural disaster. These provisions guarantee employers the flexibility to respond to changing circumstances, while meeting the needs of workers and communities for advance notice where feasible.

In sum, the WARN Act's fundamental premise—that workers and local communities benefit substantially from reasonable advance notice of plant closings and layoffs—is just as sound today as it was 6 years ago. In fact, American workers need the WARN Act's protections even more today than they did then.

According to the Bureau of Labor Statistics, over 15 million workers lost their jobs between 1987 and 1992 due to plant closings, business failures, layoffs and production slow-downs. In a 1992 survey of businesses by the American Management Association, 25 percent of the respondents planned to cut their work forces further. And relocation of U.S. factories overseas—spurred on by the passage of NAFTA—could mean the elimination of hundreds of thousands of additional U.S. jobs in the near future.

We must move swiftly to enact these modest reforms, to provide American workers fair notice of layoffs and plant closings, and to ensure the success of the administration's Reemployment Act. I urge my colleagues to cosponsor the Worker Adjustment and Retraining Notification Amendments Act. I ask unanimous consent that a summary and explanation of the bill's provisions appear in the RECORD.

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

THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION AMENDMENTS ACT SUMMARY AND EXPLANATION OF PROVISIONS

The WARN Amendments Act strengthens the original WARN Act based on, and consistent with, the findings and recommendations of the General Accounting Office (1993 Report); the Bureau of Labor Statistics; Northeastern University's State Dislocated Worker Unit Survey (1992); the Massachusetts Conference Report on WARN (1991); the Sugar Law Center for Economic and Social Justice; and congressional testimony from state officials and worker representatives.

I. SUMMARY OF PROVISIONS

A. Coverage

1. Drop "employer" threshold from 100 workers to 50.
2. Drop "plant closing" threshold from 50 to 25; drop "layoff" threshold from 50/one-third of workforce, or 500, to flat 25.
3. Limit "single site" requirement to layoffs of under 100.
4. Clarify "ninety-day rule" to allow aggregation of layoffs and plant closings which are part of single reduction in force.
5. Cover part-time workers.

B. Notice

1. Modify 60-day notice requirement as follows: 25–49 workers affected, 30 days. 50–99 workers affected, 60 days. 100 or more workers affected, 90 days.
2. Provide for notice to each affected employee regardless of whether worksite is organized.

C. Enforcement

1. Authorize DOL to investigate complaints and bring enforcement suits.
2. Expand remedies from 60 days' back pay to include liquidated damages (comparable to FLSA/Family Leave/ADEA remedies).
3. Clarify Congress' intent that "good faith" exception arises only at remedy state after a finding of liability.

D. Housekeeping

1. Provide for posting of notice of WARN rights in workplace.
2. Add 2-year statute of limitations.

II. EXPLANATION OF PROVISIONS

A. Coverage

When Congress enacted WARN in 1988, it established a federal labor policy that workers affected by mass layoffs and plant closings should receive advance notice that they are going to lose their jobs. Balancing this federal policy with employers' need for flexibility, Congress limited the scope of the Act to layoffs and plant closings affecting 50 or more workers. A number of additional threshold requirements were also included in the legislation.

Although hundreds of thousands of workers have been well served by the WARN Act, an even larger number of workers who lost their jobs in mass layoffs were not protected by WARN because of these threshold requirements. In a study released last year, the U.S. General Accounting Office found that 64 percent of the mass layoffs recorded in a two-year period were not covered by the Act. Even among layoffs affecting 250 or more workers, 41% were exempt from WARN. In many cases, employers appear to have intentionally manipulated workforce reductions to evade the WARN Act's advance notice provisions.

According to the GAO, the Act's current threshold requirements present a number of problems. First, they leave millions of vulnerable workers unprotected from sudden termination. Second, they present too many opportunities for employers to avoid their WARN Act obligations by manipulating their downsizing efforts. Third, the complexity of these requirements makes it hard for workers to know whether they are covered, particularly at worksites where the workers are unorganized.

In a 1992 Survey by Northeastern University Professor John Portz, state dislocated worker unit officials recognized these coverage loopholes as one of the most significant reasons for the limited effectiveness of the WARN Act. Similarly, in a 1992 report on the EDWAA dislocated worker program, the Department of Labor noted state officials' concern that "important layoffs were not covered by WARN, including large layoffs of less than one-third of the workforce." The bill lowers and simplifies the WARN Act's thresholds to ensure adequate coverage of plant closings and mass layoffs.

1. Employer Threshold. Currently, WARN exempts employers with fewer than 100 employees—a threshold which exempts about 98% of American businesses. Whole industries are exempted under this 100-employee threshold—the apparel industry, for example, averages just 52 workers at each factory.

In the 1992 Portz Survey, state dislocated worker unit officials were asked how the Act's effectiveness might be improved. Among the four most frequent responses was expanding the employer threshold to cover businesses with 50 or more employees.

In congressional testimony last year, dislocated worker program officials in Texas also expressed support for expanding cov-

erage to companies with 50 or more employees. Similarly, in a 1991 Massachusetts Conference Report on WARN, ninety-seven percent of the conferees reported that the 100-employees threshold should be reduced.

The bill lowers the employer threshold to 50 employees.

2. Plant Closing and Layoff Thresholds. The WARN Act currently covers plant closings that effect 50 or more workers. Mass layoffs are covered if either (1) 50 or more workers are affected, comprising at least one-third of the workforce at that site, or (2) 500 or more workers are affected.

These thresholds have, in practice, proved both unfair and overly complicated. Thousands of workers have lost their jobs with little or no notice despite being part of a corporate reduction in force planned months in advance. In many cases, employers have manipulated layoffs to make sure they fell below these thresholds. According to GAO, employers have found it relatively easy to evade their WARN Act obligations.

The "one-third rule" is responsible for much of the problem. In GAO's study, thousands of mass layoffs were not covered by WARN, and three quarters of these were exempt under the one-third rule. Many employers have structured layoffs so that they comprise less than one-third of the workforce. In addition, because of the one-third rule workers are often uncertain about the Act's applicability, and unable to determine (short of filing a lawsuit) whether they were in fact protected by the Act.

Moreover, while the WARN Act's other threshold requirements provide relief to smaller businesses, the "one-third rule" has in practice served a contrary function: the bigger an employer is, the more likely it is that a layoff of between 50 and 499 workers will not constitute one-third of the workforce.

For example, Smith Corona terminated one thousand workers at its Cortland, New York typewriter assembly plant, in groups ranging between 100 and 350 workers. Supervisors knew of the layoffs ahead of time, but were told to keep quiet, so they repeatedly told the workers their jobs were safe. By spreading these layoffs over several months, and ensuring that each layoff did not represent one-third or more of the plant's workforce, Smith Corona was able to avoid its WARN Act obligations.

Gary and Evelyn Allen were among those hard hit by the sudden announcements. Both had worked for Smith Corona for almost five years. With no notice, the Allens' sudden job loss was, in their words, "like getting hit with a ton of bricks." The Allens had no savings, and were forced to take low-paying custodial jobs with no health benefits to make ends meet. Many of their co-workers were less fortunate; some families were devastated by the sudden layoffs, losing their homes, cars, and health insurance. Some marriages fell apart because of financial stress.

The bill eliminates the "one-third rule" and establishes a flat threshold of twenty-five workers for both plant closings and layoffs. this provision simplifies WARN, makes manipulation of layoffs to avoid the Act more difficult, and ensures that advance notice is provided to workers affected by corporate reductions in force.

3. Single Site Requirement. Under the existing WARN Act, plant closing and layoff thresholds are determined on a worksite-by-worksite basis. This "single site" requirement allows employers to lay off thousands of workers without notice, if they are dispersed among numerous sites and fewer than 50 workers are laid off at each site.

Bill Tomko's experience is illustrative. Tomko had worked for Emery Worldwide Delivery for ten years when he and his co-workers at the company's Pittsburgh terminal were fired on the spot and given 20 minutes to leave the premises. They collected their belongings and were escorted out by security guards. As it turned out, Emery had gradually reduced staffing at its many terminals to 49 workers or less, to take advantage of the Act's "single site" requirement and evade its WARN Act obligations. For their years of loyalty to the company, these workers got no notice and no severance. Even worse, independent contractors were brought in the next day to work for lower wages and no benefits.

With no advance notice of his layoff, Tomko lost his health benefits, and his apartment, and had only 3 months' continuous employment in the ensuing two years. Other affected workers suffered similar difficulties. As Tomko explained in congressional testimony last year, the toughest thing about losing their jobs was the lack of notice—"it was like someone had taken a gun to our heads."

Other companies have taken similar advantage of the "single site" requirement. For example, Jim Walter Resources laid off 640 people in its western Alabama mines in April, 1992, but escaped its WARN Act obligations because each of the mines was deemed to be a separate worksite. The bill amends the Act to eliminate the "single site" requirement for major plant closings and layoffs affecting 100 or more workers.

4. 90-Day Aggregation Rule. Although the "mass layoff" threshold (50 workers/one-third of workforce, or 500 workers) is normally calculated based on a 30-day period, the Act also contains a provision allowing the aggregation of multiple layoffs within a 90-day period to reach the mass layoff threshold. Under Section 3(d), a "mass layoff" has occurred if two layoffs under the threshold occur within a 90-day period, and the total laid off during that period meets the threshold, unless the layoffs were unrelated. But because of a drafting oversight in the law, if one of the groups meets the threshold by itself, only that group is protected and the smaller group is not.

Many employers have taken advantage of this drafting oversight to evade their WARN Act obligations. For example, Maxim, Inc. laid off 24 workers on November 1, 1989 and 64 more workers on December 15. A federal court held that the 64 workers were protected by the Act, but in the absence of two layoffs below the 50-worker threshold, it refused to apply the 90-day aggregation rule to protect the other 24 workers.

Similarly, Kayser-Roth Hosiery summarily laid off 159 workers (less than one-third of its workforce) in May, 1989, and 340 workers (more than one-third) 39 days later. The Sixth Circuit Court of Appeals held that the group of 340 was entitled to 60 days' notice. But the court refused to apply the 90-day aggregation rule to the earlier layoff of 159 workers, because only one of the two layoffs fell under the threshold.

The 1991 Massachusetts Conference Report on WARN recommended that Congress clarify the 90-day aggregation rule to serve its intended purpose. The bill makes clear that all layoffs within a 90-day period (whether above or below threshold levels) may be aggregated to establish a total number of layoffs above the appropriate threshold.

5. Part-Time Workers. The Act currently excludes part-time employees from its protections. However, these workers are no less deserving of advance notice of a layoff than full-time employees. In fact, part-time workers typically need advance notice even more than full-time workers.

According to the Bureau of Labor Statistics, the part-time workforce is 22 million strong today and growing. On average, part-time workers earn 62 cents for every dollar earned by full-time workers, leaving many of their families below the poverty line. Sixty-five percent of full-time workers have employer-provided health care benefits, as compared to only fifteen percent of part-time workers. Nearly half of all full-time workers get pension benefits from their employer, as compared to only ten percent of part-time workers.

In addition, part-time workers typically have little savings and few assets to get them through a period of unemployment. Nor can they look to their government for financial assistance: the majority of states do not provide unemployment benefits to part-time workers.

By excluding part-time workers, the WARN Act fails to protect some of our most vulnerable workers from the indignities and economic hardships that accompany the sudden loss of a job. As more and more employers eliminate full-time jobs and hire part-timers at low wages with no benefits, fewer and fewer workers will be protected by the WARN Act. The bill amends the Act to cover part-time workers.

6. Remaining Exceptions. These various modifications close the coverage gaps in the existing WARN Act. and fulfill the Act's original promise of ensuring that workers and communities receive advance notice of plant closings and mass layoffs. Of course, employers cannot provide advance notice in every instance. Even with these modifications, however, an employer may still be exempt from the WARN Act if (1) the layoff lasts less than six months, (2) the layoff results from the termination of a time-specific contract or project, (3) the employer was seeking capital or new business to avert the layoff, (4) the layoff results from unforeseen business circumstances, or (5) the layoff is caused by a natural disaster. These provisions guarantee employers the flexibility to respond to changing circumstances, while meeting the needs of workers and communities for advance notice where feasible.

B. Notice

Notice Period. In 1992, the Department of Labor released a report on dislocated worker programs established under the Economic Dislocation and Worker Adjustment Assistance Act of 1988 (EDWAA). In its report, DOL discussed the importance of advance notice to the success of EDWAA programs. According to the Department of Labor, "virtually all states indicated that 60 days' notice of a closing or layoff was not sufficient" to allow workers to find new jobs. The Department also noted that states cited "the relatively short 60-day advance warning required by WARN" as a major problem in establishing labor-management committees provided for under the EDWAA program.

The Department of Labor's findings were consistent with the 1991 Massachusetts Conference Report on WARN; over eighty percent of the conferees reported that 60 days' notice was insufficient, and that WARN should require 90 days or more. Similarly, a study conducted by the U.S. Office of Technology Assessment concluded that two to four months' advance notice is necessary to provide full adjustment assistance to dislocated workers.

The bill lengthens the required notice period from 60 to 90 days for plant closings and layoffs affecting 100 or more workers. Recognizing employers' need for flexibility, the bill retains the current 60-day notice period for plant closings and layoffs which affect between 50 and 99 workers, and provides for 30 days' notice where between 25 and 49 workers are affected. Of course, the existing exceptions for unforeseeable business circumstances, faltering businesses, terminations of contracts or projects, layoffs of less than six months, and natural disasters will continue to relieve employers from providing such notice where it is not feasible.

2. Notice to Individual Workers. Under current law, employers subject to WARN's notice requirements must provide notice to each individual employee affected by the planned plant closing or layoff. If the affected workers are organized, however, notice must only be provided to the organization representing employees.

When an employer intends to close a plant or lay off workers, the affected employees should receive advance notice from the employer itself. Organized workers should not be deprived of this basic right under the Act simply by virtue of their exercise of rights protected by the National Labor Relations Act.

In addition, where notice is given only to a labor organization, part of the required notice period is lost in the process of notifying individual workers. As a consequence, the affected workers receive less advance notice than the statutory period of 60 days. The bill provides for employer notice to all affected workers regardless of their status as organized or unorganized.

C. Enforcement

Employer compliance with the WARN Act has been low. According to GAO, two-thirds of the employers covered by the Act either failed to provide advance notice (54%) or provided less than 60 days' advance notice (13%). Only one-third of the covered employers were found to have provided 60 days' notice to workers and communities as required by the Act.

Similarly, Northeastern University Professor John Portz estimates that only 50–60% of covered employers are complying with the Act. In his 1992 Survey, state officials also reported that one-third of the WARN notices they received gave less than 60 days' notice. In conferences and congressional testimony, officials in New York, Texas, and Massachusetts have also reported substantial rates of employer noncompliance.

1. Enforcement Mechanism. The compliance rate is low in part because of the Act's weak enforcement mechanism. When Congress enacted the WARN Act in 1988, it did not assign any federal or state agency the responsibility for administering or enforcing the Act. Congress did give workers the right to sue to enforce their rights, but remedies were limited to 60 days' back pay and benefits.

According to the data provided by the GAO and the Bureau of Labor Statistics, there have been over 10,000 violations of the WARN Act since its enactment. But with only about 100 WARN Act lawsuits on record, the vast majority of these violations have gone unenforced. In short, the enforcement rate for WARN Act violations is a staggering low 1%—meaning that the remaining 99% of employers have violated the Act with no consequences. As the Clinton Administration has recognized, "the enforcement provisions of the law have not been adequate".

State officials agree, based on Professor Portz' 1992 survey of 36 state dislocated worker units. When asked about the limited effectiveness of the WARN Act, the three most frequent explanations offered by state officials were: (1)—private actions are a weak mechanism for enforcement; (2) loopholes in the law allow too many employers engaging in mass layoffs to avoid the Act's requirements; and (3) the remedy available under the Act (60 days' back pay) is too weak. As one respondent observed, "the enforcement mechanism in effect makes no one responsible for this law."

Why has the Act's enforcement mechanism failed? In 1993, Congress heard this explanation in testimony by the Sugar Law Center for Economic and Social Justice, which has served as a clearinghouse for information on WARN Act litigation: "many working people are deterred by: (a) the scarcity of lawyers who are willing to take these cases on . . .; (b) by the costs involved with litigation; (c) by the limited relief afforded under the Act; and (d) by the fact that it takes upwards of two years, or longer, to litigate a case in court."

The state officials surveyed by Portz reported similar reasons for the limited enforcement activity. As a 1991 Massachusetts Conference Report on WARN explained,

Enforcement through the courts by workers being required to bring suit is not adequate. Workers do not have the means to sue in many cases; damages are inadequate; judgment takes too long and compensation comes long after the time it is needed—when the person is laid off.

With no government agency responsible for WARN, both workers and employees have been slow to learn of their rights and responsibilities under the Act. First, as the Sugar Law Center explained in congressional testimony, the Department of Labor's lack of enforcement authority "has substantially impeded the ability of former employees in many situations to even find out the necessary information to know whether or not they have a WARN Act claim."

Second, many employers are uncertain about their obligations under the law. Although the Department of Labor has issued WARN Act regulations, in the absence of any enforcement role the Department does little to educate the employer community about the law. Thus, for example, the GAO study found that "many employers were unclear about or unaware of some of the provisions in the law." Even among those employers who provided advance notice, one-third reported that they were unclear about or unaware of at least one relevant provision of the law.

Ultimately, these problems seriously undermine the WARN Act's promise of giving workers and local communities fair notice of plant closings and mass layoffs. Not surprisingly, those evaluating WARN's effectiveness have universally agreed that governmental enforcement of WARN is an essential reform. The principal recommendation of the GAO's 1993 report, for example, was that Congress consider giving the Department of Labor authority to enforce the WARN Act.

In the 1992 Portz Survey, state dislocated worker unit officials were asked how the Act's effectiveness might be improved. Among the two most frequent responses was amending WARN to provide Department of Labor enforcement authority. Similarly, dislocated worker program officials in Texas testified before Congress in 1993, expressing support for DOL enforcement: "we strongly recommend, based upon State and national trends of non-compliance, that enforcement of the WARN Act be handled by an appropriate Federal enforcement entity." The 1991 Massachusetts Conference Report on WARN also concluded that the Department of Labor "should be given enforcement powers."

The bill authorizes the Department of Labor to investigate complaints of WARN Act violations, and to file lawsuits on behalf of workers. This enforcement mechanism will serve as a strong complement to the existing private right of action: it will increase awareness of the Act's requirements among employers and workers, assist workers in determining whether their rights have been violated, and enforce the rights of those workers who are unable to find or afford an attorney to bring a private action.

2. Remedies. The GAO, state officials and commentators have also pointed to WARN's limited remedies as a significant cause of the Act's compliance and enforcement problems. The problems are two-fold. First, for many employers, the remedy of 60 days' back pay and benefits is an insufficient deterrent to violating the Act; all the employer risks is having to pay the same wages and benefits it would have paid anyway if it had given adequate notice. Second, experience has shown that this remedy is often an insufficient incentive for workers to bring suit to enforce the Act.

In the 1992 Portz survey, when asked how WARN's effectiveness might be improved, state officials' most frequent response was that Congress should expand available remedies. The 1991 Massachusetts Conference Report likewise recommended that Congress increase the remedies available under the Act because the current back pay remedy "does not deter the employer from breaking the law." Officials from the Texas dislocated worker program made similar recommendations in congressional testimony.

The bill allows prevailing plaintiffs to recover, in addition to the existing remedies, liquidated damages in an amount equal to the back pay award. This additional remedy is provided under a host of comparable federal labor laws, such as the Fair Labor Standards Act, the Family and Medical Leave Act, and the Age Discrimination in Employment Act. Under the Fair Labor Standards Act, for example, employers guilty of minimum wage or overtime violations are liable for liquidated damages equal to the amount of back pay owed, unless good faith is shown.

The bill also makes clear that prevailing plaintiffs should receive an award of interest to make them whole for their losses. The WARN Act specifically provides that its remedies are "in addition to, and not in lieu of" other statutory rights. Thus, WARN Act plaintiffs may recover interest under section 1961 of the judicial code, 29 U.S.C. 1961, which provides for such an award "on any money judgment in a civil case recovered in a district court." Nevertheless, numerous courts have failed to award interest to prevailing plaintiffs in WARN Act suits. The bill expressly provides that prevailing plaintiffs in WARN Act suits should receive interest on the amount of back pay awarded.

Strengthening the available remedies will improve the Act in two respects. First, there will be a stronger deterrent to violations of the Act. Second, workers will be much more likely to enforce the Act through private lawsuits.

3. Good Faith Defense. Section 5(a)(4) of the WARN Act provides that where an employer has violated the Act, a court may "reduce the amount of the [employer's] liability" if the employer establishes (1) that the violation was in good faith and (2) that the

employer had reasonable grounds for believing that its conduct was not a violation of the Act. As drafted, this defense clearly arises at the remedy stage of a WARN Act case, only *after* a violation has been established. As such, it serves as a basis for reducing damages, but not as a defense to liability.

Legislative history confirms congressional intent underlying the Act's good faith provision. According to the Senate Committee Report on the plant closing legislation, the provision was "modelled after" a similar provision in the Portal-to-Portal Act, 29 U.S.C. 260, and was to be interpreted "in accordance with the prevailing law under that section." *See* S. Rep. No. 62, 100th Cong., 1st Sess. (June 2, 1987) at 24–25, *Legislative History*, 742–43. Under the Portal-to-Portal Act, the good faith defense arises only as a basis for reducing liquidated damages, after a finding of liability has already been made.

Nevertheless, the good faith exception has been misinterpreted by some courts as a complete defense to liability. That was the result, for example, in *UAW Local 1077 v. Shadyside Stamping Corp.* (Ohio 1991), and *Oil Workers v. American Home Products Corp.* (Indiana 1992). As a consequence of these decisions, plaintiffs who had established employer violations of the Act were nevertheless deprived of a finding of liability, an award of costs and fees, or any back pay or other monetary relief.

This misinterpretation of the good faith defense in effect rewards employers for violating the law, where they show that they had "reasonable grounds" for believing they were in compliance. It sends a chilling message to workers: even if you are terminated without notice, seek to enforce your federal rights, find an attorney willing to take your case, and actually succeed in proving a violation of the Act months or years later, you may still be deprived of even the costs of bringing suit. It also discourages lawyers like Martin Farrell from taking WARN cases—he took a WARN case on behalf of over 100 unemployed forest mill workers, incurred thousands of dollars in court costs and other expenses, established a WARN violation, but was deprived of any recovery of fees and costs because the court found that the employer had acted in good faith. If workers are to be encouraged to enforce their rights, and attorneys are to be encouraged to represent them, they must at a minimum be assured of recovering lost back pay and the costs of the suit if they establish a violation of the Act.

The bill makes clear that the good faith defense arises only after a liability determination, and only as a basis for reducing an award of liquidated damages. This clarification is fully consistent with the parallel good faith provision of the Portal-to-Portal Act. It is also consistent with the remedial scheme of the Fair Labor Standards Act. Notably, minor or inadvertent employer errors will continue to be exempt under WARN Act regulations. *See* 20 C.F.R. 639.7(a)(4).

D. Housekeeping

1. Notice Posting. One of the reasons for the limited number of WARN Act lawsuits in workers' lack of familiarity with the Act's protections. In testimony before Congress, the Sugar Law Center reported that "[t]he overwhelming majority of the thousands of dislocated workers with whom the Center has had contact had never even heard of the WARN Act before they lost their jobs." In the 1992 Portz survey, state dislocated worker units included "lack of public knowledge about WARN" as one of the five frequent explanations for the Act's limited effectiveness. Similarly, a 1991 Massachusetts Conference on WARN concluded that "[w]orkers are being denied their rights due to lack of information," recommending that a notice-posting requirement be added to WARN.

Many federal laws include posting requirements to ensure that workers are adequately informed of their rights. The bill includes a posting requirement similar to that currently provided under federal employment laws such as Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-10, the Family and Medical Leave Act, P.L. 103–3, and the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2003. This requirement imposes little cost on employers and will ensure that employees are aware of their rights.

2. Statute of Limitations. As enacted, WARN did not include a statute of limitations to provide a time limit on the filing of worker lawsuits. As a consequence, confusion has prevailed among workers, employers and federal courts as to an appropriate limitations period for WARN Act claims.

In the absence of a clear statutory mandate, federal courts have faced unnecessary and time-consuming litigation over the issue of the appropriate limitations period for WARN Act suits. Several courts have adopted limitations periods based on analogous federal or state laws. Under these rulings, WARN Act limitations periods have ranged from six months to six years. Clearly, a uniform limitations period is needed to address these conflicting decisions.

The bill would establish a two-year limitations period for the filing of WARN Act claims. This period would be sufficient to enable workers to investigate possible violations, seek government assistance if necessary to determine whether a violation has occurred, seek and retain an attorney, and prepare and file a lawsuit. This two-year provision is comparable to the limitations period provided under numerous other federal labor laws, such as the Fair Labor Standards Act and the Family and Medical Leave Act.

EDUCATION AND SHARING DAY, USA

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 329, designating Education and Sharing Day, USA just received from the House, that the joint resolution be deemed read three times and passed, and the motion to reconsider laid upon the table, and the preamble agreed to.

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

The joint resolution (H.J. Res. 329) was deemed read a third time and passed.

The preamble was agreed to.

RICHARD BOLLING FEDERAL BUILDING

Mr. CONRAD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 357, H.R. 2559, to designate the Richard Bolling Federal Building; that the committee substitute amendment be agreed to, and the bill, as amended, be deemed read three times, passed and the motion to reconsider laid upon the table; that the title amendment be agreed to, and any statements appear in the RECORD as if read.

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

The bill, as amended, was deemed read a third time, and passed.

The title amendment was agreed to.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1993—CONFERENCE REPORT

Mr. CONRAD. Mr. President, I submit a report of the committee of conference on S. 1284 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1284) to amend the Developmental Disabilities Assistance Bill of Rights Act to expand or modify certain provisions relating to programs for certain individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 21, 1994.)

Mr. HARKIN. I rise today in strong support of the conference report accompanying S. 1284, the Developmental Disabilities Assistance an Bill of Rights Act Amendments of 1994, which I am proud to have sponsored along with Senators DURENBERGER, KENNEDY, JEFFORDS, METZENBAUM, SIMON, WELLSTONE, WOFFORD, DOLE, PELL, and HATCH.

I especially want to thank my distinguished colleague from Minnesota, Senator DURENBERGER for his wisdom and counsel during the reauthorization process. He has worked long and hard on this bill and he deserves credit for his commitment to enhancing opportunities for individuals with developmental disabilities.

I also want to thank the chairman of the Committee on Labor and Human Resources, Senator KENNEDY, and the ranking minority member, Senator KASSEBAUM, for their leadership and guidance in developing this legislation.

In addition, I want to thank our colleagues from the other body, for their dedication and hard work in crafting the bill and in reaching the final agree-

ment contained in the conference report.

Finally, I want to pay tribute to the staff members who contributed to this legislation, including Bob Silverstein and Ansley Bacon of my staff, Susan Heegaard of Senator DURENBERGER's staff, and Wendy Cramer of Senator KASSEBAUM's staff.

I want to pay particular tribute to Andy Bacon, who served as a Kennedy Foundation Policy Fellow for the past year with the Subcommittee on Disability Policy. Andy's wealth of knowledge, experience, and leadership enabled her to help me craft a bill that will truly promote independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities. Mr. President, I want to publically thank Andy for her dedication and hard work and wish her well as she returns to New York.

As we worked on the reauthorization of this legislation, we had the assistance of many organizations and individuals. In particular, I want to express my gratitude to the Developmental Disabilities Task Force of the Consortium for Citizens with Disabilities [CCD]. The CCD is comprised of over 117 organizations with members across the country. Their thoughtful comments and ideas have been so helpful in this process.

As is always the case when the two Houses of Congress pass companion bills, the Senate version was not enacted in its entirety. However, I am pleased that the conference report contains all of the Senate provisions necessary to achieve the goals set out by the Subcommittee on Disability Policy for reauthorization the Developmental Disabilities Assistance and Bill of Rights Act.

Briefly, I would like to summarize some of the important provisions in the conference report.

FINDINGS, PURPOSE AND POLICY

The conference report includes minor modifications to the findings, purpose and policy section of the Senate bill. The most significant change is the addition of the following phrase in the policy section; "any assistance should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual." This phrase was used in the 1992 Rehabilitation Act Amendments, and is intended to recognize that each individual is unique and that services, supports and other assistance must be individualized.

After the other body passed H.R. 3505, the companion bill to S. 1284, questions were raised regarding the meaning of language included in the House Report—page 8—relating to the sections in the bill pertaining to the findings, purpose, and policy. I am pleased to report to my colleagues that the conferees expressly refused to accept the House language.

The language included in the conference report makes two points clear. First, the Developmental Disabilities Assistance and Bill of Rights Act does not, in and of itself, establish independent substantive rights that may form the basis of a complaint regarding the operations of a program in a community or institutional setting, including the closure of a program. Second, Protection and Advocacy systems established under part C of the Act are authorized to pursue all appropriate remedies that address particular violations of other Federal and State laws, including where the facts and law warrant it, enjoining abuse and neglect and seeking the closure of programs in community and institutional settings.

CULTURAL DIVERSITY

The conference report includes several provisions to ensure that racial and ethnic minorities are fully included at all levels and in all activities authorized under this Act. These provisions include the addition of language regarding unserved and underserved populations (which includes individuals from racial and ethnic minority backgrounds) and culturally competent services, supports and other assistance. Both terms are defined in the conference report. A new finding and two new principles are included in the conference report to specifically address the need to ensure that individuals from racial and ethnic minority backgrounds are fully included in all aspects of the Act.

STATE DEVELOPMENTAL DISABILITIES COUNCILS

Responsibilities of the Council. The responsibilities of the Council as specified in the Senate bill include the responsibility to conduct systemic change, capacity building and advocacy activities to promote the development of a system and array of services supports and other assistance. The conference report clarifies that the Council role in a State is advisory. It includes a construction clause that states that "Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policy making authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act."

The Senate bill specifies Council responsibilities with respect to the budget, and staff hiring and supervision. It includes provisions that exempt State Councils—and protection and advocacy systems—from certain personnel policies such as hiring freezes, reductions in force, and travel restrictions. The conference report clarifies that this exemption applies to the extent that such policies would impact staff or functions funded with federal funds and would prevent the Council—or protection and advocacy system—from carrying out its functions under this Act. With regard to staff hiring and supervision, the conference report clarifies that Council policies must be consistent with State law and personnel policies.

Responsibilities of the Designated State Agency. The Senate bill defines the responsibilities of the designated State agency under this Act, to provide support services, assume fiscal responsibilities, ensure that the activities of the Council are consistent with State law, and assist the Council in obtaining appropriate State plan assurances. It includes a "noninterference" provision that requires an assurance that the designated State agency will not interfere with the Council's selection of priorities and the programmatic activities of the Council. The conference report clarifies the noninterference provision by specifying that the designated State agency must have the authority necessary to carry out its responsibilities.

Authority of the Governor. The Senate bill maintains the authority of the Governor to appoint members of the State Council and to designate the State agency that will serve as the designated State agency. It requires the Council to coordinate recommendations to the Governor for Council membership. The conference report clarifies that the Council may, at the request of the Governor, coordinate recommendations for appointment to the Council.

The Senate bill requires the Council to notify the Secretary, and the Secretary to contact the Governor regarding Council vacancies that remain unfilled. The conference report clarifies that the Council shall notify the Governor when vacancies on the Council remain unfilled. The conference report also clarifies the Council responsibility to periodically review the designated State agency in terms of its responsibilities under this Act and make any recommendations for change to the Governor.

SCHOOL TO WORK TRANSITION

The conference report adds provisions to include the topic of school to work transition for youth with disabilities as an optional training project area for university affiliated programs and as an area that may be funded under Projects of National Significance.

AUTHORIZATION LEVELS

The Senate bill authorizes the following appropriations levels: State Developmental Disabilities Councils—$77,400,000; protection and advocacy systems—$29,000,000; university affiliated programs—$21,000,000; and Projects of National Significance—$4,000,000. The conference report includes the following authorization levels: State Councils—$70,000,000; protection and advocacy systems—$24,000,000; university affiliated programs—$19,000,000; and for Projects of National Significance—$4,000,000.

Finally, serious questions were raised regarding the meaning of the language in the House report. As Chairman of the Subcommittee on Disability Policy and as chief sponsor of the bill, I support the intention of the conferees that the language in the conference report supersede the language in the House report. The conferees believe that the State Developmental Disabilities Councils, protection and advocacy systems and the university affiliated programs must be free to carry out all authorized activities that are consistent with the policies and purpose of the Act.

I urge my colleagues to join me in support of the conference report accompanying S. 1284. I believe that this conference report moves us closer to ensuring that the dream of the Americans with Disabilities Act becomes a reality—an America where citizens with developmental disabilities experience independence, productivity, integration and inclusion into all aspects of society.

Mr. DURENBERGER. Mr. President, I rise today in support of passage of the conference report accompanying S. 1284, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994. This important piece of legislation moves us closer to assuring that individuals with disabilities and their families have access to the opportunities, services and supports that promote independence, productivity and inclusion into the community.

I want to take the opportunity to thank Senator TOM HARKIN, chairman of the Senate Subcommittee on Disability Policy and his staff Bob Silverstein and Andy Bacon for their hard work and commitment to passing this legislation. I also want to thank Senator KASSEBAUM, Senator JEFFORDS, the other members of this committee and their staffs for their assistance in developing this bill.

My House colleagues are to be commended for their efforts to find common ground with the Senate between the two versions of this bill. Their constructive and positive contributions have helped make this a conference agreement we can truly be proud of.

Finally I want to thank and express my appreciation to all of the individuals and groups who provided us with recommendations and ideas so that this act accurately reflects the needs of individuals with disabilities.

The Developmental Disabilities Act policy includes recognition of the decisionmaking roles played by individuals and their families; recognition that individuals with disabilities and their families have competencies, capabilities, and personal goals that should be recognized, supported and encouraged; respect for individual dignity, personal preferences, and cultural differences and community acceptance and support.

The act strengthens the ability of the State Developmental Disabilities Councils to carry out systemic change, capacity building, advocacy activities and coordination of activities with other organizations and programs. The role of protection and advocacy systems in each State is clarified in the act. A greater role for consumer input has been included. The description of the core activities conducted by University Affiliated programs has been updated. Finally, the Secretary of Education is authorized to make grants to or enter into contracts with private nonprofit and public entities for projects of national significance relating to individuals with developmental disabilities and their families.

In closing I want to recognize the contribution of a very special person from Minnesota who came to Washington DC, last summer to testify before the subcommittee. Sue Swenson of Minneapolis is the mother of three boys, one of whom, Charlie, has disabilities. Sue is a graduate of the Partners in Policy-Making Training Program sponsored by the Minnesota Developmental Disabilities Council. Through her own personal empowerment she has educated parents of children with disabilities and changed the attitudes of ordinary people toward individuals with disabilities.

I am proud to have been an original cosponsor of this very important piece of legislation.

Mr. KENNEDY. Mr. President, reauthorization of the Developmental Disability Assistance and Bill of Rights Act preserves and enhances one of the most important national efforts for persons with developmental disabilities. Persons with developmental disabilities continue to encounter discrimination in employment, education, housing, medical care, personal assistance services, and many other areas. The purpose of this Act is to assure that individuals with developmental disabilities and their families participate in the design of, and have access to, appropriate services, support, and opportunities that promote independence, productivity, and inclusion in community life.

Since the enactment of this legislation in the early 1970's, States have been charged with implementing broad reforms—creating new avenues for employment, housing, education, and other opportunities for persons with developmental disabilities.

The Act has provided federal assistance for State Councils on the Developmentally Disabled, advocacy agencies, University Affiliated Programs, and demonstration projects of national significance. These programs have given individuals with developmental disabilities an opportunity to be a full part of society, based on their individual strengths and capabilities.

In Massachusetts, there are approximately 180,000 adults and children with developmental disabilities, and 50 percent are under 21 years of age. The Developmental Disabilities Assistance and Bill of Rights Act has been instrumental in assuring that they obtain the resources and opportunities they need and deserve, based on their individual abilities.

Massachusetts is currently in an important period of transition. Large numbers of developmentally disabled adults are moving from major institutions to community-based living environments. Advocacy for these persons during this transition is fundamental to successful integration.

Two State organizations, in particular, have done an excellent job. The Massachusetts Developmental Disability Council has been responsible for family support, respite care, educational and employment training, transitional living, and many other programs. The Massachusetts Disability Law Center was created in 1978 to defend individual rights through direct legal assistance. Since the passage of the Americans with Disability Act, the Center has worked tirelessly to enforce rights in areas of medical care, personal assistance services, housing, education, and employment.

The Act has also supported key institutions working in the area of clinical services and professional training. Institutions such as The Eunice Kennedy Shriver Center and the Boston Children's Hospital Institute for Community Inclusion have been on the cutting edge of clinical research and the training of professionals in the area of developmental disabilities. As a result of these programs, persons with developmental disabilities in Massachusetts have access to state-of-the-art clinical care, highly trained medical professionals, and well established programs to assist in full participation through educational and employment-related activities.

The Developmental Disabilities Assistance and Bill of Rights Act has worked well in Massachusetts—as it has across the country. Amendments to the Act clarify and strengthen several key provisions. Requirements have been added to ensure that racial and ethnic minorities are fully included at all levels and in all activities authorized by the Act. The role of the State Councils has been clarified with regard to responsibilities, personnel, and Council membership—all intended to improve the effectiveness of the Councils.

The bill also adds essential provisions to include school-to-work transition programs for youth with disabilities. This provision is important in assuring that young persons with disabilities have the opportunity to contribute to society and fulfill their goals.

The Developmental Disabilities Assistance and Bill of Rights Act has made vital resources available to

States and advocacy agencies working to ensure that this country lives up to its ideals for individuals with developmental disabilities. The results have been dramatic, and reforms at the grass-roots level have assured that developmentally disabled persons and their families are given real choices and real opportunities for full participation in our society.

I particularly commend the work of Senator HARKIN and the Subcommittee on Disability Policy for their excellent work on this legislation, and I look forward to the passage of this important conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CONRAD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate recede from its disagreement to the amendment of the House to the title.

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

PESTICIDE COMPLIANCE DATES EXTENSION ACT

Mr. CONRAD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1913), a bill to extend certain compliance dates for pesticide safety training and labeling requirements.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1913) entitled "An Act to extend certain compliance dates for pesticide safety training and labeling requirements", do pass with the following amendment:

Strike all after the enacting clause and insert:

SECTION 1. COMPLIANCE.

Until January 1, 1995, it shall not be a misuse under section 12(a)(2)(G) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136j(a)(2)(G)) to use any pesticide product in a manner inconsistent with the provisions of 40 CFR part 170 that are (1) subject to the compliance date specified in 40 CFR section 170.5(c) and (2) incorporated by reference on the label or labeling of any pesticide product. This delay in compliance shall not apply to specific worker protection requirements that appear directly on the label or labeling of the pesticide product.

SEC. 2. REENTRY INTERVAL.

(a) IN GENERAL.—Notwithstanding the provisions of 40 CFR part 170, until January 1, 1995, a worker may enter an area treated with a pesticide product during the restricted entry interval specified on the label of the pesticide product to perform tasks related to the production of agricultural plants if the agricultural employer ensures that—

(1) no hand labor activity is performed;

(2) no such entry is allowed for the first 4 hours following the end of the application of the pesticide product;

(3) no such entry is allowed until any inhalation exposure level listed on the product labeling has been reached; and

(4) the personal protective equipment specified on the product labeling for early entry is provided in clean and operating condition to the worker.

(b) PROTECTIVE EQUIPMENT FOR IRRIGATION WORK.—For irrigation work for which the only contact with treated surfaces is to the feet, lower legs, hands, and arms, the agricultural employer may provide coveralls, chemical resistant gloves, and chemical resistant footwear instead of the personal protective equipment specified on the label.

SEC. 3. CROP ADVISORS.

Notwithstanding the provisions of 40 CFR part 170, until January 1, 1995, persons performing duties as crop advisors shall not be considered workers or handlers under 40 CFR part 170 (or for the purposes of the pesticide label) and shall not be subject to the requirements of 40 CFR part 170.

SEC. 4. SAFETY TRAINING.

(a) TRAINING MATERIALS.—Not later than September 23, 1994, the Administrator shall develop and distribute pesticide safety training materials that convey, at a minimum, the information referred in 40 CFR section 170.230(c)(4).

(b) IMPLEMENTATION.—The Administrator shall assist the appropriate Federal, State, and tribal agencies in implementing the pesticide safety training programs required under 40 CFR part 170.

SEC. 5. DEFINITIONS.

As used in this Act:

(1) The term "hand labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. The term "hand labor" shall not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

(2) The term "agricultural employer" means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for management or condition of an agricultural establishment that uses such workers.

(3) The term "worker" means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment. The term "worker" shall not include any person employed by a commercial pesticide handling establishment to perform tasks as a crop advisor.

(4) The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 6. EFFECTIVE PERIOD.

The provisions in this Act shall be effective until January 1, 1995.

Mr. CONRAD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, we have known for 10 years that current regulations are doing virtually nothing to protect the men, women, and children who help put food on America's table. There are at least 20,000 and perhaps as many as 300,000 pesticide poisonings each year. The standards we are delaying today provide the most elementary protections against such poisonings. Unfortunately, another growing season will go by with more illnesses and poisonings that we could have prevented.

My own State of Vermont has worked hard to be ready to implement the new standards this spring. I understand there are other States that say they are not ready. Therefore, I will accept the compromise that the House is offering on S. 1913, with the clarifications from my colleague from Mississippi.

This compromise is a significant improvement over the bill that the Senate passed last week, which was unclear and ambiguous in some respects.

I ask unanimous consent to print in the RECORD a letter from the EPA and an explanation of this bill.

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 22, 1994.

Hon. PATRICK LEAHY,
Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that some questions have been raised concerning the definition of "crop advisors" under S. 1913, as amended by the House of Representatives on March 18, 1994. The definition of crop advisors is clear. The Worker Protection Standard, 40 CFR Part 170, defines crop advisors at Section 170.3 as follows:

Crop advisor means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks.

Title 40 CFR Part 170 became effective on October 20, 1992. S. 1913, as amended, delays the compliance date of certain provisions of the Worker Protection Standard, but does not affect the effective date of the Worker Protection Standard. Thus, the definitions are effective. To the extent that terms are used in S. 1913, as amended, which are not defined in the bill, the definitions set out in the Worker Protection Standard at section 170.3 would be applicable.

This issue has apparently been raised out of concern about agricultural employers sending workers into the treated area during a restricted entry interval without personal protective equipment on the basis of a claim that the worker is performing work as a crop advisor. The distinctions between crop advisors and workers are set out in the definitions in the Worker Protection Standard.

We believe it is clear which tasks are associated with workers and which the crop advisers, so that, from an enforcement perspective, it will be straightforward to ascertain whether an agricultural employer is trying to circumvent the protections required by the label for workers.

I hope this information assists in resolving any questions concerning the definition of

crop advisors. If I can be of further assistance, please let me know.

Sincerely yours,

LYNN R. GOLDMAN, M.D.,
Assistant Administrator.

EXPLANATION OF S. 1913

Section 1 of this Act will delay until January 1, 1995 the April 15, 1994 compliance date for the Part 170 worker protection provisions referenced in 40 CFR section 170.5(c) which are incorporated by reference on the label. These worker protection requirements include the requirements for pesticide safety training, notification, monitoring of handlers, providing specific information about pesticide applications, posting pesticide safety information, providing a decontamination site, and emergency assistance. This delay in the enforcement of Part 170 requirements is to provide additional time for the education of pesticide users and training of agricultural workers.

The Part 170 worker protection provisions for which compliance was required by April 21, 1993 are not affected by this Act. More specifically, the accelerated provisions set forth in section 170.5(b)—the entry restrictions related to restricted entry intervals, the exceptions to the prohibitions against early entry set forth in section 170.112, and the provisions in section 170.120 providing relief from notification requirements—are not affected by this Act.

This Act does not delay compliance for specific worker protection requirements which are on the label; that is, the restricted entry intervals (REIs), personal protective equipment, drift statement, and requirements on some pesticide labels for the posting of treated areas. (Note, however, Section 2(b), discussed below, does provide an optional exception for PPE requirements for irrigation workers which may differ from PPE specified on the label.) Thus, the pesticide user, during the delayed compliance period, must comply with the worker protection requirements that appear directly on the label.

This Act also does not affect the requirements in 40 CFR Part 156 that registrants, after April 21, 1994, cannot sell or distribute pesticide product without labeling that has been amended to include the statements required by Part 156.

Section 2 provides an exception from the prohibition against early entry until January 1, 1995. This exception applies to early entry workers that need to enter the treated area during the REI to perform tasks related to the production of agricultural plants. However, no early entry is allowed under this paragraph for hand labor. For example, a farmer would be permitted to drive a tractor in the treated area to plant during an REI. If such farmer must come into contact with treated surfaces in performing this task, then the farmer must wear early entry worker personal protective equipment specified on the label. (Farmers that apply pesticide and plant at the same time are considered pesticide handlers.)

Under the exception in Section 2, no entry is allowed for the first four hours after application of the pesticide. This restriction parallels the requirements in the other exceptions to early entry promulgated in the Worker Protection Standard (WPS) at 40 CFR section 170.112.

Section 2(b) provides, until January 1, 1995, optional PPE for early entry workers operating, moving, or repairing irrigation or watering equipment where contact with the treated surfaces is limited to hands, arms, lower legs, and feet. Instead of providing the PPE on the label specified for early entry, in this situation, the agricultural employer can provide to the irrigation workers the following PPE: chemical resistant boots, chemical resistant gloves, and coveralls. This exception is only for workers performing irrigation work. The Environmental Protection Agency is considering whether there should be a special category of PPE for irrigation workers and may address this through appropriate administrative action. This Act in no way affects or prejudges EPA's determination on what should be appropriate PPE for irrigation workers after January 1, 1995.

Section 2 only applies to early entry workers, not to handlers. The new labels will specify the PPE for applicators and other handlers. Note that the requirement for PPE for applicators will not be new in many cases, although the specific items and terminology of PPE may be. Many pesticide labels specified PPE for applicators well before promulgation of the WPS. The applicator is responsible for complying with label requirements and therefore is responsible for their employees wearing PPE.

Section 3 provides that, until January 1, 1995, persons performing duties as crop advisors shall not be considered workers or handlers under 40 CFR Part 170 (or for purposes of requirements on the pesticide label) and thus, when acting as crop advisors, they will not be subject to the requirements of 40 CFR Part 170. If a farmer is a pesticide applicator as well as a crop advisor, then when performing as an applicator, the farmer is subject to applicable worker protection requirements.

The definitions set forth in this Act at Section 5 are the same as the definitions in the WPS at 40 CFR section 170.3. Title 40 CFR Part 170 became effective on October 20, 1992. This Act addresses enforcement of certain provisions of Part 170, it does not change the effective date of the WPS. Thus, the definitions are effective. To the extent that this Act uses terms which are not defined in the Act, such as "crop advisor" and "agricultural plant," the definitions set out in the WPS at section 170.3 are applicable.

Mr. COCHRAN. Mr. President, S. 1913 represents a major compromise between the Environmental Protection Agency, farm worker interests, production agriculture, and State regulators in the implementation of EPA's farm worker protection standard. The bill will delay the implementation of those requirements not specifically incorporated on the product label until January 1, 1995. This bill will not change or weaken any existing worker protection or other regulations currently in effect. However, the delay will allow the EPA to provide the necessary training, education, and compliance assistance that farmers and regulators need.

I urge other Senators to support this bipartisan effort to provide much needed relief to the agricultural producers of our country.

Mr. LEAHY. Mr. President, some terms in this bill are not defined. Is it the Senator's understanding that definitions in 40 CFR 170 will apply in those instances?

Mr. COCHRAN. Yes.

Mr. LEAHY. Second, would the Senator say that it is accurate that further delay of these regulations would not be necessary, as long as the Environmental Protection Agency meets its obligations under the bill?

Mr. COCHRAN. I would agree. However, the delay in the implementation of these regulations is to allow the numerous concerns that have been raised with these regulations to be resolved, and to provide additional time for the EPA to distribute the educational materials required under the regulations.

Mr. LEAHY. I thank the Senator for these clarifications.

THE ORGAN TRANSPLANT REAUTHORIZATION ACT

Mr. CONRAD. Mr. President, I ask unanimous consent that the Labor and Human Resources Committee be discharged from further consideration of H.R. 2659, the Organ Transplant Reauthorization Act, and that the Senate proceed to its immediate consideration.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2659) to amend the Public Health Service Act to revise and extend programs relating to the transplantation of organs and of bone marrow.

AMENDMENT NO. 1594

(Purpose: To provide for a substitute amendment)

Mr. CONRAD. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for Mr. KENNEDY, proposes an amendment numbered 1594.

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

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

The amendment is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Transplant Program Reauthorization Act of 1994".

SEC. 2. ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 371 of the Public Health Service Act (42 U.S.C. 273(a)) is amended to read as follows:

"(a)(1) The Secretary may make grants for the consolidation and expansion of qualified organ procurement organizations described in subsection (b).

"(2) The Secretary may make grants to, and enter into cooperative agreements and contracts with, qualified organ procurement organizations described in subsection (b) and other public or nonprofit private entities for the purpose of increasing organ donation through—

"(A) the planning and conducting of programs to provide information and education to the public on the need for organ donations;

"(B) the training of individuals in requesting such donations; or

"(C) the provision of technical assistance to organ procurement organizations and other entities in the health care system.

"(3)(A) In making awards of grants, cooperative agreements and contracts under subparagraphs (A) and (B) of paragraph (2), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to minority or other populations for which there is a greater degree of organ shortages relative to the general population.

"(B) In making awards of grants, cooperative agreements and contracts under paragraph (2)(C), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to organ procurement organizations and hospitals with lower rates of procurement relative to other such organizations or hospitals.".

(b) QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—Section 371(b) of such Act (42 U.S.C. 273(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "for which grants may be made under subsection (a)" and inserting "described in this section";

(B) by realigning the margin of subparagraph (E) so as to align with the margin of subparagraph (D); and

(C) in subparagraph (G)—

(i) in the matter preceding clause (i), by striking "directors or an advisory board" and inserting "directors (or an advisory board, in the case of a hospital-based organ procurement organization established prior to September 1, 1993)"; and

(ii) in clause (i)—

(I) by striking "composed of" in the matter preceding subclause (I) and inserting "composed of a reasonable balance of"; and

(II) by inserting before the comma in subclause (II) the following: ", including individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of an individual who has donated an organ";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2);

(4) in paragraph (2) (as so redesignated)—

(A) by redesignating subparagraphs (B) through (K) as subparagraphs (C) through (L), respectively,

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) conduct and participate in systematic efforts, including public education, to increase the number of potential donors,";

(C) by inserting before the comma in subparagraph (F) (as so redesignated) the following: ", which system shall, at a minimum, allocate each type of organ on the basis of—

"(i) a single list encompassing the entire service area;

"(ii) a list that encompasses at least an entire State; or

"(iii) a list that encompasses an approved alternative local unit (as defined in paragraph (4)),

of individuals who have been medically referred to a transplant center in the service area of the organization in order to receive a transplant of the type of organ with respect to which the list is maintained;";

(D) by striking subparagraph (I) (as so redesignated) and inserting the following new subparagraph:

"(I) be a member of and abide by the rules and requirements of the Organ Procurement and Transplantation Network established under section 372,"; and

(E) by striking subparagraph (K) (as so redesignated) and inserting the following new subparagraph:

"(K) evaluate annually, and report to the Organ Procurement and Transplantation Network established under section 372, on the effectiveness of the organization in acquiring potentially available organs, particularly among minority populations, and the variation of procurement across hospitals within the organ procurement organization region, and identify a plan to increase procurement, particularly among minority populations and other populations for which there is a greater degree of organ shortages relative to the general population, and at hospitals with low rates of procurement, and"; and

(5) by adding at the end thereof the following new paragraphs:

"(3)(A) The Office of Technology Assessment shall conduct a study for the purpose of defining—

"(i) the appropriate standards by which to judge the quality of performance of organ procurement organizations; and

"(ii) the proper criteria for a determination of inadequate service from an organ procurement organization.

"(B) Not later than 2 years after the date of enactment of this paragraph, the Office of Technology Assessment shall complete the study required under subparagraph (A) and prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary, a report describing the findings made as a result of the study.

"(C) For purposes of this paragraph the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this paragraph.

"(4)(A) As used in paragraph (2)(F), the term 'alternative local unit' means—

"(i) a unit composed of two or more contiguous organ procurement organizations; or

"(ii) a subdivision of an organ procurement organization that operates as a distinct procurement and distribution unit as a result of special geographic, rural, or minority population concerns but that is not composed of any subunit of a metropolitan statistical area.

"(B) The Organ Procurement and Transplantation Network shall make recommendations to the Secretary concerning the approval or denial of alternative local units. The Network shall assess whether the alternative local units will better promote organ donation and the equitable allocation of organs.

"(C) The Secretary shall approve or deny any alternative local unit principle or designation recommended by the Network. If the Secretary does not provide otherwise prior to the expiration of the 90-day period beginning on the date on which the application is submitted, the recommendations of the Network under subparagraph (B) with respect to the application of the alternative local unit shall go into effect.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b)(5) shall apply to organ procurement organizations beginning January 1, 1995.

SEC. 3. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

Section 372(b) of the Public Health Service Act (42 U.S.C. 274(b)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i)—

(i) by striking "(including organizations that have received grants under section 371)"; and

(ii) by striking "; and" at the end thereof and inserting "(including both individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of individuals who have donated an organ, the number of whom shall make up not less than 40 percent of the total number of board members); and"; and

(B) in clause (ii), by inserting "including a patient affairs committee" after "committees,"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking clause (i) and inserting the following new clause:

"(i) with respect to each type of transplant, a national list of individuals who have been medically referred to receive a transplant of the type of organs with respect to which the list is maintained (which list shall include the names of all individuals included on lists in effect under section 371(b)(2)(F), and";

(B) in subparagraph (B), by inserting ", including requirements under section 371(b)," after "membership criteria";

(C) by redesignating subparagraphs (E) through (L), as subparagraphs (F) through (M), respectively;

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) assist organ procurement organizations in the equitable distribution of organs among transplant patients,";

(E) in subparagraph (K) (as so redesignated), by striking "and" at the end thereof;

(F) in subparagraph (L) (as so redesignated), by striking the period and inserting ", including making recommendations to organ procurements organizations and the Secretary based on the annual reports required under section 371(b)(2)(K),";

(G) in subparagraph (M) (as so redesignated), by striking the period and inserting a comma; and

(H) by adding at the end thereof the following new subparagraphs:

"(N) submit to the Secretary for review and approval any change in the amount of fees imposed by the Network for the registration of individuals on the lists maintained under subparagraph (A)(i), such change to be considered as approved if the Secretary does not provide otherwise prior to the expiration of the 90-day period beginning on the date on which the change is submitted to the Secretary,

"(O) make available to the Secretary such information, books, and records regarding the Network as the Secretary may require,

"(P) submit to the Secretary, on an annual basis, a report on the clinical and scientific status of the organ transplantations, and

"(Q) meet such other criteria regarding compliance with this part as the Secretary may establish.".

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) STUDY.—

"(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining and making recommendations concerning—

"(A) the composition of the boards of directors of organ procurement organizations and of the Organ Procurement and Transplantation Network on the date of enactment of this section, and the effect of the Organ Transplant Program Reauthorization Act of 1994 on the composition and functioning of such boards;

"(B)(i) the number and percentage of cadaveric organ transplants for foreign nationals and nonresident aliens categorized by organ procurement organization and by transplant center and information on any reciprocal agreements between organ procurement organizations and foreign countries or territories;

"(ii) the number and percent of the organizations referred to in clause (i) above the organ procurement transplant network guideline of 10 percent; and

"(III) any information on the current rate of organ donation by individuals other than United States citizens or legal residents;

"(C) organ donation rates and the impact of various organ allocation systems on organ procurement rates; and

"(D) the equitable allocation of organs nationwide, including an analysis of the relative probability of receiving an organ for patients with similar characteristics for each category of transplanted organ by organ procurement organization and recommendations for developing a regional allocation system in order to ensure that—

"(i) patients in one region have an equivalent probability of receiving an organ as do patients with similar characteristics in another region; and

"(ii) patients within a region have an equivalent probability of receiving an organ as do other patients with similar characteristics in that region.

"(2) EQUITABLE ALLOCATION.—In carrying out paragraph (1) with respect to subparagraph (D), the Comptroller General shall—

"(A) recommend regions for allocating organs to encompass as large a geographic area as is practical, taking into account medical appropriateness, and the geographic proximity of patients with comparable priority for receiving an organ;

"(B) take into account the impact on organ donation and procurement rates; and

"(C) consult with experts in the area of organ allocation and organ donations and consider their recommendations regarding the establishment of regions in the country for the purpose of allocating organs.

"(b) REPORT.—Not later than 2 years after the date of enactment of the Organ Transplant Program Reauthorization Act of 1994, the Comptroller General of the United States shall complete the study required under subsection (a) and prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.".

SEC. 5. GENERAL PROVISIONS.

(a) LIMITATION.—Section 374(b) of the Public Health Service Act (42 U.S.C. 274b(b)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "371(a)(3)" and inserting "371(a)(2)".

(b) REPEAL.—Section 376 of the Public Health Service Act (42 U.S.C. 274d) is repealed.

(c) TRANSFER.—Section 378 of the Public Health Service Act (42 U.S.C. 274g) is amended—

(1) by transferring such section to part H of title III; and

(2) by inserting such section after section 377.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 378 of the Public Health Service Act (42 U.S.C. 274g) is amended by striking "1991" and all that follows through the period and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) EXCEPTION.—The amendments made by section 2(b)(4)(C) shall become effective 9 months after the date of enactment of this Act. Prior to such date, section 371(b)(3)(E) of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act, shall remain in effect.

Mr. KENNEDY. Mr. President, I urge the Senate to support H.R. 2659, the Organ Transplant Reauthorization Act. This legislation addresses the need for reform in the organ procurement and allocation system. I particularly commend Senator KASSEBAUM and Senator WOFFORD for their efforts, and the work of the other members of the Labor Committee on this important legislation.

Twelve years ago the attention of the Nation focused on Jamie Fiske of Massachusetts as her father appealed to people in all parts of the country for help in finding a liver to save his daughter's life. Jamie is doing well today, but unfortunately over 30,000 people like her are waiting for life saving organ transplants. Currently, the median waiting times vary from a few months to a few years in different parts of the country.

Organ demand has increased by 50 percent since 1988 but organ donation rates have barely changed. We need to close the widening gap between the number of available organs and the number of patients in need of transplants. In addition, a patient waiting for an organ in one area should not have a substantially longer or shorter waiting time than a patient in similar condition in a nearby area.

The reauthorization of the organ transplant program seeks to increase donation and to promote more equitable organ allocation. The bill reauthorizes funding at $8 million in fiscal year 1994, and such sums as may be necessary in 1995, and 1996.

The bill enables the Secretary to make grants or enter into cooperative agreements with OPO's and other public or non-profit organizations to increase organ donations. These entities may engage in public education, train individuals to request donations, or provide technical assistance to OPO's and hospitals. Since individuals who are members of minority groups have more difficulty than others in finding an organ match, priority will be given to grant requests designed to alleviate organ shortages for those populations where shortages are more severe.

OPO's will also be required to participate in systematic efforts, including public education, to increase donation rates, and to annually evaluate their effectiveness in acquiring organs. The Office of Technology Assessment will evaluate performance standards for OPO's.

This bill helps to move toward a more equitable system for allocating organs by requiring that a single list of transplant candidates be maintained in an OPO service area, in an area encompassing at least an entire State, or in an approved alternative local unit. The committee has also asked the General Accounting Office to study a number of issues, including evaluating other ways to change the organ allocation process to assure transplant candidates similar access to the organs they need, regardless of where they live.

The bills calls for greater participation by transplant recipients and donor families on the boards of organ procurement organizations, which are know as OPO's. The legislation also makes permanent the Patient Affairs Committee of the Organ Procurement and Transplant Network to address the needs of recipients and donors. To protect patients from substantial price increases in organ transplant program registration fees, the Network will be required to submit any fee changes to the Secretary of Health and Human Services for review and approval.

The original intent of the National Organ Transplant Act was to assure patients that no matter who they were or where they lived, they would have a fair chance of receiving a necessary organ transplant. The Committee believes that the organ transplant system can be improved by focusing on public education, addressing problems in the current system, and increasing the role transplant recipients, donor families, and community leaders play in the process.

Ultimately however, we need more public recognition about the need for the life-saving gift of organ donation and the importance of family consent in the process. A signed organ donor card does not ensure donation. The Organ Transplant Program is worthy of our support and invaluable to those Americans in need of an organ transplant. We can and should do better. In a very real sense, this bill saves lives, and I urge my colleagues to join in expediting its consideration.

Mrs. KASSEBAUM. Mr. President, I speak today in support of the Organ Transplant Program Reauthorization Act of 1993, S. 1597. This legislation authorizes initiatives both to increase organ donations and provide equitable allocation of organs to individuals in need. I will vote in support of this legislation, and I urge my colleagues to do the same.

The Organ Transplant Program Reauthorization Act of 1993 includes many important measures which would help improve organ donation. Clearly, improved donation would decrease the need for a complex allocation system. Specific measures in this legislation

would result in increased technical support for hospitals with low organ donation rates. In addition, States and not-for-profit organizations would be able to experiment with innovative ways to increase donations through improvements in public organ donor awareness.

However, because the national pool of donated organs remains small, this legislation would also change the existing organ allocation system to ensure a more equitable distribution system. In particular, S. 1597 would require that each organ procurement organization [OPO] maintain a single waiting list for each organ. Alternatively, each State or approved alternative local unit would also be able to maintain a waiting list for each organ. This measure would ensure that the sickest person in an OPO, rather than a healthier patient in the hospital where the organ is collected, receives an available organ. Additionally, I also support measures in the legislation authorizing the General Accounting Office to study a new regionalized distribution system for each organ.

I complement the senator from Massachusetts and the other committee members for their efforts in reaching a difficult consensus on this act. However, there is one issue I hope to address further when we go to conference with the House. Specifically, I believe that every hospital should be required to work with its designated organ procurement organization, subject only to limited exceptions. The House version of this bill contains provisions addressing this important issue, while this bill does not.

The Health Care Financing Administration [HCFA] determines which geographic service area an OPO should serve. Unfortunately, under its interpretation of the law, HCFA allows OPO's to enter into agreements with hospitals outside of the OPO designated service area. HCFA maintains this current policy because it believes such an arrangement results in competition between OPOs to improve their service quality. On the other hand, serious problems can be created. For example, Midwest Organ Bank, the OPO which serves Kansas, estimates that it is losing up to 20 percent of its geographic service area organs.

The original legislative intent was that an OPO would distribute organs only to the hospitals in its designated service area. In addition, such hospitals would procure organs only for their respective service area OPO. This system was designed to assure that each geographic service area in the country would procure enough organs to meet the needs of its citizens. In addition, the service areas were carefully designed to assure that each OPO could procure and allocate a sufficient quantity of organs to maintain its quality standards.

Mr. President, despite my concern about the OPO service area issue, I commend Senator KENNEDY and my Labor Committee colleagues for their work on this legislation. Reauthorization of the organ transplant program will benefit many.

Mr. GREGG. Mr. President, I am pleased at the favorable consideration that the Senate has given to provisions of the Comprehensive Child Immunization Act as reported by the Senate Committee on Labor and Human Resources and approved again today by the Senate as part of S. 1597, the provisions of which have been substituted for the provisions of H.R. 2659. However, I want to raise an issue of serious concern to the State of New Hampshire regarding the availability of Federal funds to support the distribution of childhood vaccines by States through their public health departments.

In the President's fiscal year 1995 budget request, funds for state public health vaccine programs were greatly reduced. This is in direct conflict with the intent of the Congress last year at the time the Vaccine for children Program was passed as part of the Omnibus Budget Reconciliation of 1993. Congress recognized at that time the importance of maintaining a strong commitment to the public health delivery system, particularly in those States which have few federally qualified health centers. Given the restrictions on the children who are eligible to recieve federally purchased vaccines under the Vaccine for Children Program, particularly the underinsured who are eligible only at FQHCs or RHCs, a heavy burden will continue to fall on the public health system in many States such as New Hampshire.

I know that a number of my colleagues share my concern about the underfunding of the State cooperative agreements with the Centers for Disease Control for the distribution of federally purchased vaccines through public health departments, and I have raised this issue with Secretary Shalala directly. I hope that as the budget and appropriations process moves forward, we can work together to address this very serious problem.

Mr. KENNEDY. Mr. President, I thank my colleague from New Hampshire for raising this important issue today. It is a concern that I share. I am committed to improving immunization rates for the Nation's children, and the legislation we have passed today is a major step in this direction.

A key feature of this legislation is building and expanding on current public health efforts to immunize all children who are at risk of not receiving life-saving vaccinations at the proper time.

I am concerned that the administration's proposed reduction of support for State vaccine programs will undermine the recent gains we have made in serving vulnerable children. Senator BUMPERS and I have sent a letter to Secretary Shalala to emphasize the importance of maintaining adequate financial support for State puolic health vaccine programs.

In this time of limited resources, immunizations are a wise and cost-effective investment. I look forward to working with my colleagues and with the Administration to maintain adequate funding for State vaccine programs, in order to ensure continuing progress toward our common goal of immunizing all children.

Mrs. KASSEBAUM. Mr. President, I, too, wish to thank my colleague from New Hampshire for raising the serious problems posed for many states by the reduction in Federal support for State public health vaccine distribution programs proposed in the administration's fiscal year 1995 budget. In my State of Kansas, for example, the public health department has taken a leadership role in the effort to ensure that all children are fully immunized against potentially devastating childhood diseases, not only by conducting ambitious outreach programs but also by providing affordable immunization services through local public health clinics.

As we move forward with the budget and appropriations process, I am strongly committed to working with the administration and with my colleagues in Congress to maintain a firm Federal commitment to State public health vaccine distribution programs. In Kansas, as in many other States, these programs are and will likely remain an essential avenue to achieving the early childhood immunization goals that we share and that inform the Childhood Immunization Act provisions we have approved again today as part of S. 1597.

Mr. HARKIN. Mr. President, I have heard from many Iowans concerning the impact of the fiscal year 1995 budget request for vaccine purchases, and I share the concern of my colleagues. While overall, there has been no reduction in funding for vaccine purchases, the problem has arisen because the discretionary vaccine purchase program has been cut by $110 million; thus limiting the amount of vaccines available to State and local health departments. This situation is exacerbated by the fact that under the Vaccines for Children entitlement program, only federally qualified health centers are eligible to receive assistance for vaccines for those children whose health insurance does not include coverage for immunizations. In Iowa, as in other States, the primary responsibility for delivery of vaccines comes not from federally qualified health centers, but from state and local health departments. Consequently, the provisions relating to the Vaccines for Children entitlement have the effect of limiting Iowa's participation. This will result in fewer kids being immunized.

Because of the fact that the Appropriations Committee will be below a freeze for the next 5 years, I cannot be overly optimistic that we will be able to restore the discretionary dollars for vaccine purchases under the 317 program. One solution would be to have State and Local health departments designated as federally qualified health centers for the purposes of vaccine delivery only. I have discussed this with Secretary Shalala of the Department of Health and Human Services, and I intend to continue to pursue in this matter. I can assure my colleagues that as chairman of the Appropriations Subcommittee that has jurisdiction over the vaccine program, I will do everything that I can, within budgetary constraints, to resolve this problem. I look forward to working with you.

Mr. BUMPERS. Mr. President, as you know, I share my colleagues' strong commitment to substantially improving the immunization rates for the Nation's children and have sought to provide leadership in this effort. Today's approval of the provisions of S. 732, the Comprehensive Childhood Immunization Act, as part of the Senate substitute to H.R. 2659, is a vital part of this effort. In addition to providing States with support to enhance their education and outreach programs and public health vaccine delivery infrastructure, this legislation includes a bonus program to reward those States that meet or exceed their immunization goals, as I originally proposed and as was adopted by the Senate during the consideration of the reconciliation bill last fall.

I also share the deep concern expressed by my colleagues here today, however, over the effect on these public sector efforts that the reduction the administration is proposing in its fiscal year 1995 budget in funds to the States for State vaccine distribution programs will have. The state vaccine purchase program has long been the cornerstone of state immunization programs, delivering childhood vaccine at no cost to children at local public health departments and clinics. I am committed to maintaining a strong public sector vaccine delivery system, and I will work with my colleagues as the budget and appropriations process proceeds to keep this commitment and restore the needed funding to the 317(j) program for fiscal year 1995.

Mr. GRASSLEY. Mr. President, I join my colleagues today in voicing concern over the reduction of Federal funds for State public health vaccine distribution programs as proposed in the President's fiscal year 1995 budget request. I thank my colleague from New Hampshire for his leadership in this area.

The Vaccine for Children Program produces significant changes in the Federal vaccine purchase and delivery system. These changes were intended to enhance immunization activities by establishing a new Federal program for the distribution of vaccines to vulnerable children. However, certain restrictions in the program will make it difficult for many Iowa children to participate in the program. These families will have to turn to the State public health system for their immunizations. Therefore, it is crucial that Federal funding for the State public health system remains intact and adequate. Without continued Federal support, the public health clinics will not be able to serve these children. I am committed to improving the immunization rates of our children and I look forward to working with my colleagues to reach this important goal.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1594) was agreed to.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 1595

(Purpose: To provide for the immunization of all children in the United States against vaccine-preventable diseases)

Mr. CONRAD. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and Senator KASSEBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for Mr. KENNEDY, for himself, and Mrs. KASSEBAUM, proposes an amendment numbered 1595.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1595) was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time, and passed.

So the bill (H.R. 2659) was deemed read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

MEASURE REFERRED TO LABOR AND HUMAN RESOURCES COMMITTEE—S. 1937

Mr. CONRAD. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 1937, a bill to amend the Community Services Block Grant Program, and that the bill be referred to the Labor and Human Resources Committee.

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

DEPARTMENT OF VETERANS AFFAIRS MENTAL ILLNESS RESEARCH

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 388, S. 1512, requiring the VA to establish centers of excellence for mental illness research, education and clinical activities; that the committee substitute amendment be agreed to, the motion to reconsider laid upon the table; that the bill be deemed read a third time, passed, the motion to reconsider laid upon the table, and that any statements appear at the appropriate place in the RECORD.

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

So the committee substitute amendment was agreed to.

So the bill (S. 1512) was deemed read a third time and passed, as follows:

S. 1512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

(a) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following:

"§ 7319. Mental illness research, education, and clinical centers

"(a) The purpose of this section is to improve the provision of health-care services and related counseling services to eligible veterans suffering from mental illness, especially mental illness related to service-related conditions, through research (including research on improving mental health service facilities of the Department and on improving the delivery of mental health services by the Department), education and training of personnel, and the development of improved models and systems for the furnishing of mental health services by the Department.

"(b)(1) In order to carry out the purpose of this section, the Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of this subsection, shall—

"(A) designate not more than five health-care facilities of the Department as the locations for a center of research on mental health services, on the use by the Department of specific models for furnishing such services, on education and training, and on the development and implementation of innovative clinical activities and systems of care with respect to the delivery of such services by the Department; and

"(B) subject to the appropriation of funds for such purpose, establish and operate such centers at such locations in accordance with this section.

"(2) The Secretary shall designate at least one facility under paragraph (1) not later than January 1, 1994.

"(3) The Secretary shall, upon the recommendation of the Under Secretary for

Health, ensure that the facilities designated for centers under paragraph (1) are located in various geographic regions.

"(4) The Secretary may not designate any health-care facility as a location for a center under paragraph (1) unless—

"(A) the peer review panel established under paragraph (5) has determined under that paragraph that the proposal submitted by such facility as a location for a new center under this subsection is among those proposals which have met the highest competitive standards of scientific and clinical merit; and

"(B) the Secretary, upon the recommendation of the Under Secretary for Health, determines that the facility has developed (or may reasonably be anticipated to develop)—

"(i) an arrangement with an accredited medical school which provides education and training in psychiatry and with which the facility is affiliated under which arrangement residents receive education and training in psychiatry through regular rotation through the facility so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(ii) an arrangement with an accredited graduate school of psychology under which arrangement students receive education and training in clinical, counseling, or professional psychology through regular rotation through the facility so as to provide such students with training in the diagnosis and treatment of mental illness;

"(iii) an arrangement under which nursing, social work, or allied health personnel receive training and education in mental health care through regular rotation through the facility;

"(iv) the ability to attract scientists who have demonstrated creativity and achievement in research—

"(I) into the evaluation of innovative approaches to the design of mental health services; or

"(II) into the causes, prevention, and treatment of mental illness;

"(v) a policymaking advisory committee composed of appropriate mental health-care and research personnel of the facility and of the affiliated school or schools to advise the directors of the facility and the center on policy matters pertaining to the activities of the center during the period of the operation of the center; and

"(vi) the capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of mental health services provided by the Department at or through individual facilities.

"(5)(A) In order to provide advice to assist the Under Secretary for Health and the Secretary to carry out their responsibilities under this section, the official within the Central Office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this subsection.

"(B) The membership of the panel shall consist of experts in the fields of mental health research, education and training, and clinical care. Members of the panel shall serve as consultants to the Department for a period of no longer than six months.

"(C) The panel shall review each proposal submitted to the panel by the official referred to in subparagraph (A) and shall submit its views on the relative scientific and clinical merit of each such proposal to that official.

"(D) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) Clinical and scientific investigation activities at each center may compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects and activities relating to mental illness.

"(d) The Under Secretary for Health shall ensure that at least three centers designated under subsection (b)(1)(A) emphasize research into means of improving the quality of care for veterans suffering from mental illness through the development of community-based alternatives to institutional treatment for such illness.

"(e) The Under Secretary for Health shall ensure that useful information produced by the research, education and training, and clinical activities of the centers established under subsection (b)(1) is disseminated throughout the Veterans Health Administration through publications and through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title and through other means.

"(f) The official within the Central Office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for supervising the operation of the centers established pursuant to subsection (b)(1).

"(g)(1) There are authorized to be appropriated for the Department of Veterans Affairs for the basic support of the research and education and training activities of the centers established pursuant to subsection (b)(1) the following:

"(A) $3,125,000 for fiscal year 1994.

"(B) $6,250,000 for each of fiscal years 1995 through 1997.

"(2) In addition to the funds available under the authorization of appropriations in paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department of Veterans Affairs medical care account and the Department of Veterans Affairs medical and prosthetics research account such amounts as the Under Secretary for Health determines appropriate in order to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by adding at the end of the matter relating to subchapter II the following:

"7319. Mental illness research, education, and clinical centers.".

(c) REPORTS.—Not later than February 1 of each of 1995, 1996, and 1997, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the mental illness, research, education, and clinical centers established pursuant to section 7319 of title 38, United States Code (as added by subsection (a)). Each such report shall contain the following:

(1) A description of—

(A) the activities carried out at each center and the funding provided for such activities;

(B) the advances made at each center in research, education and training, and clinical activities relating to mental illness in veterans; and

(C) the actions taken by the Under Secretary for Health pursuant to subsection (d) of such section (as so added) to disseminate useful information derived from such activities throughout the Veterans Health Administration.

(2) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

(d) TECHNICAL AMENDMENT.—Section 7314(d)(1) of such title is amended by striking out "the Chief Medical Director" and inserting in lieu thereof "the Under Secretary for Health".

(By request of Mr. CONRAD, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am proud to support S. 1512, a bill to improve mental illness education, research, and clinical activity at VA. I introduced this bill on September 30, 1993, and, after unanimous approval by the Committee, reported the bill with minor revisions on March 17, 1994.

This legislation would require VA to establish up to five centers of excellence in the area of mental illness at existing VA health care facilities. These centers, to be known as Mental Illness Research, Education, and Clinical Centers—MIRECCs—would be a vitally important and integral link in VA's efforts in the areas of research, education, and furnishing clinical care to veterans suffering from mental illness.

Mr. President, the need to improve services to mentally ill veterans has been recognized for a number of years. For example, the 1985 Report of the Special Purposes Committee to Evaluate the Mental Health and Behavioral Sciences Research Program of the VA, chaired by Dr. Seymour Kety—referred to as the "Kety Committee"—concluded that research on mental illness and training for psychiatrists and other mental health specialists at VA facilities were totally inadequate. The Kety report noted that about 40 percent of VA beds are occupied by veterans who suffer from mental disorders, yet less than 10 percent of VA's research resources are directed toward mental illness.

Little has changed since that report. Information provided to the Committee at our August 3, 1993, hearing showed that the percentage of VA patients suffering from mental illnesses continues to be 40 percent. Likewise, the resources directed to VA's research on mental illness have not increased an appreciable amount, hovering near 12 percent of the overall research budget.

Mr. President, VA provides mental health services to nearly three-quarters of a million veterans each year, yet in the decade between the time the Kity Committee began its work and now, there has not been a significant effort to focus VA's resources on the

needs of mentally ill veterans. One of the recommendations of the Kety Committee was to establish VA centers of excellence to develop first-rate psychiatric research programs within VA. Such centers, in the view of the Kety Committee, would provide state-of-the-art treatment, increase innovative basic and clinical research opportunities, and improve and encourage training and treatment of mental illness.

Based on the recommendations of the Kety Committee, the Committee on Veterans' Affairs began efforts more than 6 years ago to encourage research of mental illnesses and to establish centers of excellence. For example, in 1988, Public Law 100-322 urged VA to establish three centers of excellence, or MIRECCs, as proposed by the Kety Committee. In March 1992, Senator Cranston, then Chairman of the Committee on Veterans' Affairs, noted that the VA had not taken any action to implement those recommendations. Unfortunately, I must tell you today that the VA still has done little to implement the recommendations of the Kety Committee and has made no progress on the establishment of centers of excellence.

Mr. President, I also note that the January 1991 final report of the blue ribbon VA Advisory Committee for Health Research Policy recommended the establishment of MIRECCs as a means of increasing opportunities in psychiatric research and encouraging the formulation of new research initiatives in mental health care, as well as maintaining the intellectual environment so important to quality health care. The report stated that these "centers could provide a way to deal with the emerging priorities in the VA and the Nation at large."

In light of VA's failure to act administratively to establish these centers of excellence, our Committee has developed legislation to accomplish this objective. The proposed MIRECCs legislation is patterned after the very successful Geriatric Research, Education, and Clinical Center [GRECCs] program. The MIRECCs would be designed first, to attract clinicians and research investigators with a clear and precise clinical research mission, such as PTSD, schizophrenia, or substance abuse; second, to provide training and educational opportunities for students and residents in psychiatry, psychology, nursing, social work, and other professions that treat individuals with mental illness; and third, to develop new models of effective care and treatment for veterans with mental illnesses, especially those with service-connected conditions.

The establishment of MIRECCs should encourage research into various treatment outcomes for mental illnesses, an aspect of mental illness research which, to date, has not been fully pursued, either by VA or other researchers. The bill would require the Chief Medical Director to share the activities of the MIRECCs throughout the Veterans Health Administration, through continuing education programs at regional medical education centers.

Finally, beginning February 1, 1995, the Secretary would be required to submit to the House and Senate Committees on Veterans' Affairs annual reports on the MIRECCs and on the efforts to disseminate the information throughout the VA health care system.

At our Committee hearing on August 3, 1993, we received broad support for this legislation from representatives of the American Psychiatric Association, the National Alliance for the Mentally Ill, and the veterans service organizations.

Mr. President, the VA for too long has made inadequate efforts to improve research and treatment of mentally ill veterans and to foster educational activities for VA mental health professionals. The establishment of MIRECCs would be a large step forward in improving care for some of our neediest veterans.

The Senate has passed comparable legislation in each of the last two Congresses. I urge my colleagues to support once again these centers of mental illness treatment and research and to be a voice for the needs of veterans who suffer, in many cases, in silence.●

READJUSTMENT COUNSELING SERVICE AMENDMENTS OF 1994

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 386, S. 1226, relating to readjustment counseling services for veterans.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1226), to amend title 38, United States Code, to provide for the organization and administration of the Readjustment Counseling Service, to improve eligibility for readjustment counseling and related counseling, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Readjustment Counseling Service Amendments of 1994".

SEC. 2. ORGANIZATION OF THE READJUSTMENT COUNSELING SERVICE IN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 7305 of title 38, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) A Readjustment Counseling Service.".

(b) ORGANIZATION.—The Readjustment Counseling Service shall have the organizational structure and administrative structure of that service as such structures were in existence on January 1, 1993.

(c) REVISION OF ORGANIZATIONAL STRUCTURE.—(1) The Secretary of Veterans Affairs may not alter or revise the organizational structure or the administrative structure of the Readjustment Counseling Service until—

(A) the Secretary has submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a full and complete statement of the proposed alteration or revision; and

(B) a period of 60 days has elapsed after the date on which the report is received by the committees.

(2) In the computation of the 60-day period under paragraph (1)(B), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(d) BUDGET INFORMATION RELATING TO THE SERVICE.—Each budget submitted to Congress by the President under section 1105 of title 31, United States Code, shall set forth the amount requested in the budget for the operation of the Readjustment Counseling Service in the fiscal year covered by the budget and shall set forth separately the amount requested for administrative oversight of the activities of the service (including the amount requested for funding of the Advisory Committee on Readjustment of Veterans).

SEC. 3. DIRECTOR OF THE READJUSTMENT COUNSELING SERVICE.

(a) DIRECTOR.—Section 7306(b) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(4) one shall be a person who (A)(i) is a qualified psychiatrist, (ii) is a qualified psychologist holding a diploma as a doctorate in clinical or counseling psychology from an authority approved by the American Psychological Association and has successfully undergone an internship approved by that association, (iii) is a qualified holder of a master in social work degree, or (iv) is a registered nurse holding a master of science in nursing degree in psychiatric nursing or any other mental-health related degree approved by the Secretary, and (B) has at least 3 years of clinical experience and 2 years of administrative experience in the Readjustment Counseling Service or other comparable mental health care counseling service (as determined by the Secretary), who shall be the director of the Readjustment Counseling Service.".

(b) STATUS OF DIRECTOR.—Section 7306(a)(3) of such title is amended by striking out "eight" and inserting in lieu thereof "nine".

(c) ORGANIZATIONAL REQUIREMENT.—The Director of the Readjustment Counseling Service shall report to the Under Secretary for Health of the Department of Veterans Affairs through the Associate Deputy Under Secretary for Health for Clinical Programs.

SEC. 4. EXPANSION OF ELIGIBILITY FOR READJUSTMENT COUNSELING AND CERTAIN RELATED COUNSELING SERVICES.

(a) READJUSTMENT COUNSELING.—(1) Subsection (a) of section 1712A of title 38, United States Code, is amended to read as follows:

"(a)(1)(A) Upon the request of any veteran referred to in subparagraph (B) of this paragraph,

the Secretary shall furnish counseling to the veteran to assist the veteran in readjusting to civilian life.

"(B) A veteran referred to in subparagraph (A) of this paragraph is any veteran who—

"(i) served on active duty during the Vietnam era; or

"(ii) served on active military, naval, or air service in a theater of combat operations (as determined by the Secretary, in consultation with the Secretary of Defense) during a period of war or in any other area during a period in which hostilities (as defined in subparagraph (D) of this paragraph) occurred in such area.

"(C) Upon the request of any veteran other than a veteran referred to in subparagraph (A) of this paragraph, the Secretary may furnish counseling to the veteran to assist the veteran in readjusting to civilian life.

"(D) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which the members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.

"(2) The counseling referred to in paragraph (1) shall include a general mental and psychological assessment of a covered veteran to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.".

(2) Subsection (c) of such section is repealed.

(b) OTHER COUNSELING.—Such section is further amended by inserting after subsection (b) the following new subsection (c):

"(c)(1) The Secretary shall provide the counseling services described in section 1701(6)(B)(ii) of this title to the surviving parents, spouse, and children of any member of the Armed Forces who is killed during service on active military, naval, or air service in a theater of combat operations (as determined by the Secretary, in consultation with the Secretary of Defense) during a period of war or in any other area during a period in which hostilities (as defined in subsection (a)(1)(D) of this section) occurred in such area.

"(2) The Secretary may provide the counseling services referred to in paragraph (1) to the surviving parents, spouse, and children of any member of the Armed Forces who dies while serving on active duty or from a condition (as determined by the Secretary) incurred in or aggravated by such service.".

(c) AUTHORITY TO CONTRACT FOR COUNSELING SERVICES.—Subsection (e) of such section is amended by striking out "subsections (a) and (b)" each place it appears and inserting in lieu thereof "subsections (a), (b), and (c)".

SEC. 5. ADVISORY COMMITTEE ON THE READJUSTMENT OF VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 1712B the following:

"§1712C. Advisory Committee on the Readjustment of Veterans

"(a)(1) There is in the Department the Advisory Committee on the Readjustment of Veterans (hereafter in this section referred to as the 'Committee').

"(2) The Committee shall consist of not more than 18 members appointed by the Secretary from among veterans who—

"(A) have demonstrated significant civic or professional achievement; and

"(B) have experience with the provision of veterans benefits and services by the Department.

"(3) The Secretary shall seek to ensure that members appointed to the Committee include persons from a wide variety of geographic areas and ethnic backgrounds, persons from veterans service organizations, and women.

"(4) The Secretary shall determine the terms of service and pay and allowances of the members of the Committee, except that a term of service may not exceed 2 years. The Secretary may reappoint any member for additional terms of service.

"(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to veterans in order to assist veterans in the readjustment to civilian life.

"(2)(A) In providing advice to the Secretary under this subsection, the Committee shall—

"(i) assemble and review information relating to the needs of veterans in readjusting to civilian life;

"(ii) provide information relating to the nature and character of psychological problems arising from service in the Armed Forces;

"(iii) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting veterans in readjusting to civilian life; and

"(iv) provide on-going advice on the most appropriate means of responding to the readjustment needs of veterans in the future.

"(B) In carrying out its duties under subparagraph (A), the Committee shall take into special account veterans of the Vietnam era, and the readjustment needs of such veterans.

"(c)(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the readjustment of veterans to civilian life. Each such report shall include—

"(A) an assessment of the needs of veterans with respect to readjustment to civilian life;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) Not later than 90 days after the receipt of each report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

"(d)(1) Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Committee under this section.

"(2) Section 14 of such Act shall not apply to the Committee.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1712B the following:

"1712C. Advisory Committee on the Readjustment of Veterans.".

(b) ORIGINAL MEMBERS.—(1) Notwithstanding subsection (a)(2) of section 1712C of such title (as added by subsection (a)), the members of the Advisory Committee on the Readjustment of Vietnam and Other War Veterans on the date of the enactment of this Act shall be the original members of the advisory committee recognized under such section.

(2) The original members shall so serve until the Secretary of Veterans Affairs carries out appointments under such subsection (a)(2). The Secretary shall carry out such appointments as soon after such date as is practicable. The Secretary may make such appointments from among such original members.

SEC. 6. PLAN FOR EXPANSION OF VIETNAM VETERAN RESOURCE CENTER PILOT PROGRAM.

(a) REQUIREMENT.—(1) The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a plan for the expansion of the Vietnam Veteran Resource Center program established pursuant to the amendment made by section 105 of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166; 99 Stat. 944). The plan shall include a schedule for, and an assessment of the cost of, the implementation of the program at or through all Department of Veterans Affairs readjustment counseling centers.

(2) The Secretary shall submit the plan not later than 4 months after the date of the enactment of this Act.

(b) DEFINITION.—In this section, the term "Department of Veterans Affairs readjustment counseling centers" has the same meaning given the term "center" in section 1712A(i)(1) of title 38, United States Code.

SEC. 7. REPORT ON COLLOCATION OF VET CENTERS AND DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINICS.

(a) REQUIREMENT.—(1) The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of the collocation of Vet Centers and outpatient clinics (including rural mobile clinics) of the Department of Veterans Affairs as current leases for such centers and clinics expire.

(2) The Secretary shall submit the report not later than 6 months after the date of the enactment of this Act.

(b) COVERED MATTERS.—The report under this section shall include an assessment of the following:

(1) The results of any collocation of Vet Centers and outpatient clinics carried out by the Secretary before the date of the enactment of this Act, including the effects of such collocation on the quality of care provided at such centers and clinics.

(2) The effect of such collocation on the capacity of such centers to carry out their primary mission.

(3) The extent to which such collocation will impair the operational independence or administrative integrity of such centers.

(4) The feasibility of combining the services provided by such centers and clinics in the course of the collocation of such centers and clinics.

(5) The advisability of the collocation of centers and clinics of significantly different size.

(6) The effect of the locations (including urban and rural locations) of the centers and clinics on the feasibility and desirability of such collocation.

(7) The amount of any costs savings to be achieved by Department as a result of such collocation.

(8) The desirability of such collocation in light of plans for the provision of health care services by the Department under national health care reform.

(9) Any other matters that the Secretary determines appropriate.

SEC. 8. VET CENTER HEALTH CARE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program for the

provision of health-related services to eligible veterans at readjustment counseling centers. The Secretary shall carry out the pilot program in accordance with this section.

(b) SERVICES.—(1) In carrying out the pilot program, the Secretary shall provide the services referred to in paragraph (2) at not less than 10 readjustment counseling centers in existence on the date of the enactment of this Act.

(2) The Secretary shall provide basic ambulatory services and health care screening services by such personnel as the Secretary considers appropriate at each readjustment counseling center under the pilot program. The Secretary shall assign not less than one-half of a full-time employee equivalent at each such center in order to provide such services under the pilot program.

(3) In determining the location of the readjustment counseling centers at which to provide services under the pilot program, the Secretary shall select centers that are located in a variety of geographic areas and that serve veterans of a variety of economic, social, and ethnic backgrounds.

(c) PERIOD OF OPERATION.—(1) The Secretary shall commence the provision of health-related services at readjustment counseling centers under the pilot program not later than 4 months after the date of the enactment of this Act.

(2) The pilot program shall terminate 2 years after the date on which the Secretary commences the provision of services under paragraph (1).

(d) REPORT.—(1) The Secretary shall submit to Congress a report on the pilot program established under this section. The report shall include the following:

(A) A description of the program, including information on—

(i) the number of veterans provided basic ambulatory services and health care screening services under the pilot program;

(ii) the number of such veterans referred to Department of Veterans Affairs general healthcare facilities in order to provide such services to such veterans; and

(iii) the cost to the Department of Veterans Affairs of the pilot program.

(B) An analysis of the effectiveness of the services provided to veterans under the pilot program.

(C) The recommendations of the Secretary for means of improving the pilot program, and an estimate of the cost to the Department of implementing such recommendations.

(D) An assessment of the desirability of expanding the type or nature of services provided under the pilot program in light of plans for the provision of health care services by the Department under national health care reform.

(E) An assessment of the extent to which the provision of services under the pilot program impairs the operational or administrative independence of the readjustment counseling centers at which such services are provided.

(F) An assessment of the effect of the location of the centers on the effectiveness for the Department and for veterans of the services provided under the pilot program.

(G) Such other information as the Secretary considers appropriate.

(2) The Secretary shall submit the report not later than 18 months after the date of the enactment of this Act.

(e) DEFINITIONS.—For the purposes of this section:

(1) The term "Department of Veterans Affairs general health-care facility" has the meaning given such term in section 1712A(i)(2) of title 38, United States Code.

(2) The term "eligible veteran" means any veteran eligible for outpatient services under paragraph (1), (2), or (3) of section 1712(a) of such title.

(3) The term "readjustment counseling center" has the same meaning given the term "center" in section 1712A(i)(1) of such title.

AMENDMENT NO. 1596

(Purpose: To authorize the Secretary of Veterans Affairs to provide counseling to family members of individuals who are prisoners of war or who are missing in action)

Mr. CONRAD. Mr. President, on behalf of Senator LEAHY, I send an amendment to the desk, ask for its immediate consideration, and I ask unanimous consent that the amendment be agreed to; that the motion to reconsider be laid upon the table; that the committee substitute, as amended, be agreed to; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

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

So the amendment (No. 1596) was agreed to, as follows:

On page 20, strike out line 20 and insert in lieu thereof the following:

by such service.

"(3) The Secretary may provide to the parents, spouse, and children of any member of the Armed Forces who (as determined by the Secretary) is a prisoner of war, or is missing in action, such counseling as the Secretary determines appropriate to assist such persons with the mental or psychological problems associated with the status of such member as a prisoner of war or as missing in action, as the case may be.".

Mr. LEAHY. Mr. President, I am proud to offer an amendment to S. 1226 that extends bereavement counseling services to the families of prisoners-of-war and those missing-in-action. Our Government has an obligation to help these families cope with the emotions surrounding the uncertain fate of their loved ones.

While our Government officially acknowledges that only one service person is still missing from the conflict in southeast Asia, thousands of family members do not know with certainty what happened to their loved ones. When these doubts remain about the final fate of loved ones, family members can find it difficult to heal.

It has been 18 years since the end of the Vietnam war. During this time family members of POW and MIAs have suffered great emotional and psychological distress. I have been contacted by many POW/MIA family members in Vermont who have been trying to find out what happened. What had happened to their father or their son or their brother?

You can read stories in any paper over the past 18 years about sightings of Americans in southeast Asia or stories about the Korean war POWs—stories that have reopened emotional wounds for the families whose loved ones were left behind. Many family members understandably need assistance to cope with these feelings.

In recent years the U.S. Government has made significant progress in repatriating the remains of servicemen from both Vietnam and Korea and releasing information to family members of those whose fate is still unknown. On Veterans Day, last year, President Clinton could proudly state that virtually all Vietnam War POW/MIA documents had been declassified. Despite this progress, there is still so much more that needs to be done. I will continue to support efforts to locate the remains of all of the POW/MIA from past wars.

Finally, Mr. President, I applaud Senator AKAKA for his efforts to improve counseling services for our veterans. The legislation before the Senate today takes our vet center program into a new era by expanding eligibility and services.

Mr. AKAKA. Mr. President, I support the amendment offered by my good friend and colleague from Vermont [Mr. LEAHY] to the pending legislation, S. 1226, the "Readjustment Counseling Service Amendments of 1994."

As you know, one of the provisions of S. 1226 calls for Vet Centers to offer bereavement counseling services to the families of those service members who die in combat or as a result of service-connected conditions. Unfortunately, in drafting the original legislation, I inadvertently excluded eligibility for these counseling services for the families of prisoners-of-war and those missing-in-action. The Leahy amendment would correct this oversight by making the survivors of POW's and MIA's fully eligible for the bereavement services that would be provided by Vet Center counselors under S. 1226.

Mr. President, I strongly support the Leahy amendment. It materially improves the underlying legislation, is consistent with our obligation to assist those who have worn the uniform, and is fully supported by the Veterans' Affairs Committee. I commend the Senator from Vermont for his vigilance in protecting the interests of those who have yet to return from war. I urge adoption of this measure.

So the bill (S. 1226), as amended, was deemed read a third time and passed, as follows:

S. 1226

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 "Readjustment Counseling Service Amendments of 1994".

SEC. 2. ORGANIZATION OF THE READJUSTMENT COUNSELING SERVICE IN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 7305 of title 38, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) A Readjustment Counseling Service.".

(b) ORGANIZATION.—The Readjustment Counseling Service shall have the organizational structure and administrative struc-

ture of that service as such structures were in existence on January 1, 1993.

(c) REVISION OF ORGANIZATIONAL STRUCTURE.—(1) The Secretary of Veterans Affairs may not alter or revise the organizational structure or the administrative structure of the Readjustment Counseling Service until—

(A) the Secretary has submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a full and complete statement of the proposed alteration or revision; and

(B) a period of 60 days has elapsed after the date on which the report is received by the committees.

(2) In the computation of the 60-day period under paragraph (1)(B), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(d) BUDGET INFORMATION RELATING TO THE SERVICE.—Each budget submitted to Congress by the President under section 1105 of title 31, United States Code, shall set forth the amount requested in the budget for the operation of the Readjustment Counseling Service in the fiscal year covered by the budget and shall set forth separately the amount requested for administrative oversight of the activities of the service (including the amount requested for funding of the Advisory Committee on Readjustment of Veterans).

SEC. 3. DIRECTOR OF THE READJUSTMENT COUNSELING SERVICE.

(a) DIRECTOR.—Section 7306(b) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(4) one shall be a person who (A)(i) is a qualified psychiatrist, (ii) is a qualified psychologist holding a diploma as a doctorate in clinical or counseling psychology from an authority approved by the American Psychological Association and has successfully undergone an internship approved by that association, (iii) is a qualified holder of a master in social work degree, or (iv) is a registered nurse holding a master of science in nursing degree in psychiatric nursing or any other mental-health related degree approved by the Secretary, and (B) has at least 3 years of clinical experience and 2 years of administrative experience in the Readjustment Counseling Service or other comparable mental health care counseling service (as determined by the Secretary), who shall be the director of the Readjustment Counseling Service.".

(b) STATUS OF DIRECTOR.—Section 7306(a)(3) of such title is amended by striking out "eight" and inserting in lieu thereof "nine".

(c) ORGANIZATIONAL REQUIREMENT.—The Director of the Readjustment Counseling Service shall report to the Under Secretary for Health of the Department of Veterans Affairs through the Associate Deputy Under Secretary for Health for Clinical Programs.

SEC. 4. EXPANSION OF ELIGIBILITY FOR READJUSTMENT COUNSELING AND CERTAIN RELATED COUNSELING SERVICES.

(a) READJUSTMENT COUNSELING.—(1) Subsection (a) of section 1712A of title 38, United States Code, is amended to read as follows:

"(a)(1)(A) Upon the request of any veteran referred to in subparagraph (B) of this paragraph, the Secretary shall furnish counseling to the veteran to assist the veteran in readjusting to civilian life.

"(B) A veteran referred to in subparagraph (A) of this paragraph is any veteran who—

"(i) served on active duty during the Vietnam era; or

"(ii) served on active military, naval, or air service in a theater of combat operations (as determined by the Secretary, in consultation with the Secretary of Defense) during a period of war or in any other area during a period in which hostilities (as defined in subparagraph (D) of this paragraph) occurred in such area.

"(C) Upon the request of any veteran other than a veteran referred to in subparagraph (A) of this paragraph, the Secretary may furnish counseling to the veteran to assist the veteran in readjusting to civilian life.

"(D) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which the members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.

"(2) The counseling referred to in paragraph (1) shall include a general mental and psychological assessment of a covered veteran to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.".

(2) Subsection (c) of such section is repealed.

(b) OTHER COUNSELING.—Such section is further amended by inserting after subsection (b) the following new subsection (c):

"(c)(1) The Secretary shall provide the counseling services described in section 1701(6)(B)(ii) of this title to the surviving parents, spouse, and children of any member of the Armed Forces who is killed during service on active military, naval, or air service in a theater of combat operations (as determined by the Secretary, in consultation with the Secretary of Defense) during a period of war or in any other area during a period in which hostilities (as defined in subsection (a)(1)(D) of this section) occurred in such area.

"(2) The Secretary may provide the counseling services referred to in paragraph (1) to the surviving parents, spouse, and children of any member of the Armed Forces who dies while serving on active duty or from a condition (as determined by the Secretary) incurred in or aggravated by such service.

"(3) The Secretary may provide to the parents, spouse, and children of any member of the Armed Forces who (as determined by the Secretary) is a prisoner of war, or is missing in action, such counseling as the Secretary determines appropriate to assist such persons with the mental or psychological problems associated with the status of such member as a prisoner of war or as missing in action, as the case may be.".

(c) AUTHORITY TO CONTRACT FOR COUNSELING SERVICES.—Subsection (e) of such section is amended by striking out "subsections (a) and (b)" each place it appears and inserting in lieu thereof "subsections (a), (b), and (c)".

SEC. 5. ADVISORY COMMITTEE ON THE READJUSTMENT OF VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 1712B the following:

"§ 1712C. Advisory Committee on the Readjustment of Veterans

"(a)(1) There is in the Department the Advisory Committee on the Readjustment of Veterans (hereafter in this section referred to as the 'Committee').

"(2) The Committee shall consist of not more than 18 members appointed by the Secretary from among veterans who—

"(A) have demonstrated significant civic or professional achievement; and

"(B) have experience with the provision of veterans benefits and services by the Department.

"(3) The Secretary shall seek to ensure that members appointed to the Committee include persons from a wide variety of geographic areas and ethnic backgrounds, persons from veterans service organizations, and women.

"(4) The Secretary shall determine the terms of service and pay and allowances of the members of the Committee, except that a term of service may not exceed 2 years. The Secretary may reappoint any member for additional terms of service.

"(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to veterans in order to assist veterans in the readjustment to civilian life.

"(2)(A) In providing advice to the Secretary under this subsection, the Committee shall—

"(i) assemble and review information relating to the needs of veterans in readjusting to civilian life;

"(ii) provide information relating to the nature and character of psychological problems arising from service in the Armed Forces;

"(iii) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting veterans in readjusting to civilian life; and

"(iv) provide on-going advice on the most appropriate means of responding to the readjustment needs of veterans in the future.

"(B) In carrying out its duties under subparagraph (A), the Committee shall take into special account veterans of the Vietnam era, and the readjustment needs of such veterans.

"(c)(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the readjustment of veterans to civilian life. Each such report shall include—

"(A) an assessment of the needs of veterans with respect to readjustment to civilian life;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) Not later than 90 days after the receipt of each report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

"(d)(1) Except as provided in paragraph (2), the provisions of the Federal Advisory Com-

mittee Act (5 U.S.C. App.) shall apply to the activities of the Committee under this section.

"(2) Section 14 of such Act shall not apply to the Committee.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1712B the following:

"1712C. Advisory Committee on the Readjustment of Veterans.".

(b) ORIGINAL MEMBERS.—(1) Notwithstanding subsection (a)(2) of section 1712C of such title (as added by subsection (a)), the members of the Advisory Committee on the Readjustment of Vietnam and Other War Veterans on the date of the enactment of this Act shall be the original members of the advisory committee recognized under such section.

(2) The original members shall so serve until the Secretary of Veterans Affairs carries out appointments under such subsection (a)(2). The Secretary shall carry out such appointments as soon after such date as is practicable. The Secretary may make such appointments from among such original members.

SEC. 6. PLAN FOR EXPANSION OF VIETNAM VETERAN RESOURCE CENTER PILOT PROGRAM.

(a) REQUIREMENT.—(1) The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a plan for the expansion of the Vietnam Veteran Resource Center program established pursuant to the amendment made by section 105 of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166; 99 Stat. 944). The plan shall include a schedule for, and an assessment of the cost of, the implementation of the program at or through all Department of Veterans Affairs readjustment counseling centers.

(2) The Secretary shall submit the plan not later than 4 months after the date of the enactment of this Act.

(b) DEFINITION.—In this section, the term "Department of Veterans Affairs readjustment counseling centers" has the same meaning given the term "center" in section 1712A(i)(1) of title 38, United States Code.

SEC. 7. REPORT ON COLLOCATION OF VET CENTERS AND DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINICS.

(a) REQUIREMENT.—(1) The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of the collocation of Vet Centers and outpatient clinics (including rural mobile clinics) of the Department of Veterans Affairs as current leases for such centers and clinics expire.

(2) The Secretary shall submit the report not later than 6 months after the date of the enactment of this Act.

(b) COVERED MATTERS.—The report under this section shall include an assessment of the following:

(1) The results of any collocation of Vet Centers and outpatient clinics carried out by the Secretary before the date of the enactment of this Act, including the effects of such collocation on the quality of care provided at such centers and clinics.

(2) The effect of such collocation on the capacity of such centers to carry out their primary mission.

(3) The extent to which such collocation will impair the operational independence or administrative integrity of such centers.

(4) The feasibility of combining the services provided by such centers and clinics in the course of the collocation of such centers and clinics.

(5) The advisability of the collocation of centers and clinics of significantly different size.

(6) The effect of the locations (including urban and rural locations) of the centers and clinics on the feasibility and desirability of such collocation.

(7) The amount of any costs savings to be achieved by Department as a result of such collocation.

(8) The desirability of such collocation in light of plans for the provision of health care services by the Department under national health care reform.

(9) Any other matters that the Secretary determines appropriate.

SEC. 8. VET CENTER HEALTH CARE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program for the provision of health-related services to eligible veterans at readjustment counseling centers. The Secretary shall carry out the pilot program in accordance with this section.

(b) SERVICES.—(1) In carrying out the pilot program, the Secretary shall provide the services referred to in paragraph (2) at not less than 10 readjustment counseling centers in existence on the date of the enactment of this Act.

(2) The Secretary shall provide basic ambulatory services and health care screening services by such personnel as the Secretary considers appropriate at each readjustment counseling center under the pilot program. The Secretary shall assign not less than one-half of a full-time employee equivalent at each such center in order to provide such services under the pilot program.

(3) In determining the location of the readjustment counseling centers at which to provide services under the pilot program, the Secretary shall select centers that are located in a variety of geographic areas and that serve veterans of a variety of economic, social, and ethnic backgrounds.

(c) PERIOD OF OPERATION.—(1) The Secretary shall commence the provision of health-related services at readjustment counseling centers under the pilot program not later than 4 months after the date of the enactment of this Act.

(2) The pilot program shall terminate 2 years after the date on which the Secretary commences the provision of services under paragraph (1).

(d) REPORT.—(1) The Secretary shall submit to Congress a report on the pilot program established under this section. The report shall include the following:

(A) A description of the program, including information on—

(i) the number of veterans provided basic ambulatory services and health care screening services under the pilot program;

(ii) the number of such veterans referred to Department of Veterans Affairs general health-care facilities in order to provide such services to such veterans; and

(iii) the cost to the Department of Veterans Affairs of the pilot program.

(B) An analysis of the effectiveness of the services provided to veterans under the pilot program.

(C) The recommendations of the Secretary for means of improving the pilot program, and an estimate of the cost to the Department of implementing such recommendations.

(D) An assessment of the desirability of expanding the type or nature of services provided under the pilot program in light of plans for the provision of health care services by the Department under national health care reform.

(E) An assessment of the extent to which the provision of services under the pilot program impairs the operational or administrative independence of the readjustment counseling centers at which such services are provided.

(F) An assessment of the effect of the location of the centers on the effectiveness for the Department and for veterans of the services provided under the pilot program.

(G) Such other information as the Secretary considers appropriate.

(2) The Secretary shall submit the report not later than 18 months after the date of the enactment of this Act.

(e) DEFINITIONS.—For the purposes of this section:

(1) The term "Department of Veterans Affairs general health-care facility" has the meaning given such term in section 1712A(i)(2) of title 38, United States Code.

(2) The term "eligible veteran" means any veteran eligible for outpatient services under paragraph (1), (2), or (3) of section 1712(a) of such title.

(3) The term "readjustment counseling center" has the same meaning given the term "center" in section 1712A(i)(1) of such title.

(By request of Mr. CONRAD, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I offer my support for S. 1226, the proposed Readjustment Counseling Services Amendments of 1994, as reported by the committee and as it will be amended with an amendment by Senator LEAHY.

This bill, introduced by my good friend and colleague on the committee, Senator DANNY AKAKA, seeks to strengthen and expand the VA Vet Center Program. I defer to Senator AKAKA to describe the specific contents of the bill.

Mr. President, I do want to note one particular provision in the bill. I am delighted that this measure would expand eligibility for vet center counseling to veterans from World War II and the Korean war. While many of these veterans have long ago readjusted to civilian life, vet center counselors—including many in my home State of West Virginia—report that a significant number of World War II and Korean veterans continue to seek counseling for post-traumatic stress disorder and other long-term problems associated with their service. The Senate has, on a number of earlier occasions, passed provisions expanding eligibility to these wartime veterans. I urge the Senate to pass S. 1226 and, once again, support the counseling needs of all our wartime veterans.•

Mr. AKAKA. Mr. President, I rise to urge passage of S. 1226, the Readjustment Counseling Service Amendments of 1994, as reported unanimously by the Veterans' Affairs Committee on November 3, 1993. S. 1226 as reported is

based on original legislation introduced by Senators DASCHLE, INOUYE, WELLSTONE, and myself on July 14, 1993, which proposed numerous changes in the organization, policies, and programs of the Readjustment Counseling Service [RCS], more popularly known as the Vet Center Program.

As my colleagues know, vet centers are storefront, community-base centers operated by the Department of Veterans Affairs [VA] that offer readjustment counseling services to Vietnam-era veterans and post-Vietnam combat veterans in an informal, user-friendly environment. Since the program was first authorized in 1979, it has grown from 87 facilities to 201 today, operating in all 50 States. Together, these centers have helped more than 1.4 million veterans successfully readjust to civilian life. In the process, the Vet Center Program has established unmatched leadership in such areas as post-traumatic stress disorder, homelessness, disaster assistance, sexual trauma, alcohol and substance abuse, suicide prevention, the physically disabled, and minority veterans.

S. 1226 as reported attempts to ensure that the program remains viable, relevant, and responsive to the needs of today's veterans. It hopes to accomplish these goals by achieving two general aims. On the one hand, it preserves what is best in the Vet Center Program by codifying and improving its organizational structure and those administrative practices which have hitherto made the program uniquely effective. On the other, it enhances the ability of vet centers to undertake new challenges by expanding eligibility and freeing them to explore the vast potential of vet center-based primary health care and benefits services.

Specifically, S. 1226 as reported would: Codify the current organizational structure of RCS and require that funding for the program be specifically identified in the budget; raise the Director of RCS to the Assistant Chief Medical Director level; expand eligibility for vet center services to all combat veterans, regardless of period of service, and authorize services for all other veterans on a resource-available basis; authorize bereavement counseling provided through vet centers for the families of veterans who died in combat, and authorize such counseling to survivors of veterans who died of other service related causes on a resource-available basis; establish a statutory advisory Committee on the Readjustment of Veterans; require VA to develop a plan to assign additional employment, training, and benefit counselors at vet centers; require a report on the feasibility and desirability of collocating vet centers and VA outpatient clinics; and, undertake a pilot program authorizing the provision of limited, primary health care services at vet centers.

I believe that the provisions outlined in S. 1226 as reported must be enacted if the Vet Center Program is to remain a vital, progressive force in addressing the needs of today's veterans population. This measure has the full, bipartisan support of the Veterans' Affairs Committee, which held extensive hearings on this bill on August 3, 1993. The major veterans organizations which testified at the hearing, including the Veterans of Foreign Wars, the Disabled American Veterans, The American Legion, and the Paralyzed Veterans of America, expressed strong support for S. 1226; in addition, AMVETS and the Vietnam Veterans of America submitted written testimony supportive of the measure. All of the RCS field staff who were invited to comment on the bill made positive statements in behalf of the legislation. With certain exceptions, the Department commented favorably on many of the bill's provisions. After making improvements to the bill suggested by the hearing witnesses and members of the committee, the committee unanimously voted to report S. 1226 to the Senate floor last November 3.

Thank you, Mr. President. I urge my colleagues to support this important measure. I wish to thank Senator ROCKEFELLER, the chairman of the committee, and Senator MURKOWSKI, the ranking minority member, for their help in facilitating consideration of this legislation. Bill Brew and Thomas Tighe of the majority staff provided me with exceptional insights and suggestions that materially improved the bill; Chris Yoder and Bill Tuerk of the minority staff also made significant contributions. Finally, I would be remiss if I did not single out for special recognition Gerry Kifer, formerly of my staff, without whose hard work and dedication this legislation would not have been possible.

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

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

The motion to lay on the table was agreed to.

FARMERS HOME ADMINISTRATION IMPROVEMENT ACT OF 1994

Mr. CONRAD. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 1930, the Farmers Home Administration Improvement Act of 1994, and that the Senate then proceed to its immediate consideration; that the bill be deemed read a third time, passed, and the motion to reconsider laid upon the table.

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

So the bill (S. 1930) was deemed read a third time and passed, as follows:

S. 1930

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 "Farmers Home Administration Improvement Act of 1994".

SEC. 2. DELINQUENT FARMERS HOME ADMINISTRATION OBLIGATIONS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(c) The Secretary may use for the prosecution or defense of any claim or obligation described in subsection (b)(5) the Attorney General, the General Counsel of the Department of Agriculture, or a private attorney who has entered into a contract with the Secretary.".

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

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

The motion to lay on the table was agreed to.

COMMENDING ISRAEL AND EGYPT ON THE 15TH ANNIVERSARY OF THE SIGNING OF THE HISTORIC TREATY OF PEACE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 194, a resolution introduced earlier today by Senators PELL, HELMS, et al., commending Israel and Egypt on the fifteenth anniversary of the signing of the historic treaty of peace; that the resolution be adopted; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 194) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 194), with its preamble, reads as follows:

S. RES. 194

Whereas, March 26, 1994 is the fifteenth anniversary of the signing by Prime Minister Begin of Israel and President Sadat of Egypt of the Treaty of Peace between the Arab Republic of Egypt and the State of Israel;

Whereas, the Treaty of Peace has resulted in the longest period without hostilities between Israel an Arab neighbor since the founding of Israel in 1948;

Whereas, the Treaty of Peace has served as the foundation of subsequent initiatives to secure a lasting peace between Israel and its Arab neighbors;

Whereas, the Treaty of Peace has served to enhance regional stability in the Middle East: *Now, therefore be it*

Resolved, That the United States Senate—

(1) congratulates Israel and Egypt on the fifteenth anniversary of the signing of the historic Treaty of Peace between the Arab Republic of Egypt and the State of Israel;

(2) commends Israel and Egypt for their fortitude and commitment to international peace and regional stability; and

(3) reaffirms its support for Israel and Egypt as they continue to pursue a lasting peace in the Middle East.

Mr. PELL. Mr. President, this coming Saturday, March 26, 1994, marks the

fifteenth anniversary of the signing of the peace treaty between Egypt and Israel. Today I am Submitting a resolution, along with Senators HELMS, MOYNIHAN, BROWN, MITCHELL, and DOLE, to commemorate this historic occasion.

The only peace treaty that has ever been implemented between Israel and an Arab country, the Egypt-Israel treaty has stood the test of time and is widely recognized as a milestone in the history of the Middle East. It has become the foundation upon which subsequent peace initiatives have been built, including the landmark Declaration of Principles between Israel and the Palestine Liberation Organization.

The Egypt-Israel peace treaty, which developed out of the Camp David agreements, also represents one of the highlights of American diplomacy in the Middle East. It is a shining example of how American involvement can promote stability in a strategic, but volatile region, and it stands as one of the greatest legacies of President Carter's administration.

Finally, Mr. President, the Egypt-Israel peace treaty is a tribute to individual courage and vision. History, it is said, can bestow no greater title upon a man than "peacemaker." If that is true, then President Carter, Egyptian President Anwar Sadat and Israeli Prime Minister Menachem Begin should rank among the most distinguished leaders of our time. My high regard and my admiration for them is as strong today as it was 15 years ago. Their spirit, their bold tradition has helped to guide a new generation of leaders seeking to build upon the achievements of Camp David.

I am pleased to introduce this resolution, which pays due respect to the people of Egypt and Israel for standing by their commitments. As many of us know, it has not been easy going for either side since 1979, and it has taken a great deal of strength and perseverance for Israelis and Egyptians to fulfill their dream of peace.

I am grateful to Senators HELMS, MOYNIHAN, BROWN, MITCHELL, and DOLE for their support, and I hope very much that the Senate will agree to this resolution.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDERS FOR TOMORROW

Mr. CONRAD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stands in recess until 10 a.m., Friday, March 25; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; and that the Senate then resume consideration of S. Con. Res. 63, as provided for under the provisions and limitations of a previous unanimous consent agreement.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. CONRAD. Mr. President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 9:44 p.m., recessed until Friday, March 25, 1994, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 24, 1994:

THE JUDICIARY

PAUL D. BORMAN, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN, VICE STEWART A. NEWBLATT, RETIRED.

DENNY CHIN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

R. SAMUEL PAZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.