SENATE—*Tuesday, May 3, 1994*

(Legislative day of Monday, May 2, 1994)

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

The PRESIDENT pro tempore. The Senate will be led in prayer by the Reverend Richard C. Halverson, Jr.

Mr. Halverson, please.

PRAYER

The Reverend Richard C. Halverson, Jr., of Falls Church, VA, offered the following prayer:

As we go to prayer, I would like to remember my father, the Chaplain of the Senate, in prayer, and wish that You would bless him.

Let us pray:

Almighty God, as it is written, Thou hast "made of one blood all nations of men * * * to dwell on the face of the earth." And Thou hast determined that we should seek Thee that we might find Thee.

Inasmuch as Thy Word declares that Thou "be not far from every one of us" and that, in Thee, "we live and move and have our being," we pray that Thou wouldst reveal Thyself to us, not so much in the spectacular realm of heavenly visions, as in the common, ordinary circumstances of life.—Acts 17:26–28.

Let those experiencing a wilderness of unfulfillment, in the midst of plenty, find manna in their hunger for more. Cause the pain of broken promises and relationships we endure to be changed into the birth pangs of new life. And make even the path that some have determined to take away from Thee to become a road to Damascus.

We ask this in the name of Jesus Christ who pointed the way to Thee, not by leaping down from the temple's pinnacle to be rescued by angels before astonished crowds, but by being lifted up in suffering and death on the cross. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. The Senate will be in order.

Under the previous order, leadership time is reserved.

MORNING BUSINESS

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

The first hour of morning business will be under the control of the Senator from Georgia [Mr. COVERDELL] or his designee.

Mr. COVERDELL. Thank you, Mr. President.

The PRESIDENT pro tempore. Mr. COVERDELL is recognized to control the first hour.

HEALTH CARE REFORM

Mr. COVERDELL. Mr. President, 1 week ago today, this past Tuesday, basically because of the events surrounding the loss of our former President, Richard Nixon—a moment, I might say, that caused pause for the Nation to reflect on the half century of dominance by the former President on the national stage, and as we might expect when something of that occurs, all else seems to pale from the scene. But a little noted event of significant import did occur this past Tuesday. That was the announcement to the Nation on the part of the U.S. Chamber of Commerce on the ongoing dialog with regard to health care and health care reform in our Nation.

There are 220,000 members, large and small businesses of the U.S. Chamber, a rather significant and prominent group in our Nation, and they have been in the business for the last several months of surveying their membership with regard to their attitudes and views on multiple proposals for health care.

It is very interesting because the survey was most elaborate. It was not the questions or the several pages that you had to spend considerable time on, Mr. President, to determine exactly how you might respond. What is so terribly interesting about it is that the response was the largest in the history of the U.S. Chamber of Commerce. Never before have so many responded. Over a quarter of the members of the 220,000 took the time to prepare this elaborate document and send it in.

At the outset, that is encouraging for me because it indicates that citizens and businesses are paying attention. There are lots of pieces of legislation that come through this august Chamber that, I might say, not every American is alert to or quite attuned to what the results will be. But if there ever was a proposal for which everyone in the country ought to be attentive, it is the President's proposal for health care reform.

So the fact that the largest number in the history of the Chamber responded ought to be encouraging to everyone. I am finding that in general, as I travel across our State of Georgia and the country, that people are with increasing intensity beginning to focus on the magnitude of this proposal. I think they are beginning to understand that it will have, if adopted, a massive impact on every citizen, every family, every business, and every community leader.

For quite some period of time, I have argued that the focus of our reform ought to be targeted, that essentially some 80 percent of our fellow citizens are reasonably well served by the current health system, and that some 20 percent or less of our citizens are having some difficulty with the medical system. Some of those difficulties are significant, some less so. But it is important to note that about 80 percent, 8 out of 10 Americans, are satisfied to very satisfied with what is happening.

The reason I mention those figures is that to me the data that came from this important survey is multiple and corroborative, I think. It asks the Chamber members' views on proposed health care concepts. They call it "plan." But essentially they are concepts, Mr. President, and the first one was: Is it acceptable or unacceptable to focus on enhancing the current system? That is the point I was just making, that if you have 8 out of 10 Americans reasonably well served and 2 out of 10 not so well served, do you cash in the whole program, or do you focus on the issues that are troubling the 2 out of 10?

On enhancement of the current system, Mr. President, 84 percent of those who responded—that was 40,000-plus—said that was the acceptable way to proceed; 12.3 percent found that to be unacceptable. It goes through expanding low-income coverage, and that is a draw—45 percent think that it is, and 43 percent think it is not.

Mandated employer coverage, total disagreement: 23 percent acceptable, 71 not.

Mandated individual coverage: 39 percent acceptable, but 52 percent not.

It starts to get in the debate area. But undebatable, Mr. President, is the concept "Government-run system."

Should we move in this country to a system managed by the Government, like the Postal Department? Acceptable: 7.7 percent. Unacceptable: 87 plus percent.

This is not just a smattering, or an isolated opinion. This is coming from big and small entrepreneurs from every State of our Union.

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

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The salient fact and, finally, Mr. President, is that 84 percent are focused on taking what we have, recognizing that it is a good system, and making it better. They are calling on us to make this system better. And only 7 percent—hardly a handful—would opt for turning this massive, private, personal service over to an ever-expanded Government, with 87 percent totally rejecting that concept.

Mr. President, I think these findings are significant, both in number and size and diversity, and coming from all across the Nation. And the magnitude of the statement, which also corresponds, ironically, with just about a split in the Nation that are being well served or unserved. But this is a very significant finding, and it was rather unnoticed. As we move into this year of significant debate on the question of health care reform, I feel that these findings need to be at the center of our discussions.

Mr. President, having opened with that statement with regard to the U.S. Chamber poll, I yield 5 minutes of my time to the distinguished Senator from Utah [Mr. BENNETT].

The PRESIDENT pro tempore. The Senator from Utah is recognized for 5 minutes.

HEALTH CARE

Mr. BENNETT. Mr. President, I thank my colleague from Georgia for his courtesy and his leadership in helping us organize the dialog on this issue that has proved to be so vexing as the Congress addresses the challenge of health care.

I give full credit to the President of the United States for his having raised the issue and putting it high on the agenda. There is no question that it is a problem in our country. I disagree with those who say there is no crisis in health care because no one is dying because they cannot get to a hospital. That is a very limited definition of "crisis," in my view.

We have people who are locked in jobs that they do not like because they are afraid they would lose their health coverage if they leave. We have people who cannot get the kind of insurance that they need because of preexisting conditions. We have financial hardship of great degree because of the inability of our present system to meet every circumstance.

Taken together, all of these problems create, for me, a sufficient difficulty as to be considered a crisis. So I do not join with those who attack the President for even raising the issue, and I give the President the full credit for the leadership he has exercised.

At the same time, Mr. President, I want to point out the magnitude of the task the President has assumed. We are talking here about an activity that consumes one-seventh of our total economy, a number approaching a trillion dollars worth of economic activity every year. On the face of it, does it seem logical that the Congress can fix all of the problems in a trillion dollars' worth of economic activity with a single bill, in a single year? I think not.

I think the situation is so serious, the circumstances so overreaching throughout the economy, that we should move with great caution to turn the whole present system on its head. Or, just as I said earlier, though there may be a crisis, there is not an emergency. Some people may say these are semantic differences. But the fact is that the present system is indeed, for all of is problems and difficulties, taking care of the health care needs, according to the surveys, of somewhere between 70, 80, maybe even 85 percent of our citizens. Do we want to jeopardize the health care that is being delivered satisfactorily to over 80 percent of our citizens with hasty action that is ill-considered, that would lead us in the direction, we would hope, of taking care of the rest? The problem is we may end up jeopardizing health care for everyone if we do it in too slipshod and too hasty a fashion.

These are my objections to the President's proposal.

No. 1, it assumes that the whole system can be solved with a single bill in a single Congress. I have addressed that.

No. 2, it is based on assumptions that are now 2, maybe even 3 years old. In some industries, that would be fine, but in the health care circumstance, the way we deliver medicine and health care in this country is changing so rapidly, that a 3-year-old knowledge base on which to build legislation is already obsolete. Medical procedures that were ordinary 3 years ago have been rendered obsolete by new discoveries, and costs have come down that render the old cost trends and predictions illogical and improper. Yet, all of the assumptions that went into the creation of the President's plan are locked in place as of the time that task force first met.

Finally, there is no acceptance in the President's plan of the power of market forces. Many people say: Well, you cannot deal with market forces in health care because people do not make market-type decisions when they are sick.

That is true to a certain extent. But one of the factors that must be included in any such discussion is the inevitability of market forces on any economic circumstance.

We have sayings engraved around this Chamber. With the help of the President pro tempore, I finally deciphered all four of them. I give each one my full support.

What I am about to say may not be as profound as the ones that are here, but this, too, is a truth I wish we had engraved in stone somewhere, which is: "Governments cannot repeal the law of supply and demand." Yet we try. Over and over again, we try to repeal the law of supply and demand by governmental decree.

Many of the things that are in the President's bill would fall under this particular challenge, attempting to repeal market forces by Government decree and producing, as governments always do when they make this attempt, economic dislocations which fall to the disadvantage of our citizens.

So, Mr. President, while I give the President full credit for his leadership in getting this issue where it belongs, at the top of the agenda, I ask him and those who support him to step back and take a look at the size of the task that has been undertaken and to realize that it is more important, given the size of this challenge, that we do it right than that we do it all at once.

Therefore, at the appropriate time, I intend, with such allies as I might be able to recruit, to offer legislation that would attack this problem in a logical, piecemeal kind of fashion instead of attempting to swallow the whole elephant all at once.

We can do this without attacking the President's motives. We can do this while giving the President the full credit that he deserves. But the size of the problem requires that we take this kind of careful approach. If we do not, we run the risk, as I say, of jeopardizing health care not only for all of those who already have it but, ironically, for those to whom the President is trying to extend it, because, if we upset the whole system in too hasty action, everyone is damaged thereby.

Therefore, Mr. President, I ask this body to adopt this sense of judicious care in approaching this problem and hope that we can understand just how serious the implications will be if we act in too precipitous a fashion.

I thank the Chair.

Mr. COVERDELL. I thank the Senator from Utah.

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

Mr. COVERDELL. Mr. President, the Senator from Utah is a distinguished business person in his own right and is one of those fresh faces that has actually been involved with Main Street America, and I appreciate very much his taking time to come and share his views on this very important subject of health care reform, which is here this morning.

As I said a moment ago, Mr. President, we have now had findings from the U.S. Chamber of Commerce which were revealed last week that are very telling. One of the points I did not make a moment ago was the fact that the data that the U.S. Chamber has now presented is not so much startling as it is corroborating. The findings that they have put forward fall right in

line with everything we have been seeing over the last month with regard to public attitudes about the manner in which we should approach health care reform.

It almost always breaks as the numbers that the chamber brought forward indicate. Just the week before a CNN-USA Gallup Poll showed that the general citizens, not business people in particular, but just the general citizenry also felt overwhelmingly that we should begin to focus on targeted reform and that we should not destabilize perhaps the most innovative, creative medical system in the history of the world but improve it.

But coming back to the U.S. Chamber, I think one of the reasons you get such an overwhelming response from business people across the country is their attitudes about employees. I think anyone who has ever worked in a business or run a business realizes that the greatest asset of any business is its people.

After visiting with business people for the last year and talking about the subject, I am fearful that policymakers from Washington are getting perilously close to taking what has always been perceived as the Nation's greatest asset, its employees, and turning them into liabilities, changing the entire equation by which employers of companies look across the table at a potential employee.

Instead of seeing the energy and the creativity and the asset of energy and contribution, they are beginning to tally up with their computer what the cost and liabilities are of bringing a new person into the company. This is a bad, bad thing for our country.

I want to share, Mr. President, some information with regard to the effects of Government management of medicine on jobs. A number of organizations have estimated job effects of the President's health care proposal. For example, a February 1994 CBO report states:

> Taking together all the provisions that might increase or reduce participation in the labor force, CBO estimates that eventually between one-quarter of 1 percent of the labor force might prefer to stay home if the proposal was enacted.

What does that mean? We use so many numbers up here that we get lost in it. But what that statement means is that between 300,000 and 1.2 million people will not be working if the plan is enacted.

Back to my comment about sitting across the table. That means the employer, looking across the table at a potential employee, says to himself or herself, "If that person goes to work here, I have this much more burden to deal with, this much more overhead, this much more liability, and I choose not to do that."

I would not want to be a recent graduate filling out that application, looking for a job, if we continue to impose these kinds of obligations on the business of commerce in America.

You know these just read like numbers—300,000 people. We forget those are 300,000 individuals who live in over 300,000 families, all of whom are dependent in one way or another on the person getting a job.

Of all the things that we can do, we ought to be in the business of making it easier to get a job. A job is the core of personal dignity and worth. A job is what allows a person to seek and pursue his or her growth, to protect and preserve their family, to educate their family, and, I might add, to provide for the health of their family. Any time we do or take actions here that means someone cannot get a job, we should pause—300,000 to 1.2 million.

That is not all. CBO goes on, and it says: "Overall the proposal would probably impose greater employment-related distortions than it removed." Distortions—that means the business that goes on across the table between the potential employer and the potential employee.

> Competition among employers for the reduced labor supply would slightly raise real wage rates, but the effect of a rise in wages would not completely offset the direct effect of the President's proposal. The administration's proposal would bring about a major change in the nature of health care costs for many workers. The cost would operate like a new levy on work. The proposal would create an implicit levy on work because it would make health coverage universal without charging many nonworkers for the full cost of their insurance.

That means that those people working are having to pay for those who are not—a transfer of the result of labor from the person who conducts the labor to somebody who does not. That means levy, burden, waste.

> The premium would simply reduce take-home pay from the point of view of the individual worker buying anything.

According to the President's own Council of Economic Advisers in their 1994 report, it is estimated that about 350,000 to 600,000 additional people will be retired—that is not being able to get a job, that is retired—as a result of the provisions of the Health Security Act.

"Retired." That is an unusual word. What does that mean? That means let go, terminated, fired, unemployed, without the job, without the dignity that the job provides, without the resources to care for and nurture one's own family and self; lose a job.

The Employment Policy Institute issued a September, 1993 report concluding that up to 3.1 million jobs could be lost if the President's plans were in effect—828,000 jobs would be lost in the restaurant trade alone; 726,000 jobs would be lost in the retail trade alone; 194,000 jobs would be lost in agriculture. The construction industry, repair services, personal services, and private household services would also suffer disproportionate job loss.

But while we are creating this new Federal bureaucracy, I guess we can take some comfort—or some can, I do not—that, according to the Multinational Business Services, the administration's health care proposal will require nearly 100,000 new bureaucrats. So we are trading off hundreds of thousands of private sector jobs in exchange for 100,000 new Government jobs whose salaries will cost $3.9 billion—$3.9 billion.

Mr. President, this is not a good trade.

Mr. President, I yield to the distinguished Senator from Montana [Mr. BURNS].

How much time does the Senator require?

Mr. BURNS. Five minutes.

Mr. COVERDELL. I yield 5 minutes of my time to the Senator from Montana.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized for 5 minutes.

HEALTH CARE

Mr. BURNS. I thank my friend from Georgia and I thank the Chair, and the chairman of the committee I serve on.

Mr. President, I just got back from Montana, and, of course, health care is probably the No. 1 topic we are asked about in our town meetings. Going around in the State of Montana, record crowds turn out to visit about the issues of Government. Some are saying, "Government, get on out of my life." Others are saying, "What about health care? Where is it going? What is it going to lead to, and here is our concern."

I do not think anybody was really surprised at the last survey taken by the U.S. Chamber of Commerce. The 40,000 of their members nationwide are still further proof of what we have been saying all along, that, yes, the Clinton plan, or the one submitted by the administration, is pretty much unacceptable, but the status quo is also unacceptable. So we know that we are in for some change. We have to seek those places that we can find agreement and compromise on and get on with living.

If you live on the border of Canada, which has a single-payer, Government-run system, you will soon understand why that plan is not exactly working for all people in Canada. Yes, they have universal coverage. What they do not have is universal access. We have universal access, but we do not have universal coverage. So somewhere in the middle there, we have to find some way to make ours work just a little bit better.

If you drive into Billings, MT, which has a very active medical corridor, with two of the top hospitals there in the northwest and the northern high plains, you will find just about one out of every five license plates from Can-

ada, receiving their elective surgery and their medical care here in this country. Which tells me that, yes, we have the highest quality of health care there is in the world today. People come here for our health care services. You do not see long lines of Americans going somewhere else.

The survey showed that anywhere from 77 percent to 90 percent of those responding believe that we should build on the system that we currently have. In my State of Montana, the figure was 88 percent. That is an overwhelming majority.

And listen to this. Ninety percent of the Montanans who answered the questionnaire of the U.S. Chamber of Commerce felt that the Government-run health care system is completely unacceptable. Now I do not know about the rest of my colleagues, but these numbers speak volumes in my book. And the numbers across the States are awfully similar.

The study indicates that members want incremental reform. It does not mean that we should not be avoiding some very serious problems that we have from the industry, but yet I think we could solve some of those problems.

Getting started is what I would call incremental reform that can actually prove to be monumental. We congratulate the President for stepping into the batter's box and stepping up to the plate. But now let us find those places where we can agree.

The insurance companies have indicated to us that they are ready to come to the table and start solving some problems called preexisting conditions. If a national pool has to be established for catastrophic ailments that befall some people, then let us do that. But if we take care of preexisting conditions, we do a lot as far as portability, taking care of that problem, runouts, and also job lock; in other words, people locked into jobs, but they are afraid to change jobs because they think they will lose their health care.

Making those incremental changes is not an easy task and it is not an easy way out. But it will take the steps that we need to do in a responsible fashion, making the change in our current system that it so desperately needs, yet it does not destroy the system.

We have to always remember, we have to build on the system that we have now. I think we need to pay serious attention to those States that border on Canada, because up in my part of the country on the high line, we can hear Canadian radio stations, when you get up in the morning, as an official part of the stations, just like a traffic report or school closing or school openings, they will say such-and-such hospital will not take new patients today or tomorrow because they have a money problem of trying to reach to the end of their current fiscal year. So, if you are to get caught in those times, we cannot get sick tomorrow or the next day because the hospital is not taking any more new clients, so to speak. So we hear that. I do not want to get locked into a situation where we are operating under the same kind of system.

So, let us do the right thing. Let us do the right thing and go incrementally, find those issues we can agree on, and do what the American people want us to do. That is to pass some kind of reform this year.

I thank the Chair and I yield the floor.

Mr. COVERDELL. Mr. President, how much time is remaining?

The PRESIDENT pro tempore. The Senator has 23 minutes and 15 seconds remaining.

Mr. COVERDELL. Mr. President, I yield 15 minutes to the distinguished Senator from Texas.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM], is recognized for 15 minutes.

HEALTH CARE

Mr. GRAMM. Mr. President, I thank our dear colleague from Georgia for yielding.

There are a lot of elements that you can talk about in health care. I would like, today, to try to focus on the issue of the role of Government in the President's health care reform proposal. And I would like to focus on the issue of freedom.

It is a very interesting phenomenon to me that the debate on health care is now moving to its most important issue. I rejoice in that fact. I think it is important that everybody engaged in the debate start to move in that direction.

I think one can make many criticisms of our President, but no one can claim that the President is not smart. If you look at the President's health care plan, the Congressional Budget Office in its February 1994 study entitled "An Analysis of the Administration's Health Proposal" has concluded that within 2 years, starting from nothing, if we adopt the President's health care plan it would become, in 2 years, the largest single program in the Federal budget.

I remind those who are listening, this is not PHIL GRAMM, Senator from Texas, talking. This is the Congressional Budget Office which is run by a director who is, in essence, appointed by the Democratic chairman of the Budget Committee in the Senate, and the Democratic chairman of the Budget Committee in the House.

This director of the Congressional Budget Office, which does the budget analyses for Congress and sets the parameters under which we legislate, in looking at the President's health care proposal, has concluded that within 2 years of its creation, the President's plan would be larger than Social Security, larger than Medicare, larger than defense, and in 10 years, if everything worked exactly as the President says it would work—if the Government could really run the health care system, if wage and price controls worked, something that they have never done in 5,000 years of recorded history—still, under ideal circumstances in a world as envisioned by our President, his new health care plan according to CBO will cost $750 billion a year.

Nobody but Ross Perot knows what a billion dollars is, but let me set $750 billion in perspective. That is over half of the current Federal budget, that we will spend in 1 year in funding the President's new health care plan.

You might ask why are we not debating how we are going to fund this? When you read through this great big, thick plan of the President's, when you get down to the bottom line, he says we can fund this $513 billion a year cost now—$750 billion a year 10 years from now—with the savings from the efficiency and economy that he says will come from the Government taking over and running the health care system. Who says there is nothing humorous about this debate?

You would think we would be debating whether or not this plan would bankrupt the Government or force rationing and destroy the greatest medical care system in the history of the world, but we are not. The reason we are not is because the President understands that Congress is not going to reject his plan because it bankrupts the country. In little installments, the Congress does that almost every day.

Second, you might think the debate would be focused on jobs. The President's health care plan imposes a 7.9-percent effective payroll tax, a 1.6-percent salary tax on working people, thus raising the cost of job creation by 9.5 percent. Even the President's own numbers show 700,000 Americans losing their jobs. Most outside groups estimate that 2 million people will lose their jobs, tens of thousands of small businesses will be driven out of business, because of this increase of almost 10 percent in the cost of creating jobs. The bottom rung of the economic ladder would be sawed off, as the cost of creating new jobs would go up. You might think the debate on health care would be about jobs, but the President knows that we are not going to reject his health care plan because it puts people out of work, because many of the things the majority in Congress does every day puts people out of work.

The President knows that the silver bullet issue is not bankrupting the country, not putting people out of work—the silver bullet issue is freedom. The President knows with certainty that if the American people believe that his plan takes away from them private medicine, private insur-

ance, the right to choose their own health plan, that his plan is dead.

In light of that, what we have seen, especially in the last few weeks, is that the President has gone to great lengths to try to convince people that his plan is not a Government plan. I will just read from his speech on Monday. He says, "When we [meaning the administration] try to fix it [meaning the health care system], what do our adversaries say?"

And then he goes on to quote his adversaries, people like me.

"'They are trying to have the Government take over the health care system.' False," he says.

In other words, the President is saying that those who oppose his plan claim that it would result in the Government taking over the health care system. He says that is not true.

He then goes on and says it is not true again, because the President knows if you repeat something long enough people are going to start believing you. "That is our plan, hardly a Government takeover of health care," he says.

If there is one thing I have learned, it is that it does not do you a lot of good to get into a shouting match with someone who has a bigger megaphone than you do. So what I want to do is let Democrats and the people they appoint to study these issues debate themselves. I have gone through this book put together by the Congressional Budget Office, which is controlled by Democrats and which is the official budgeting arm of Congress, so when the President's bill comes to the floor of the Senate, what its February 1994 analyses says—not what the President says—will dominate our debate.

Is the President's plan a private system built on private insurance and consumer choice, as the President says? That is the million dollar question. Let us look at what the Congressional Budget Office says. The Congressional Budget Office says, on page 47 of its study, "On balance, the new program"—which is the President's program—"seems to represent an activity of the federal government that relies on the exercise of sovereign power," on the power of the Government to mandate, to force, and to coerce—that is what sovereign power is.

On page 49, the Congressional Budget Office says, "Although CBO's analysis has concluded that the health alliances"—that is the foundation of the President's plan, that is where you are forced against your will to buy health insurance and health care—"health alliances would be more like federal agencies than like state or private agencies, it has also found that the Administration's proposal would be unique in its form, shape, scope, and complexity." That is on page 49. That is not me talking. That is the official budget analyses arm of the U.S. Congress.

On page 47, "Although the states and the alliances would have important roles and responsibilities, they would be acting largely as agents of the federal government." This is a plan the President says is not a Government plan. But the Congressional Budget Office says that these alliances—and notice the President has gone through several iterations of what to call these things, first it was: "Health care purchasing cooperatives." Then they did polling and the polls found people did not like that term, so then they started to use the word "alliances." But no matter what you call it, the Congressional Budget Office says they are going to be "acting largely as agents of the Federal Government."

On page 49, "The flow of premiums and spending into and out of the alliances would dwarf the income and outgo of Social Security" —this is a modest program, the President says—"which is currently the largest Federal program."

On page 49, "The complexity of the structure would be unprecedented."

Finally on page 44, "The Congressional Budget Office concludes that it"—the administration's plan—"establishes both a Federal entitlement to health benefits and a mandatory payment to finance those benefits."

I ask the Senator to yield me 4 additional minutes.

Mr. COVERDELL. Mr. President, I yield 4 minutes to the Senator from Texas.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM], is recognized for 4 additional minutes.

Mr. GRAMM. Mr. President, the reason I want to point these things out is not that I want to say the President is not leveling with the American people. That is not a very productive debate. But let me tell you the problem.

When this bill comes to the floor of the Senate—and when we are dealing not in beautiful rhetoric but in reality—the first amendment I am going to offer will say that no American will have any health insurance that they want to keep canceled by this bill and that no one will be forced against their will to buy health insurance or health care through any mandatory agency.

My guess is that that amendment will be adopted. If you listen to what the President is saying, you would say, what difference would that amendment make? It would not make much difference to the President's rhetoric, but it kills his health care plan because the President's health care plan is very clear. His rhetoric may not be clear, but the plan is very clear. If you work for the Federal Government, you are exempt. So the Congress will be exempt, and everybody who works for the Federal Government, under the President's plan, will be privileged—that is until I offer my second amendment which will require that everyone has to be included in the President's plan.

But under this plan as it now stands, if you work for the Federal Government, you are exempt. Now, if you work for a company with 5,000 or more employees, it can buy you out of the Government plan by paying 1 percent of its payroll to the Government. But if you are anybody else working in the American economy, your health insurance is going to be canceled, and you are going to have to buy health care through a Government-run cooperative that, according to the Congressional Budget Office and according to the President's own bill, is run by the Federal Government, controlled by a seven-member board.

An incredible thing about the President's plan is, despite all his efforts to convince people otherwise, the fact is that this plan cancels private health insurance, limits freedom and, in one of the most incredible positions taken in the bill, imposes $10,000 in fines on anyone selling private insurance—this is something that I have raised on many occasions, generally having supporters of the President's plan deny the existence of such a provision until I finally learned to carry a copy of the page around in my pocket. To show you how alien the President's plan is to consumer freedom, look at how the plan addresses the question of whether or not, once you have been forced to buy health insurance through these Government-purchasing cooperatives, you could still go out and buy private health insurance to cover your family should you desire to do so. You can do that in Britain, even though we call their system socialized medicine. People there who make enough money normally have to pay for the Government program but if they do not want to use it for their loved ones, they may go out and buy private health insurance to escape the Government program.

But listen to what the President's plan says about that choice: "Civil monetary penalty"—this is on page 241—"an entity"—that would be a business or a person—"that knowingly and willfully violates any provision of this section with respect to offering a supplemental health insurance policy to any individual shall be subject to a civil monetary penalty not to exceed $10,000 for each such violation."

What does that mean? What that means is that if you do not work for the Government and you do not work for a company with 5,000 or more employees, your health insurance is canceled and you have to buy health care through a Government-run cooperative.

Am I out of time, Mr. President? May I have 1 more minute?

Mr. COVERDELL. Mr. President, I yield 1½ minutes to the Senator from Texas.

The PRESIDENT pro tempore. The Senator from Texas is recognized for 1½ more minutes.

Mr. GRAMM. So, Mr. President, again, what it means is that if you do not work for the Government and you do not work for a company of 5,000 or more employees, your health insurance will be canceled, you will have to buy health care through a Government-run collective and if you even had enough money left to be able to buy private health insurance for your family because you did not like the care they were getting through the Government, then anybody who tried to sell you that policy would be fined $10,000.

The President says his plan is based on choice and private insurance.

I want to conclude by posing several questions.

No. 1: Under the President's plan, if you work for a company in Mexia, TX, with 10 employees and for example you have a good Blue Cross/Blue Shield policy—which you do if you work for Flatt Printing Co. in Mexia—if you like your plan, can you keep it? The answer is no, it is canceled and you have to buy your health care through a Government-run collective, probably out of Austin.

No. 2: After you get into the Government plan, and you are unhappy with it, you do not like the care, can you get out of it and take your money? No. Unless you die, you have to pay the Government your money.

Finally, if you want to get out and you are willing to leave your money, can you buy private health insurance? The answer is no.

I thank the Chair for his indulgence.

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

Mr. COVERDELL. I thank the Senator from Texas for his remarks with regard to health care reform.

How much time is remaining, Mr. President?

The PRESIDENT pro tempore. The Senator has 6½ minutes.

Mr. COVERDELL. Mr. President, I want to briefly refer to the daily reports that are now being issued from the White House. I think that if we had truth in advertising that applied to Washington, sometimes I think we would come to a standstill. These documents are coming on a daily basis. I think it is incumbent upon all of us to be very attentive to these documents to certify their accuracy.

Just to allude to several comments, the President's approach will give choice back to the people, not insurance companies. This is White House health care reform today, March 3, 1994. We just heard that statement misses the mark by a rather broad distance. Give choice back to the people. What we are talking about, as has just been discussed by the Senator from Texas, is that we are taking choice from the people and giving it to the Government. We are not giving choice back to the people.

We are talking about freedom, more Government management, what benefits you can and cannot have would be decided by the Government, not the people: Who could go to the medical practitioner or not; who is too old or too young. That would not be decided by you, that would be decided by somebody in the Government. And yet this says "Give choice back to the people."

Mr. President, on March 24, 1994: Outlawing unfair insurance practices. Let us get after those bad insurance people for the unfair practice of charging older people more than younger people.

What in the world are they talking about? Has anybody in our country ever been confused by the fact that as you get older, your insurance costs are more? Life insurance or health insurance or accident insurance, it is always more. Younger people do not get sick as much as older people. Everybody in their right mind now is looking at a chart that shows the rates that advance with our age and the perils that come with age. But that is characterized here as an unfair and outrageous insurance practice.

On March 23, 1994, with a health security card, Americans will be able to follow their doctor to any plan they choose, a plan where an individual can see any doctor in their community. They call this fee-for-service plan.

It leaves out the fact that, A, the plan may eliminate fee for service if the alliance chose to do so, which would mean there is no choice of doctor. It leaves out the fact that if anybody tried to engage in fee for service, they would be charged an exorbitant additional charge for doing that—punished, punished for that choice of selecting one's own doctor.

Mr. President, this is going to be a very difficult debate, but every attempt by all of us, including the President, should be to discuss this not in the anecdotal but to do this in fairness and to describe what you are proposing correctly—correctly.

I admire the Senator from Texas pointing to the Congressional Budget Office, pointing to people who analyze these documents and give us truth about what is and is not being proposed.

Now, Mr. President, in closing, let me just say—and I believe very much this is true—I believe the decision we are about to make on health care reform in this country is as important a decision as we will make in this quarter century. It will affect every citizen, every family, every business, and every community.

As the Senator from Utah said, it is better to be right than in a hurry. Everybody admits that there are improvements which can be found in health care in America, but we ought to improve the system that has given us every major medical breakthrough in the last quarter century. It was found right here in the good old United States. What no one thought possible even 5 years ago is now readily available. We have been engaged in the practice of making the uncommon common, the incurable curable, not only for our own country but around the world. Any look at any Government system—and I have seen them all, Mr. President; as Director of the Peace Corps, I went all over the world—Government-run medicine is not a pretty picture. We should not exchange innovation, creativity, high capacity for mediocrity. We should be right. We should follow the first axiom that a doctor learns: First do no harm.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The time under the control of the Senator from Georgia has expired.

Under the previous order, the hour beginning at this moment shall be under the control of the Senator from South Dakota [Mr. DASCHLE] or his designee.

Mr. DASCHLE.

Mr. DASCHLE. Mr. President, I thank the Chair.

REREFERRAL OF NOMINATION

Mr. DASCHLE. Mr. President, as if in executive session, I ask unanimous consent that the nomination of Jere Glover to be Chief Counsel for Advocacy, Small Business Administration, Executive Calendar 831, be referred back to the Committee on Small Business, at the request of the chairman.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, the request of the Senator from South Dakota is granted.

HEALTH CARE REFORM

Mr. DASCHLE. Mr. President, I did not have the opportunity to listen to all of the remarks made by those who have preceded me in the Chamber this morning. I did hear the comments made by the Senator from Georgia just now, and I certainly share his view that the decisions we make on health care this year will be the most important, will be perhaps the most critical we will make in this Congress, perhaps this decade, just possibly in the careers of those who serve here today.

I disagree strongly with some of the characterizations made by the Senators from Texas and Georgia with regard to the plan proposed by the administration. It is clearly a difficult and complex issue, and it is easy to see why the American people can be confused with the allegations and the charges made with regard to the implications of the President's plan. Once again I heard a couple of those this morning.

Reference was made to heavy fines imposed upon those who are not participating within the system, that fraudulently violate some of the tenets, some of the principles laid out in this particular bill.

We have been told on numerous occasions, Mr. President, that fraud is a very serious problem in health care today. It may be responsible for $70 billion in the costs incurred by Americans as we pay for health care. In an effort to deal as directly and as successfully with fraud as we possibly can, fines are going to be imposed upon those who fraudulently abuse the system. That is what we are talking about here—fines imposed upon those who fraudulently and in some cases criminally and very detrimentally affect the well-being, the welfare of our health system and the people it serves.

Reference was also made to choice. There are a lot of accusations about whether we improve or diminish the availability of choice for all Americans as they consider their options in health reform. But one does not have to take the word of the advocates of the Clinton health bill as we look at whether choice is enhanced or not. One only has to look at the independent analysis that has been done by the Congressional Budget Office cited by the Senator from Texas, by a number of other analysts both in and out of Government with regard to what this bill does for choice.

Ask those today who have a preexisting condition how much choice they have. Ask those who are locked into a place of employment because their employer only provides them one plan how much choice they have. Ask those who are paying thousands and thousands of extra dollars every year because it is the only plan they are entitled to how much choice they have.

Millions of Americans, Mr. President, have no choice whatsoever. And in an effort to give them more choice, to give them a vehicle with which they can pool their resources to maximize choice, just as Members of Congress have today, this plan addresses the needs that they have for amplifying choice and providing more opportunities to get that plan, to acquire that plan which makes the most sense for themselves and their families.

So let there be no doubt choice is dramatically improved as a result of the health reform proposal made by the administration and, frankly, some of the other plans that are before us right now.

It is an important decision, and perhaps it is upon that agreement that we can go forth with the expectation that at some point this year this Congress will pass a comprehensive health care reform bill.

SHARED EMPLOYER RESPONSIBILITY

The opponents of the President's Health Security Act have recently seized upon a Chamber of Commerce survey of its members to trumpet the small business community's opposition to the proposition that businesses be asked to share the cost of their workers' health insurance premiums.

I have no doubt that this survey provides some measurement of the business community's concern regarding health care reform. It is understandable because change is often frightening and this change will affect every American. But I also think it is important to point out that any public opinion survey on this issue cannot help but be affected by the volumes of misinformation that have permeated this debate. Some opponents of health reform have deliberately misled the American public on the real impact of the President's plan. Even the Wall Street Journal, not regarded as a great ally of this administration, says that "fear-mongering is rampant"—that is a quote, Mr. President. According to the Wall Street Journal, "fear mongering is rampant" in the fight against health care reform and refers to some of these efforts as "alarmist propaganda."

That is the Wall Street Journal's analysis of what we have heard so far from many of the opponents in the debate.

We cannot allow ourselves to be scared away from tackling health care reform by the propaganda of a few well-funded vested interests. The issue is far too important for that, and we know this.

We owe it to ourselves, and to our constituents, to look at the facts to best understand the real effect that competing health reform plans will have on our health care system, and the real effect they will have on business.

For example, what many of the small business owners who responded to the chamber survey may not know is that 2 months ago the Congressional Budget Office [CBO] that we have quoted this morning, released an analysis of how the President's Health Security Act would affect families, businesses, and the economy.

The results were overwhelmingly positive, especially for business, remarkably especially for business.

CBO concluded that, "businesses' costs for health care would be substantially reduced overall," and that their savings would reach $90 billion when the plan was fully implemented. Workers' wages would rise as a result, with no net effect on employment.

We have heard all of the claims about job loss. The Congressional Budget Office said not only will there not be job loss, but that we will actually save $90 billion for business each and every year when this plan is fully implemented.

In other words, CBO is arguing that health reform would be a major benefit to businesses: most would save significantly on health expenses and increase their workers' wages, even if they are required to contribute to their employees' premiums.

Given CBO's analysis, many observers of the health reform debate may find it perplexing that earlier this year a number of major business groups decided to oppose the Clinton plan—interestingly long before the chamber conducted its membership survey.

While the more cynical might respond that this is not so surprising given that major business organizations have opposed virtually every major social change in this century, I think a brief critique of the chamber survey might provide more insight into its results.

THE CHAMBER SURVEY ASKS THE WRONG QUESTIONS

While the chamber survey helps to gauge this fear, it does not measure the benefits to business of the President's reform proposal or the need for it.

A more helpful survey would ask the 60-plus percent of all small businesses that currently do offer insurance for their workers how much their premiums have risen over the last several years because the current system does not control health costs.

A more helpful survey would ask how these businesses feel about paying $10 billion to subsidize the health costs of their competitors who don't cover their workers.

A more helpful survey would ask the 40 percent of small businesses that don't offer insurance why they do not, and if they would like to offer coverage, with some assurance their premiums will be controlled.

A more helpful survey would ask for opinions from the thousands of businesses that fail each year because of high health care costs.

A more helpful survey would ask the workers at small firms what it feels like to be uninsured, and what kind of impact this has had on themselves and their families.

A more helpful survey would ask how many businesses had to drop coverage, or were denied coverage, due to a worker's preexisting condition, and how many workers lost coverage when they changed jobs, moved or were laid off.

Unfortunately, the chamber survey does not ask or answer any of these important questions. Instead, it paints with broad brush strokes a picture of steadfast opposition to any mandate of any kind.

Yet the question remains: How can we get to universal coverage, which virtually all experts in business and government agree is necessary to contain costs, without some type of a requirement?

The answer, of course, is through a broad-based tax we could accomplish the same thing. I suspect that most of the Nation's small businesses would be even less enthused about that option.

THE CASE FOR SHARED RESPONSIBILITY

So, if we conclude that some sort of mandate is necessary to gain universal coverage, we must decide whether or not we want an individual mandate—essentially placing the entire burden of health insurance on families—building

upon the current tradition, building upon the practices that have been in place now for generations.

Many have concluded that the shared responsibility option makes the most sense.

It makes the most sense because it builds upon our current health care system. Today, the vast majority of the insured have coverage through the workplace. Building upon this strong base represents the least radical and most prudent means to gain universal coverage—guaranteed private health insurance for everyone.

And those who follow the poll's data will surely want to note that the public supports the employer-based approach overwhelmingly. According to a Washington Post survey, 73 percent of Americans support an employer requirement for full-time workers and 69 percent for part-time employees.

A Wall Street Journal poll found 65 percent of Americans support shared responsibility for small firms, small businesses.

Most people support shared responsibility because the employer-based system has worked well for decades and Americans know and support it. Why not build on a system that works, rather than start a completely new one that shifts cost entirely to families?

SHARED RESPONSIBILITY WILL HELP SMALL BUSINESS

While some opponents of health reform cling to the status quo and view change as a threat especially to small business, I believe that comprehensive reform will actually help small businesses thrive.

In fact, shared responsibility has the real potential to improve the economy by increasing employment and decreasing business costs.

Coupling strong cost containment with a requirement that employers share responsibility for health coverage will not result in job loss.

According to the nonpartisan Employee Benefits Research Institute, implementation of the Health Security Act could result in a net gain of up to 660,000 jobs.

Through shared responsibility, we can guarantee health insurance coverage for all Americans and we can help small businesses remain competitive.

Through shared responsibility, we can protect small businesses from double digit health inflation and give them benefits that cannot be taken away at the whim of an insurance company.

Through shared responsibility, we can create an environment in which business owners and workers no longer make employment decisions based upon who does or does not offer insurance coverage.

Through shared responsibility, we can level the playing field so that those firms that offer coverage no longer subsidize those that do not.

Through shared responsibility, we can guarantee health insurance coverage for all Americans, including business owners, workers, children, and the elderly.

CONCLUSION

As we acknowledge the misconceptions that surround the employer mandate proposal, we should take care not to be cowed by some business opposition to this linchpin of reform. Instead, let us commit ourselves to assuaging these fears by telling small business owners the truth: shared responsibility will result in a better health care system, healthier workers, and a stronger economy.

Our broken health care system is unsustainable, and businesses look to Congress and the President for some leadership in solving the many problems that perplex us today. They do not want a handout. They want some help—rules that level the playing field, encourage personal responsibility, and provide them and their workers with health security.

Let us make sure that small businesses, the backbone of our economy and the engine of its growth, can thrive without the burden of worrying about their own or their employees' coverage.

Let us utilize fair, shared responsibility between employers and employees as a means to fix our broken health care system.

And let us do it this year. Let us do it constructively.

Let us do it without delay.

Mr. President, is it my understanding that I control the time.

The PRESIDENT pro tempore. The Senator is correct.

Mr. DASCHLE. There are no speakers on my side wishing to be recognized.

OPPOSITION TO EMPLOYER MANDATES

Mr. PRESSLER. Mr. President, I am honored to join several of my Senate colleagues today in expressing opposition to the inclusion of an employer mandate in any health care reform bill adopted by Congress. In short, an employer mandate would cost jobs and reduce wages.

My opposition to an employer mandate does not mean I do not support efforts to reform our health care system. We must take steps to reduce medical costs and to make insurance affordable and available to everyone. However, an employer mandate is not the best solution.

The National Federation of Independent Business [NFIB] recently studied the impact of the employer mandate as proposed by the Clinton administration. That study reveals the following: 850,000 U.S. jobs would be lost; 1,700 jobs in my home State of South Dakota would be lost; some 23,000,000 U.S. jobs would be negatively impacted with an average annual wage loss of $1,200 each; and the cost of the subsidy to smaller firms would be $81 billion during the first year.

As ranking member of the Senate Small Business Committee, I am concerned about the impact of escalating health costs on small businesses. Between 1980 and 1990, employer health costs nearly tripled. The primary reason many employers do not provide medical benefits to their employees is excessive cost. The primary goal of health care reform should be determining how we can best reduce insurance costs, not the imposition of another mandate.

Last year, other members of the Senate Small Business Committee and I met with First Lady Hillary Rodham Clinton to discuss the issue of health care reform. She and the President should be commended for bringing this issue to the forefront of national attention. Although I agree with their goals, I do not support their proposed solution, which seems to change virtually daily.

At our meeting, I presented to the First Lady a letter signed by 40 Republican Senators. The letter expressed our opposition to an employer mandate. Mr. President, I ask unanimous consent to submit this letter for printing in the RECORD.

Our message was clear then and it remains the same today. We oppose the Government mandating health insurance cost on all employers. That is not the best solution.

Since the President introduced his health care reform plan—the Health Security Act—over 19,000 South Dakotans have contacted me to express opposition to the President's proposal. Many of them agree than an insurance mandate on employers will cost jobs and reduce wages. However, all these folks agree that we need to make some changes in our health care system.

We need to make significant changes. However, we do not need to overhaul the entire system. I like to use this analogy in explaining my views on health care reform. If a farmer has 10 tractors and 2 of them need overhauling, he will overhaul the 2 and maybe just tune up the 8 others. This how we should proceed on health care reform.

Reform should include the following:

Every American should have access to health insurance;

Insurance coverage should remain with the individual at all times—that is, it should be portable;

There should be no denial of coverage for what is called a preexisting condition;

We should encourage individuals and groups to form voluntary purchasing pools;

We must reform our malpractice laws, including limiting damages awarded in lawsuits, encouraging arbitration, and establishing standard medical practice guidelines;

We must reduce paperwork;

We must reduce Federal regulation;

We must make changes in our antitrust laws;

We must eliminate waste and fraud; and

We must provide financial assistance to help the very poor purchase insurance.

Mr. President, health care reform is long overdue. But in the process of fine tuning the current health care and insurance system, let us avoid imposing a Big Government solution that would cost many jobs and create many other problems. As others have said, let us fix what needs to be repaired and no more.

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

U.S. SENATE,
Washington, DC, August 3, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We share your concern about the rapidly escalating cost of health care and the large number of Americans without health insurance. With health costs increasing ten percent a year and millions of Americans uninsured, corrective action must be taken now.

Many of us have been working to devise a proposal for comprehensive health care reform. It is essential to preserve the best elements of our existing system, while minimizing costs, and ensuring adequate health care for our nation.

We are strongly opposed to an employer mandate to pay for health care reform. Whether it is a wage based premium, payroll tax or any other carefully crafted euphemism for taxes, job loss among small businesses will be unavoidable and significant.

Small businesses create the vast majority of new jobs in our country each year. Indeed, under-capitalized small businesses are often the first step to realizing the American dream of entrepreneurship. While we strongly support health care reform, small businesses and family farms cannot be sacrificed in the process.

Health care reform must include provisions to help employers provide health benefits. However, new health care taxes will cost jobs and slow the economic growth of our country.

We look forward to working with you and other members of Congress in an effort to adopt a health care reform package yet this year.

Sincerely,

Bob Dole, John H. Chafee, Larry Pressler, Don Nickles, Thad Cochran, Strom Thurmond, Dirk Kempthorne, Larry E. Craig, Al D'Amato, Lauch Faircloth, Frank H. Murkowski, Slade Gorton, Kit Bond,

Phil Gramm, Trent Lott, Al Simpson, Jesse Helms, Bob Smith, Orrin G. Hatch, Robert F. Bennett, Dave Durenberger, Chuck Grassley, Mitch McConnell, Hank Brown, Jack Danforth, Conrad Burns, Connie Mack,

John Warner, Dick Lugar, Mark Hatfield, John McCain, Arlen Specter, Nancy Landon Kassebaum, Kay Bailey Hutchison, Daniel Coats, Malcolm Wallop, Paul Coverdell, Judd Gregg, Bill Cohen, Pete V. Domenici, Ted Stevens.

ORDER OF PROCEDURE

Mrs. KASSEBAUM. Mr. President, I wonder if I might ask unanimous consent to speak for a few moments on a subject other than health care without the time being taken from the control of the Democratic side of the aisle.

Mr. DASCHLE. I have no objection.

The PRESIDENT pro tempore. How many minutes would the Senator require?

Mrs. KASSEBAUM. Five minutes.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator from Kansas is recognized for 5 minutes which will not be charged against the time under control.

SOUTH AFRICAN ELECTIONS

Mrs. KASSEBAUM. Mr. President, I want to speak about a dramatic event which took place last week and was concluded yesterday in the tally of a vote in the first democratic election in history that was held in South Africa.

As South Africans stood in long lines, sometimes up to 7 hours or more, to cast their votes, one could not help but be deeply moved by their commitment, their desire to be participants in their country's future.

Yesterday, President de Klerk conceded defeat, and Nelson Mandela accepted victory for the African National Congress. Who would have imagined only a few years ago that such a transformation would be possible? As somebody who has closely followed the situation in South Africa for more than a decade, I marvel at what has been accomplished by the people of South Africa.

Mr. President, during this dramatic transition, South Africa has been gifted with two extraordinary leaders: Nelson Mandela and F.W. de Klerk. Their vision and courageous leadership stand as an example for statesmen around the world. Both have worked tirelessly to guide their country from the repressive system of racial separation, known as apartheid, to the hope of democracy. It is largely through their efforts that the democratic transition in South Africa has succeeded. The path ahead will not be easy, as all who have been participants have recognized. Growing unemployment, distrust, and violence stand as serious challenges to a new government. But I am confident that the people of South Africa, who have overcome so much, can meet this test.

South Africa now stands on the brink of a new future, one fraught with difficulties but filled with such promise and hope.

At his trial in 1964, Nelson Mandela eloquently and courageously articulated his vision for South Africa. It has been said many times, but I think it bears repeating.

He said:

During my lifetime, I have dedicated myself to this struggle of the African people. I have fought against white domination. I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities.

Nelson Mandela's dream today for his country has taken a step toward that reality.

Mr. President, I think in many ways what is most remarkable is that after spending 27 years in prison, Nelson Mandela, 4 years ago, was able to walk away from prison without hatred in his heart or rancor and with that vision still intact. He has provided leadership for the vision that he has always held, which is so powerful and compelling that it draws others to it and creates hope and confidence to overcome fear and insecurity.

That should be a lesson for all who choose to lead. I know that we all in this country today join in wishing success in the future to those in South Africa.

I yield the floor, Mr. President.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Mr. President, it appears to me it is about 6½ minutes to the hour, and I ask if it will be possible for me to speak until about 3 minutes after the hour?

The PRESIDENT pro tempore. The Senator from South Dakota has 15 minutes remaining under his control.

Mr. ROCKEFELLER. Oh, he did.

The PRESIDENT pro tempore. How much time would the Senator from West Virginia desire? How would that fit in the 15 minutes?

Mr. ROCKEFELLER. The Senator will use less than that amount of time. I cannot say exactly, but it certainly will be less than that amount of time. Will it be all right for the Senator to proceed?

The PRESIDENT pro tempore. The Senator from West Virginia is recognized for such time as he may consume up to 10 minutes, or more if he wishes—10 minutes.

Mr. ROCKEFELLER. I am very honored to have this pleasant exchange with my senior colleague from West Virginia on this fine day of this year.

The PRESIDENT pro tempore. The Senator from West Virginia.

HEALTH CARE

Mr. ROCKEFELLER. Mr. President, from what I hear, the latest arrow being flung at health care reform has something to do with a poll from the chamber of commerce. I rise to comment.

As Yogi Berra said, "It's deja vu all over again." Haven't we been here be-

fore? Over the past months, we have been forced to spend mind-boggling amounts of time debating the semantics and even the necessity of health care reform. Along the way, we even had to take time out once to decide whether we face a health care crises or merely a serious problem. We waited patiently for the Congressional Budget Office to put the President's plan under a piercing magnifying glass, finally to get the verdict we expected—this is a plan that will achieve universal coverage while bringing down overall costs to America's families, businesses, and the economy.

But there is hardly a day still when are not reminded that taking on big problems never gets easy.

Sometimes I am tempted to suggest that the people and the interest groups who are not ready to make the tough choices involved in health reform may as well introduce there own bill with a title that says exactly where they stand—and in the interests of truth-in-labeling, their bill should be called "The Continuation of the Status Quo in Health Care Act from 1994 Through the Next Century." I say to the arrow-slingers, instead of spending all this time arguing against the best ways to achieve the goals of universal coverage and cost containment, why not spend some time trying to sell the American people on keeping everything the way it is? The reason, of course, is that it would mean admitting to the results: more Americans losing their health insurance, fewer businesses being able to afford the cost of covering their workers, less choice in doctors and health care plans for most Americans, and higher health care costs to saddle our workers, families, and economy. What a deal—all this and no hope of long-term care or prescription drug coverage for a single additional senior citizen or disabled American.

But instead, we are here talking about a poll commissioned by a group that has suddenly gotten cold feet in the debate over health care reform.

There was a time—not too long ago—when the U.S. Chamber of Commerce played a very constructive role in health care reform. Twenty years ago, the chamber helped President Nixon assemble a health care plan that relied on employer mandates as an alternative to a Canadian style, single-payer system. More recently, the chamber studied reform ideas, assigned a health committee to weigh different facets of reform, and finally issued a set of recommendations in favor of reform that included shared employer responsibility. Clearly, the chamber of commerce was in tough with the needs and the concerns of its members and the Nation. And clearly, the chamber realized employers were paying much of the tab for our bloated, inefficient, wasteful health care system and needed to be part of the solution.

But in the past 3 months, the U.S. Chamber of Commerce has fled the choppy waters of health care reform. The problem is that there is no such thing as a safe shore or a safe harbor when it comes to health care. We have to get to the other side of those waters, and that can only be done by passing a plan that will guarantee everyone coverage at an affordable price.

Last week the chamber issued a puffed-up poll saying that 70 percent of their members opposed an employer mandate and hardly support health reform at all. That sounds pretty convincing but it ignores some fundamental truths:

First, less than one-fifth of the chamber's members participated in the poll.

Second, this poll looks like one more move by a minority faction within the business community to hijack debate. An earlier step by the same group forced the chamber of commerce to dump the committee procedure that had constructively engaged the organization in the reform process. We also have just seen the termination of top employees of the chamber who were committed to the success of health care reform.

Third, the business leader who had headed the chamber's health and employee benefits committee resigned not because the chamber backed away from supporting shared employer responsibility. He gave up when the chamber leadership even backed away from requiring firms to offer but not pay for coverage and helping poor Americans get coverage through subsidies. When said about this move, he said: "Without these two positions, the chamber will have virtually no proposals that deals with the problem of lack of insurance for Americans."

So, if the U.S. Chamber of Commerce wants to opt out on reform, that is their choice and a very disappointing one. But Congress should not lose their way as a result of this last-minute switch in signals. We put health care reform at the top of our agenda because of what our small business owners and workers have been telling us for years. We have to enact health reform because of the real-life worries of the American people we represent—like the small business people who make up the chamber—who have told us to get to work and fix our nation's health care system. I am disappointed in the chamber, but I am not discouraged about health care reform.

We have some hard choices and decisions to make, and of course we are getting an earful from the special interests and lobbyists. That is what they are paid to do. But we are being paid to sort through what they tell us and what our constituents tell us, and to come up with a solution that is best for the public's overall interest.

One of the hard choices is about mandates. If we are serious about reform and determined to provide coverage to all Americans, then employer mandates are a must.

Plain and simple, the easiest way to provide universal coverage is to build on the system that already provides 90 percent of Americans with private health coverage—through the workplace. It is not just a matter of convenience. It is a matter of smart fiscal year economic responsibility. Somewhere around 90 percent of all companies—except for the smallest that employ less than five workers—provide insurance. Yet these companies pay an extra $10 billion in premiums each year to cover care for uninsured Americans. Plus, they spend almost $30 billion covering workers' dependents who are employed by firms that do not offer insurance. So the system we have today puts an extra $40 billion in costs on the backs of American firms who are trying to do the right thing.

An employer mandate levels the playing field and stops one business from dumping its responsibilities on another. One of my West Virginia constituents, the owner of a small, family-run upholstery business, put it pretty clearly to me, saying that while he insures his workers just because it is the right thing to do, plenty of his competitors do not, saving them money and giving them an unfair advantage. Should this small business be penalized for treating its workers fairly and with dignity? Of course not. But in effect that is what is happening today without an employer mandate.

The Congressional Budget Office estimates businesses would save $20 billion in just 6 years and $90 billion in 10 years with an employer mandate. They said the effect of an employer mandate would have a negligible effect on employment and leveling of costs would benefit all small businesses. The independent Employee Benefit Research Institute predicts as many as half a million jobs could be created under the Health Security Act. And in the process all Americans would have guaranteed private health insurance. So, the chamber can trumpet its poll all day, but these are the numbers that should count. The numbers that will save money for businesses and translate into jobs, pay raises, and real peace of mind for workers.

I am not just talking about models, theories, or best-case scenarios here, either. An employer mandate has been put to the test in Hawaii for 20 years. The effects of that mandate? How about one of the lowest unemployment rates in the Nation? How about a 200-percent growth in employers through 1991 and a rate of business failure less than half the national rate? How about health premiums almost $400 less than the national average because of less cost-shifting to cover uncompensated care? Finally, how about the fact that only 2 percent of Hawaii's rainy day

fund set up to assist small businesses has ever been used? That is the kind of economic impact a level playing field and reasonable costs can deliver.

So let us throw out the hysteria, and the doomsday predictions on employer mandates. I am sorry a group of chamber of commerce members got cold feet, but we in Congress should not succumb to the latest arrow. An employer mandate is simple common sense and is widely supported by the public. It asks nothing more than shared responsibility among workers and employers for providing coverage. It asks that everyone—big business and small—play by the same rules. It asks that we all give something in return for the security of guaranteed private insurance. And it holds out the hope that we all can ease the burden health care coverage weighs us down under.

Our job now is to produce a health care bill that can stand the tests of time and politics. That is quite a charge and it is time for us all to finish our work.

The PRESIDENT pro tempore. All of the time controlled by the Senator from South Dakota has expired.

Mr. ROCKEFELLER. Mr. President, we should do our business, as I am sure we will.

I thank the Presiding Officer, my distinguished senior colleague, for being so courteous and gracious and wish him a good day. I yield the floor and note the absence of a quorum.

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

The bill clerk proceeded to call the roll.

NATIONAL YOUTH SERVICE DAY

Mr. KENNEDY. Mr. President, on April 19, the country marked National Youth Service Day. On that day, 1 million young Americans from all 50 States were working in their communities to demonstrate their commitment to community service. A large number of participants and staff came to Washington for a conference organized by Youth Service America.

This is an auspicious time for national and community service. A year ago, Congress passed landmark legislation that laid the foundation for greater involvement in service programs. We provided new Federal support and seed money. But the real work at the grass roots level is what counts the most.

National Youth Service Day helped spread the message to communities across the country and encouraged the implementation of service programs in as many places as possible. As the idea takes root, community service is making an increasingly significant difference in dealing with local problems, meeting local needs, and creating stronger neighborhoods and a stronger nation.

I would like to mention a few examples of impressive initiatives in Massachusetts. In Boston, schoolchildren had the week of April 18 off for Patriot's Day and spring vacation. Nearly a thousand of them gave new meaning to Patriot's Day. They attended day camps run by City Year. They worked on arts and crafts projects, sports, dance, music, and neighborhood cleanups.

Getting children involved in such programs at an early age is especially important. They learn the ideal of service and they keep it all their lives. They develop important skills and pride in their own ability, and they help their community as well.

I am particularly interested in steps that integrate community service into the educational curriculum. In fact, some of our best programs in Massachusetts involve service-learning.

In Bolton, at the Emerson School, which goes from Kindergarten through eighth grade, seventh grade teacher Larry Isomaki and third grade teacher Suzanne Wintle have teamed up to create a science project. Pupils in two grades work together to study marine life and pollution in a nearby river. They send the results of their work to the University of Massachusetts, which keeps a data base to determine priorities for cleaning up the environment. In the process, the seventh graders teach the third graders to use microscopes, and all ages together learn the importance of protecting the environment.

In Boston, at the Hyde Park High School, students in a group called "Creative Action" are renovating their school, which urgently needs repair. Two of those students were here in Washington last week—Michael Hilton and Alex Gaston. With the help of Francis Kubala and Sam Collins, two community volunteers, they fix bathrooms, paint classrooms, and landscape the school grounds. In the past 3 years, they have painted 80 percent of the school and raised thousands of dollars to renovate the auditorium. They are also developing their writing skills by helping to draft community service grant applications to the State Department of Education.

Another group that sent representatives to the conference in Washington is the Lincoln-Filene Center at Tufts University. Two program directors, Pat Barnicle and Barbara Locurto, are helping teachers integrate service into the classroom. One of their best projects is the Reading Raiders program at West Roxbury High School. There, under teacher Mary Ellen Bower, students are learning about children's literature and have developed a library of children's books. They travel to local elementary schools and read aloud to younger students.

At the Eliot School in Boston's North End, teacher Lambros Alex Pappas teaches fifth graders about the American revolution and takes them to visit two historical landmarks near the school—the Old North Church and the Paul Revere House. Later, the Eliot fifth graders invite students from elementary schools in Dorchester and Mattapan to come visit these famous Revolutionary War sites. The Eliot students share the history of their neighborhood by serving as tour guides for the other children.

Under the Magic Me program in Boston, 15 middle school students from the Mission Hill After School Program are paired with senior citizens from the Resthaven Nursing Home. One of the pairs matches 14-year-old Domingo—who had not wanted to participate in the program—and 78-year-old Matteo, who had been depressed and had refused to leave his room. Domingo and Matteo met and became friends. Matteo now is an active member of the nursing home community, and Domingo meets him weekly for educational projects and conversation.

The Kennedy Library Corps in Boston sponsors an intergenerational service learning program which is planned and led by five high school students. In this program, called the JFK Kids Koop, 15 students from the McCormick Middle School in Dorchester work with senior citizens from the Barnard Day Program to prepare story books based on the senior citizens' oral histories. When the books are complete, they will visit the University of Massachusetts Day Care Center and read their stories to young children.

In Springfield, middle school students spend two afternoons a week in a service learning project at the Girls' Club Family Center. With the help of project director Carol Rawson-Reese, 12 year-olds learn about chemistry through magic tricks. Later this spring, they will teach younger children what they have learned during an after-school program at the Girls' Club.

At the Rebecca M. Johnson School in Springfield, service is part of the curriculum throughout the school year. Seventh grader Jimmie Spencer is organizing a schoolwide recycling program. Other students are writing a health newsletter for distribution to middle schools in the area. Still others have organized a post office within the school, and they develop their writing skills by corresponding with one another. Sixth grader Nathanael Pereira serves as school postmaster, delivering mail from class to class.

As a result of the Federal legislation and local efforts like these, hundreds of new service programs are being launched this year and are beginning to make a difference in their neighborhoods. Existing programs will expand to new communities.

The examples I have given only touch the surface of all the promising models that are becoming available. From the

says of first settlers on our shores, service to others has always been the hallmark of America's success. It is the spirit of the old frontier, and the New Frontier too. It is what President Kennedy meant in his inaugural address, when he urged all Americans to ask not what their country can do for them, but what they can do for their country.

Now, after years of indifference, we are entering a new era in which working together and helping others is once again at the center of national attention. By helping others, service participants are not just serving their communities—they are serving their country and making America what it ought to be.

WORKERS MEMORIAL DAY

Mr. KOHL. Mr. President, I would like to take this opportunity to pay tribute to all Americans who have died as a result of workplace hazards. April 28 commemorates the anniversary of the Occupational Health and Safety Act, which remains committed to saving lives, preventing serious injuries, and preserving the health and safety of American workers.

And yet, Mr. President, since the enactment of this important legislation, nearly 2 million Americans have died as a result of workplace hazards. The Occupational Health and Safety Act has made strides toward saving lives; the number of fatalities due to injury has declined by almost one-half since 1974. Despite this, lost workday injury and illness rates remained stable over the same period of time. Also, the disbursement of workers compensation benefits has increased at often two-times the normal rate during this period. The Rand Institute of Civil Justice estimates that workplace injury and illness impose a cost of $83 billion a year on society.

These figures demonstrate that the Federal Government has fallen short of its promise to ensure every American a safe and healthy workplace. OSHA has been in place for over 20 years now, and—unlike other Federal environmental and safety laws—has not been reformed since its enactment. The workplace has changed greatly, and technology has improved. But protection for workers has not kept pace.

I firmly believe that most employers are committed to improving and guaranteeing a safe workplace. Unfortunately a small number of companies continue to engage in unsafe practices. I do not necessarily believe that merely increasing mandates on business and criminal penalties for willful violations will ensure safe workplaces. For a business to remain successful, it should be built upon a healthy and productive work force, not at the expense of the lives of their workers.

We need to encourage labor-management cooperation. I firmly believe that this is the cornerstone of workplace safety, and many businesses have already moved in this direction. We must have safety and health training programs available on the job site. We must increase the influence workers have on improving and maintaining a safe work environment. And we must assure that American workers have the ability to report a violation without fear of losing their jobs. In accomplishing these goals, however, we must be careful not to place such a burden on businesses that the workers lose the jobs we are trying to make safe.

Most importantly, we must provide the Occupational Safety and Health Administration with the resources—both financial and personnel—necessary to effectively promote workplace safety. Providing the necessary resources will allow OSHA to strengthen enforcement and investigation procedures as well as increase health and safety training opportunities.

In short, we must reform OSHA. In remembrance of those American workers who have given their lives and productive years to their employers, let us work to reaffirm the original intent of OSHA to save lives, prevent serious injuries, and preserve the health and safety of our work force.

WORKERS MEMORIAL DAY

Ms. MOSELEY-BRAUN. Mr. President, I would like to take time today to honor the memory of all the men, women, and children in this country who have died on the job. April 28 was Workers Memorial Day.

Workers Memorial Day was instituted by the AFL–CIO to honor those workers who are injured and die on the job each year. It is a day for educating people about the need for safety in the workplace. It is a day for remembering the dangers that workers face on the job. Despite the improvements in job safety that have been made since the Occupational Health and Safety Administration [OSHA] was created in 1970, far too many workers are killed, permanently disabled, or injured in the workplace daily.

In February 1993, a 44-year-old man in Willow Springs, IL, was dismantling a bridge. It was his first day on the job. The bridge he was working on collapsed, crushing the man and injuring three others. Robert Meyers is survived by his wife and five children.

In that same month in Chicago, a spotter for a freight company was standing between two parked trailers. A truck and trailer collided with the parked trailers, crushing the 52-year-old worker. William Maslejewsk died later from the injuries he sustained.

Every 5 seconds in this country, a man, woman, or child is injured, contracts a disease, or dies at work. This is a startling figure. By the time I have finished speaking here today, 48 workers will go home in worse condition then when they left the house this morning, if they can go home at all.

For the year 1992 alone, I can cite 248 separate examples of personal stories of workers in Illinois who died at work. This does not include the hundreds who are injured or diseased each year.

Today I ask you all to join me in honoring those who died working to support themselves, families, communities, and the Nation. We honor those who have died while laboring in factories, offices, construction sites, and farms. We pay tribute to all those who are injured or ill because of their jobs.

We cannot let anymore unnecessary deaths occur. That is why I am cosponsor of S. 575, the Comprehensive Occupational Safety and Health Reform Act.

States that have enacted reforms similar to those in S. 575 have seen a dramatic decrease in the rates of injury and illness. This legislation is vital if we are to prevent future deaths and injuries in Illinois and the entire United States.

My thoughts are with the families of those who have lost loved ones in workplace accidents. I will continue my efforts to make sure that workplace safety is a priority.

No one has ever put it better than veteran organizer Mother Jones, when she said, "Pray for the dead and fight like hell for the living."

CONGRATULATIONS TAFT HIGH SCHOOL, NATIONAL ACADEMIC DECATHLON CHAMPIONS

Mrs. FEINSTEIN. Mr. President, I would like to bring to the attention of the Senate and to the entire Nation the accomplishment of the William Howard Taft High School, in my home State of California. This past weekend, the nine members of the Taft academic decathlon team won the prestigious U.S. Academic Decathlon championship. This is the second national championship captured by the high school in 5 years.

As I am sure these students could tell you, this has been a long, hard road to the 13th annual U.S. Academic Decathlon championships. Their hard work and dedication to academic excellence had to overcome great challenges—and not just academic. The students at Taft High School, along with more than half a million other students, have had to suffer through relentless budget cuts to their schools in the Los Angeles Unified School District—the second largest school district in the United States. Shrinking resources, however, were not the only obstacles facing this team.

These students and their families live in the Woodland Hills area, which sustained substantial damage from the 1994 Northridge earthquake. They had to experience the traumatic shocks accompanying the 6.8 quake. Neverthe-

less, the students exhibited that resilient "California Spirit," saying that being out of school as a result of the January 17 earthquake only gave them more time to study for the competition. And study they did.

The Taft High School team earned a score of 49,372, defeating the next closest team in the battle of the brains by more than 2,000 points, and capturing more than half of the $30,000 in scholarships awarded to individual students.

The subject areas include math, fine arts, economics, science, and literature. Additionally, a super quiz tested the students' knowledge of 19 important documents such as the Camp David accords and the declaration of the students who revolted in China's Tiananmen Square.

The Taft High School team consisted of the nine following students: Daniel Berdichevsky, 17, who got the highest score of the competition and five of nine individual awards; Stephen Shaw, 16, who won three subject medals; Rebecca Rissman, 17, who won three medals; Michael Michrowski, 17, who won two medals; Andrew Salter, 17, who won four subject medals; Chris Huie, 17, who won two individual medals; Sage Vaughn, 17, who won one medal; Sheldon Peregrino, 18, who won medal; and Kimberly Shapiro, 16.

The students were under the guidance of Coach Arthur Berchin.

I am proud of the accomplishments of the Taft High School Academic Decathlon Team, and offer them a hearty congratulations for this truly outstanding achievement. Their success in the national championship sends a message to all—that the "can do" spirit of California is a vital force.

DOD ACCOUNTING CENTER IN ROME, NY

Mr. MOYNIHAN. Madam President, last year the citizens of New York were jolted—I think that is fair to say—when the Base Closure Realignment Commission, closed three of the very small number of military installations in the State of New York: The Staten Island Naval Base; the Plattsburg Air Force Base, an installation that had been there on the shores of Lake Champlain since 1818 and which was not recommended for closure; and the flying mission at Griffiss Air Force Base, in Rome. This seemed to us, for a State that has had very large outlays in Federal taxes over the years for maintaining bases elsewhere in the country, an unusual and disappointing decision.

On the other hand, I can report today there has been a remedial measure of genuine consequence to the Rome region and to Griffiss Air Force Base. The Department of Defense has decided to locate one of 20 new Defense Finance and Accounting Service [DFAS] Centers there. This move is part of the consolidation of the Department's payroll operation; 750 permanent jobs will be located on the base. And in consequence, the position of Rome Laboratory is considerably enhanced in that the infrastructure that the laboratory requires will also be required by this new defense facility, and the combination is a more efficient one.

The Rome lab is one of four super laboratories in the Air Force, and it is the center of our present research in the fields of both electronics and photonics. The whole area of photonics is rapidly expanding, and that work is centered in upstate New York. The DFAS center and Rome Laboratory will be able to share some operating costs.

So I can report that, to some measure at least, the Defense Department has responded to our concerns. I thank Secretary Perry for his attention to this matter. The whole of the New York delegation wrote to him. I know my colleague, Senator D'AMATO, would join me in this regard. There has been some alleviation of what was a very real blow, one we did not think was warranted.

THE IMMIGRATION DEBATE

Mr. SIMON. Mr. President, as the year progresses, the debate over immigration policy grows more and more heated. Calls for restrictions on immigration—both legal and illegal—are accompanied by claims that immigrants represent a drain on our economy and a threat to American values. These sentiments manifest themselves in immigration-related amendments that are being offered to virtually every bill that reaches the Senate floor.

More often than not, however, the debate over immigration policy seems driven not by reason, but by emotion. Facts take a backseat to impressions, and these impressions are often misguided. If we are to undertake to reform our immigration laws—and I do not deny that these laws are in need of some reform—we must understand the facts of our current immigration regime, and withstand the desire to rely on empty rhetoric.

I am not alone in my views. Recently the Washington Times—in an article entitled "Immigration Facts and Fiction," written by my friend Ben Wattenberg—counseled Americans to find and understand the facts underlying our current immigration system before undertaking a comprehensive reform of that system. The Times article, citing a recently published study by the Urban Institute on the costs of immigration, noted several important facts that should bear on any attempted immigration reform:

The majority of illegal entrants into the United States are individuals who overstay their visas, not individuals who illegally cross our borders.

Legal immigrants use less welfare per capita than native-born Americans.

Annual taxes paid by immigrants to all levels of Government more than offset the cost of services received by these immigrants, generating a net annual surplus of $25 to $30 billion.

Legal immigrants do not adversely affect the employment rate. Rather, the jobs created by immigrant employers for native-born Americans offset the jobs taken by legal immigrants from native-born Americans.

While the total number of foreign-born people in the United States is greater than at any time in our history, the percentage of foreign-born in the United States is only 8 percent, compared to 15 percent a century ago.

These facts—not our fears and impressions—should inform the immigration debate. Only then can we determine what is necessary, and avoid what is harmful both to immigrants and to our national identity and traditions.

I ask unanimous consent that the Washington Times article entitled "Immigration Facts and Fiction" by Ben Wattenberg be inserted into the RECORD.

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

[From the Washington Times, Apr. 21, 1994]

IMMIGRATION FACTS AND FICTION

(By Ben Wattenberg)

Immigration is again going to be a big issue. The public is upset. It is said that immigration causes unemployment. And that it's responsible for crime. And that it's ruining the environment. And that illegal immigrants are ripping off the welfare system. Mostly unspoken is the fear of what is called "the browning of America."

When America is upset, politicians are upset. Members in both parties, at every level, are proposing anti-immigrant legislation. Nearly everyone (including me) wants to crack down in illegal immigration, and make it much harder for illegals to get government benefits.

Others say we should cut back legal immigration as well (moderately, states Sen. Alan Simpson; massively, says Sen. Harry Reid). Once again, Mr. Simpson is pushing for "identification verification," making it harder for illegals to get fraudulent work documents "with a few bucks and access to a color copier."

Sen. Edward Kennedy opposes draconian changes. As chairman of the Subcommittee on Immigration and Refugee Affairs, he can sidetrack harsh new laws. But there are even ways around Mr. Kennedy. Already there are immigration-related amendments in the crime bill. There will be provisions in the forthcoming welfare bill. More can be expected elsewhere. In addition, there is a White House commission, chaired by Barbara Jordan, with a first report due out in September, designed for action next year.

Into this political tinderbox something strange has happened. The Urban Institute thought it might be a good idea to lay out some facts on the table before the debate gets too hot. That they have done in a document now circulating in draft, titled "Immigration and Immigrants: Setting the Record Straight," coauthored by Michael Fix and Jeffrey Passel.

The UI report tells us certain things we ought to know: A few elementary highlights:

In our mind's eye, we see illegal Mexicans crossing the Rio Grande on moonless nights, by the millions. Yet most illegals—about 60 percent—enter the country as tourists and simply overstay their visas. The Immigration and Naturalization Service counts "apprehensions," but doesn't calculate the number of immigrants who regularly go back to Mexico. The best estimate, net, is that America takes in 200,000 to 300,000 new illegal immigrants annually. The number of legals admitted is about 675,000. Combined, call it about a million per year.

What about the effect of immigration on employment? The UI report says: "Aggregate data show no overall effect." Not much of a headline there, but it makes sense. Immigrants not only "take jobs" but they "consume goods," which "creates jobs."

We have never had more foreign-born people in the United States than we do today—about 22 million. That's about 8 percent of the total population. But a century ago 15 percent of the population was foreign born. If you're worried about the swamping of American culture by non-Anglos, it's the rate, not the number, that's important.

The UI report states: "Overall, annual taxes paid by immigrants to all levels of government more than offset the cost of services received, generating a net annual surplus of $25 billion to $30 billion per year." (There is a catch: The federal government gains from immigrants, the state governments end up neutral, varying by state, and the local level pays up big-time, just as they do for natives, mostly for education.)

Immigrants, even when illegals are included, use less welfare per capita than native-born Americans.

Because such a large proportion of the immigrant population in America is of new vintage, it seems as if they are not learning English quickly. But the evidence shows otherwise once the length of time in the United States is taken into account.

The complexion of immigrants is different today. In earlier times (the 1950s) about two-thirds of the legal immigrants came from Europe. Today, only about 15 percent come from Europe, with the rest hailing mostly from Latin America and Asia. In 1900, fully 85 percent of America was "Anglo." Today it's 75 percent. By the year 2040 it will be 59 percent, but intermarriage may make those numbers moot.

It's going to be a big debate, stretching over several years. This time it would be nice if we agreed on some facts before we begin thrashing around.

FERMILAB COMPLETES THE BUILDING BLOCKS OF MATTER

Mr. SIMON. Mr. President, I rise today to recognize a special milestone in science and our understanding of nature. Scientists at Illinois' own Fermilab have found the first direct evidence of the top quark, the sixth and last component of a standard model of matter that explains the relationships between subatomic particles.

Since the fifth quark was seen at Fermilab in 1977, scientists around the world have searched for the elusive other half of the pair. I am proud to say that the 2,000 men and women of Fermilab have the honor of once again claiming the prize. Those in Congress who have supported U.S. leadership in science have a right to be proud as well.

Programs such as that at Fermilab have not only contributed greatly to our knowledge, but have provided the tools and skills of our best science to their communities and the hundreds of students and researchers that carry the scientific vision from Illinois to communities across the Nation.

We congratulate them on their accomplishment and wish them every success in their continuing research. I ask unanimous consent that the full text of the attached article from the New York Times be included in the RECORD.

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

[From the New York Times, Apr. 26, 1994]

TOP QUARK, LAST PIECE IN PUZZLE OF MATTER, APPEARS TO BE IN PLACE

(By William J. Broad)

The quest begun by philosophers in ancient Greece to understand the nature of matter may have ended in Batavia, Ill., with the discovery of evidence for the top quark, the last of 12 subatomic building blocks now believed to constitute all of the material world.

An international team of 439 scientists working at the Fermi National Accelerator Laboratory will announce the finding today, bringing nearly two decades of searching to a dramatic conclusion.

The Fermilab discovery, if confirmed, would be a major milestone for modern physics because it would complete the experimental proof of the grand theoretical edifice known as the Standard Model, which defines the modern understanding of the atom and its structure. The finding is likely to produce waves of intellectual satisfaction for physicists around the world and to give American physics a significant boost.

The discovery in all likelihood will never make a difference to everyday life, but it is a high intellectual achievement because the Standard Model, which it appears to validate, is central to understanding the nature of time, matter and the universe.

"The exciting thing is that this is the final piece of matter as we know it, as predicted by cosmology and the Standard Model of particle physics," Dr. David N. Schramm, a theoretical physicist at the University of Chicago, said in an interview, "It's the final piece of that puzzle."

Dr. Hans A. Bethe, a Nobel Laureate in physics at Cornell University, said the finding was "a very big deal" that "makes the whole picture of subnuclear particles much more believable and better established."

"We've needed the top quark," he said. "it figures in all our calculations for further processes, and none of them would be right if it weren't there."

If the top quark could not be found, the Standard Model of theoretical physicists would collapse, touching off an intellectual crisis that would force scientists to rethink three decades of work in which governments around the globe had invested many billions of dollars.

All matter is made of atoms, but nearly a century ago physicists discovered that atoms, long considered to be the smallest units of matter, were themselves composed of smaller, subatomic particles like protons and neutrons. But these particles later showed signs of being made of yet smaller building blocks.

The field was plunged into confusion for many years until a grand unifying theory pioneered by Dr. Murray Gell-Mann, a physicist at the California Institute of Technology, sought to explain the structure of particles like protons and neutrons in terms of new units that he whimsically named quarks.

His theory called for the existence of six different kinds of quarks, named up and down, charm and strange, top and bottom. The quark family parallels a six-member family of lighter particles, known as leptons, that includes the electron.

Various combinations of these 12 particles are thought to make up everything in the material world. In addition to matter, the universe contains potent forces like electromagnetism and gravity, and perhaps many other exotic particles as yet to be discovered.

Five of the six quarks were eventually found but the sixth remained painfully absent. For nearly two decades rival teams of scientists around the world have sought the top quark by performing ever-more-costly experiments on increasingly large machines that accelerate tiny particles almost to the speed of light and then smash them together in a burst of energy. The resulting fireball can yield clues to nature's most elementary building blocks.

The team at Fermilab, which includes scientists from the United States, Italy, Japan, Canada and Taiwan, cautioned that the evidence they had gathered over the past year and a half for the top quark would be convincing to many scientists but not definitive. They said further work would be needed to firmly establish the top quark and its attributes.

"Some people will say, 'Hey, nice piece of physics but you need more data to make sure,'" said Dr. Melvyn J. Shochet, a physicist at the University of Chicago who worked on the Fermilab experiment and is a spokesman for the discovery team. "To that I can only agree."

"We don't have a discovery," said a senior Fermilab official, who spoke on the condition of anonymity. "We have evidence. It's good evidence. It's tightening up to where the top quark lives. The next step is to get more events."

The experiment was run on Fermilab's Tevatron, a four-mile, circular accelerator in an underground tunnel that hurls counterrotating beams of protons and antiprotons at each other with a combined energy of 1.8 trillion electron-volts. It is currently the highest-energy accelerator in the world. The detector that gathered the evidence is the size of a large house and weighs 5,000 tons. A 150-page manuscript describing the work was mailed on Friday to Physical Review, the world's pre-eminent journal of physics.

Dr. Schochet, the team spokesman, said the mass of the top quark, its most important attribute, was calculated to be 174 billion electron-volts, with an uncertainty range of plus or minus 17 billion electron-volts.

"That's quite heavy," he said. "It's almost as heavy as an entire gold atom. It's by far heavier than any other elementary particle that's been observed, which is why it's taken so long to find."

As Fermilab, which is run by the Federal Department of Energy, reports the finding today, simultaneous announcements are to be made in Rome, Tokyo, Ottawa and Taipei.

Dr. Gell-Mann took the word quark from a line in "Finnegans Wake" by James Joyce: "Three quarks for Muster Mark." So too, Dr. Gell-Mann predicted that quarks in normal

matter came in groups of three. Protons would be made of two up quarks and one down quark; neutrons of two down quarks and one up quark. Dr. Gell-Mann's ideas were radical and strongly resisted, partly because the fractional charges of his quarks seemed implausible. But his theories explained much, and were soon partly confirmed by particle discoveries. In 1969 he won the Nobel Prize in Physics.

Low-mass quarks, the up and down, are the only ones thought to ordinarily exist in this world. Physicists believe that the higher-mass ones, charm and strange, top and bottom, were present naturally only for a tiny fraction of a second at the beginning of time during the Big Bang—the primordial explosion thought to have given rise to the universe. Top quarks, having the highest mass of all, are believed to have vanished from the universe after existing for less than a billionth of a second.

Thus, a time machine is needed to see most quarks. Particle acclerators slam together tiny bits of matter to create intense fireballs almost as hot as those that existed at the beginning of time, creating streams of nature's most rudimentary particles.

In 1977, when the bottom quark was discovered at Fermilab in a particle accelerators, physicists calculated that its top-quark companion would have a mass of 13.5 billion electron-volts, making it an easy target for any number of accelerators then planned around the world.

In July 1984, a European team of 151 scientists headed by Dr. Carlo Rubbia announced that it had confirmed the existence of the top quark, calling it a major breakthrough. That fall, Dr. Rubbia won the Nobel Prize in Physics for other discoveries. But it turned out that his top-quark claim was premature. The particle was far heavier, and more difficult to detect, than had generally been anticipated.

A KIND OF ALCHEMY

Physicists at Fermilab have been hunting the top quark for nearly two decades, looking at increasingly high energies. The process, they say, is like slamming together two tennis balls and trying to find a bowling ball in the rubble—a hint of the top quark's huge mass. The tennis balls can create things heavier than themselves because of their high energies, a kind of alchemy first suggested by Einstein in his famous law of equivalence between matter and energy.

The rub is the rarity of collisions that make top quarks. Dr. Shochet, the experiment team's spokesman, said many billions of proton-antiproton collisions were needed to produce just one top quark and that even then, subtle clues to its existence might be lost amid a clutter of spurious signals. The quarks themselves exist for only a fraction of a second, and cannot be detected directly. Their presence is inferred from ghostly showers of particles produced as they perish.

Dr. Shochet said the team's evidence gathered over a year and a half amounted to 15 clues from 12 collisions. Those results, he added, were about twice as high as expected from false positives in the background noise. He said really nailing down the top quark would require a mass of evidence three or four times above background levels.

Dr. Claudio Campagnair, a team physicist, said in a Fermilab brochure: "Rather than one 'Eureka!' event, top discovery will come by accumulating a lot of different evidence, bit by bit. You could compare discovering top with what happens in a courtroom in a case where there's no smoking gun and you must convince the jury by the accumulated weight of circumstantial evidence."

A separate team of 420 scientists at Fermilab is now using a different detector in an effort to confirm the first team's findings during the Tevatron's current 18-month run. Its work, and that of the original team, should be eased somewhat by recent accelerator improvements that will increase the number of collisions.

Fermilab is also completing a $230 million upgrade of the Tevatron that should sharply increase the collision rate, perhaps producing hundreds or thousands of top-quark candidates. It should be completed by 1998 or 1999.

After that, the only other accelerator powerful enough to join the hunt would be one under consideration at CERN, Europe's premier accelerator laboratory, on the border of France and Switzerland. Known as the Large Hadron Collider, it might be completed by the year 2005.

If the top quark has indeed been discovered at Fermilab, particle physicists will turn their attention to other enigmas, such as why all matter has mass. In the United States, such questions were to be addressed by the superconducting supercollider, which was to have measured 54 miles around and cost up to $11 billion. In October, Congress canceled the half-built machine in Waxahachie, Tex., calling it an inordinate drain on the Federal budget.

American inventors are now trying to create small, innovative accelerators in lieu of the big machine.

"Any new particle that's found" in the years ahead, said Dr. Schramm of the University of Chicago, "is going to be exotic in a much greater way than any quark."

WETLANDS AND PROPERTY RIGHTS

Mr. FAIRCLOTH. Mr. President, as a life-long farmer and landowner I want to bring to the Senate's attention a letter recently written to Representative NORMAN MINETA by a number of groups interested in preserving the right to private ownership of land.

Mr. President, this letter was written in response to a "Dear Colleague" sent out by Mr. MINETA sharing his views on the property rights debate. I join these groups in challenging his view that property rights advocates are somehow exaggerating the issue.

Like I said, I have farmed and tended land all of my life. Never in that time has the Federal Government been more intrusive and bureaucratic in their approach to private property and landowners. The rules and regulations imposed on the modern farmer are enough to make him feel as though he were a sharecropper for Uncle Sam.

As the letter to Mr. MINETA details, the Federal wetland program is absolute disaster. A new study concluded that the average permit application takes 373 days to complete. That's 1 year, 1 week, and 1 day—all to find out it you are approved to use your own land as you see fit.

No one in the Congress will deny that certain wetlands need protection. But I would like Mr. MINETA feel what a small farmer must feel when he must hire a trained scientist to come on his land to tell him exactly what is and what isn't a wetland. Or, more precisely, how much of his land is or is not subject to Federal control. It is simply unjustifiable to deny a landowner use of his property—without compensation—simply because it falls under some broad scientific, bureaucratic definition of a "wetland."

Let us fact it, Mr. President. The wetland program is nothing but a self perpetuating land grab by the Federal Government on behalf of environmental zealots—and their yes men in Congress—who are out to deny working Americans of their constitutionally protected right to private property. Indeed, it is a sad irony that the very groups who push the antiproperty agenda survive off wealth created from the same rights they now seek to destroy.

Mr. President, I have taken a particular interest in the penalties assessed farmers if they violate any one of the numerous rules and regulations associated with the Federal wetland program. I have found that, as it now stands, a farmer faces fines of $25,000 per day/per violation if he steps out of line. That is way out of line with common sense. It is unfair in the extreme to subject small farmers to the same penalties as those faced by big industry polluters. But is not surprising given the excesses which have characterized the wetland law.

Mr. President, the Clean Water Act is up for reauthorization this year. Like several other environmental laws, it is having trouble getting to the floor for the very reason Mr. MINETA wrote his Dear Colleague. The fact is, there are a lot of Senators and Representatives on both sides of the aisle who have had their fill of Federal land grabs and environmental regulations of dubious benefit. But sooner or later, Mr. President, we'll have our say, and if the American people are properly represented we will roll back much of this garbage.

Mr. President, I ask unanimous consent that the following letter from "The Farm Project" be entered into the RECORD at the conclusion of my remarks.

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

THE FARM PROJECT,
Arlington, VA, April 27, 1994.

Hon. NORMAN MINETA,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On March 10, 1994 you circulated a "Dear Colleague" letter to the members of the House of Representatives regarding the concept of takings, and what you deem as the "great deal of confusion" over the takings and property rights issue. Unfortunately, your letter does not "set the record straight" on takings, but rather adds to the confusion.

What you refer to as a "new" emphasis on property rights among property owners, certain Members, agricultural, environmental,

and recreational groups, is neither "dangerous" nor "radical" nor does it "distort" the Constitution. Rather it is a just and reasoned response to radical bureaucratic overreach.

Your letter admonishes Members to resist arguments and proposals regarding protection of property rights "likely to be presented to us during our consideration of the Clean Water Act reauthorization." You further write, "We as legislators can and must sort out when the public interest requires an activity on private property to be restricted or prohibited for the protection of the public . . . It is our responsibility to make that distinction, and we should do so in our deliberations on the Clean Water (sic)."

Good intentions to the contrary, the history of the Clean Water Act and wetlands regulation, which has aroused the ire of property owners, is checkered with bureaucratic excess and Congressional inaction. Indeed, the reauthorization you mentioned was scheduled for consideration in 1992.

The Federal Water Pollution Control Act was passed by Congress in 1972—22 years ago. In that legislation, under section 404—the current section under which wetlands permits are granted—was a prohibition on *discharging* dredged fill material into *navigable* waters without a waiver. The land-grabbing bureaucratic interpretation of that Act of Congress began in earnest just three years later.

In 1975, the Army Corp. of Engineers redefined "navigable" waters to mean all waterways. In 1977, the Corp again extended the definition of waterways to include wetlands. A decade later, in 1987, the definition of a wetland was expanded to include land that did not necessarily have to have visible water on it for up to 50 weeks per year. We are sure you would agree that water that puddles up for no more than 14 days is difficult to navigate.

The changes do not stop there however. Last year, the definition of "discharging into" was revised to include activities such as clearing and excavating. Furthermore, administration of the 404 permit program is very much indeed denying property owner's their rights to use their land. In one specific case, a property owner waited more than a year for a wetland permit that involved a piece of land small the one-half of the size of a ping-pong table; the permit application was withdrawn after this bureaucratic holdup. While federal regulators can claim, because of the withdrawal, that the permit was not denied, no one can claim that this property owner was given fair consideration.

The Army Corp of Engineers' regulations specify a 60-day standard for evaluation of 404 permits. Yet the average wait for an individual 404 permit, according to a study conducted by the National Wilderness Institute (NWI) that will be released next month, is 373 days! Or one year, one week, and one day. Indeed, NWI's study will also show that 93 percent of all individual permit applications exceed the 60 days standard.

Like the case described above, 63 percent of the individual applications that reached some sort of conclusion in 1992 were due to their withdrawal. Moreover, like the above 25 percent involved less than one-quarter of an acre, and more than half involve less than half-an-acre.

It is cases such as these that demand that property rights considerations must be given in the formulation of federal statutes and regulations. With all due respect, contrary to the assertions in your letter, protecting property rights will not force any local community to compromise its standards against lewd behavior, it will not foster treason, nor will it lead to the exploitation of laborers. Furthermore, protecting property rights will not force the federal government to "pay property owners not to break the law" as your letter says.

You write that "this new theory of what constitutes a taking" would result in a cost "beyond measuring." It is, however, the status quo which is costly. Indeed, the City of Anchorage, Alaska, commissioned a study to measure these costs.

The City of Anchorage commissioned a study of the Environmental Protection Agency's latest regulation regarding wetlands. The study encompassed the President's home state of Arkansas, and concluded that Arkansas could lose up to $138 million in lost property tax revenue in the first year. Nationwide, local governments could lose up to $6.9 billion. As a former mayor, you no doubt recognize that such a burden, coupled with other federal unfunded mandates, is devastating to local communities; particularly rural communities.

In the case of wetland takings, the cost of compensation for private landowners would not be a budget buster. For example, H.R. 1330—legislation to compensate landowners for wetland takings—includes a definition of high value (for Class A) wetlands that would apply to less than 9 million acres of privately owned wetlands or 11 percent of all wetlands which could potentially be developed, according to the Congressional Budget Office (CBO). With the current average annual wetland conversion rate of 108,000 acres per year, a compensation provision such as that in H.R. 1330 would require compensation for slightly more than 12,000 acres per year. According to the CBO, the acquisition of wetlands costs between $1,000 and $1,700 per acre. Therefore, the budgetary costs for these compensations would range from $13.5 to $20.3 million a year.

Finally, Mr. Chairman, protecting property rights does not—and has never—limited the government's ability to abate a nuisance by property owners such as burning mountains of used tires on their property, fouling their neighbor's air and flooding creeks with molten oil from the burning heap as you so descriptively write in your letter. Moreover, under a market system of property rights, one's authority over his or her property cannot be exercised to change the physical nature of another's property.

The government should seek to protect and encourage private property and the stewardship of our natural resources, rather than further encroach upon these Constitutionally granted rights. A loss of private property to the growing appetite of bureaucratic control, as in the case of wetlands, will lead first to the exploitation of property owners, and then without doubt, to the exploitation of our precious resources.

Sincerely,

Dave Juday, Director, FARM Project of the Alexis de Tocqueville Institution;

Robert E. Gordon, Jr., Executive Director, National Wilderness Institute;

Robert L. Vice, President, California Farm Bureau Federation;

John L. Braly, Executive Vice President, California Cattlemen's Association;

Jay B. Wilson, Executive Vice President, California Wool Growers Association;

Fred L. Smith, Jr., President, Competitive Enterprise Institute;

Nancie G. Marzulla, President and Chief Legal Counsel, Defenders of Property Rights;

Myron Ebell, Washington Representative, American Lands Rights Association;

Margaret Ann Reigle, Chairman, Fairness to Land Owners Committee;

David Rothbard, President, Committee for a Constructive Tomorrow;

Roger Pilon, Senior Fellow and Director, Center for Constitutional Studies, The Cato Institute;

John C. Shanahan, Environmental Policy Analyst, The Heritage Foundation;

John Baden, President, Foundation for Research on Economics and the Environment;

John C. Goodman, Ph.D., President, National Center for Policy Analysis.

TRIBUTE TO JAMES M. POLLOCK

Mr. JEFFORDS. Mr. President, I rise today to honor James M. Pollock, the fourth president of Green Mountain College in Poultney, VT, who is retiring at the end of June following a long and distinguished career in higher education spanning 34 years.

President Pollock is retiring after serving Green Mountain College for 17 years. During his tenure, the college has seen tremendous change and expansion. It has made a successful transition from a 2-year women's college to a 4-year coeducational college and the enrollment has almost doubled. Dr. Pollock is credited with restructuring the college's curriculum, reorganizing the co-curricular program, developing the Summer Conference Program, developing a comprehensive strategic plan, enhancing community relations and strengthening the administrative base of the college.

Dr. Pollock received his Bachelor of Science degree from Springfield College in Springfield, MA, in 1957 and received a Doctor of Education from Boston University in 1982. President Pollock was an instructor of biology at Springfield College from 1960 to 1963. He was the director of biological science at Vermont College from 1963 to 1971. He was the assistant dean of faculty at Vermont College until 1972. In 1972 he became the dean of academic affairs at Lasell Junior College and served that institution until 1977 when he became president of Green Mountain College.

President Pollock has served on several boards related to higher education. He is past president of the Vermont Higher Education Council and the past president of the Association of Vermont Independent Colleges. He is a charter member and director of AVIC Pooling Inc., past president of the Vermont Foundation of Independent Colleges, and a former board member of the Vermont Student Assistant Corp.

President Pollock is a member of the board of Green Mountain Bank and was recently named to the board of the Rutland Regional Medical Center. He served as a selectman in Poultney, and a member of PRIDE—Poultney Revitalizes Itself, Dreams Envisioned—and a member of the Poutlney Development Corp.

Dr. Pollock is noted for his open door policy for students, faculty, and staff.

He is admired by all members of the college community for his many contributions. His work will be greatly missed by Green Mountain College, Poultney, and the entire State of Vermont.

REMEMBERING PRESIDENT RICHARD M. NIXON

Mr. MACK. Mr. President, as America mourns the passing of President Richard M. Nixon, it is appropriate that we should reflect on the life and achievements of this remarkable man. So great and many were his accomplishments, that in the days since his death his political friends and foes alike have stepped forward to affirm his place in history.

Richard Nixon left America, and the world, a legacy which made the crumbling of the Berlin Wall possible, perhaps even inevitable. The world now reaps the benefit of his courage and foresight.

For me personally, his legacy is memorable for his efforts to elevate the fight against cancer. His dedication produced the landmark National Cancer Act of 1971 which has led to so many breakthroughs in cancer research and treatment.

Nixon represented those who, in his words were America's silent majority. He was the voice of America's forgotten middle class. Curt Smith put it succinctly in a recent Washington Post article. Describing his hometown, Smith said:

> Its people had a belief in work, God and family, a fondness for the familiar and a reverence for everything American. We were for Richard Nixon.

In the years after he left Washington, President Nixon's counsel was sought by each subsequent Chief Executive, as well as countless Members of Congress, Senators, and Cabinet officials. President Nixon graciously gave of his time, and his wisdom, in the service of his country. He will be missed.

RECOGNITION OF GEORGE J. RIGGS AND THOMAS R. WELLS, KENTUCKY SMALL BUSINESS PERSONS OF THE YEAR

Mr. FORD. Mr. President, I rise today to pay tribute to Mr. George J. Riggs and Mr. Thomas R. Wells of Erlanger, KY, who have been named Kentucky Small Business Persons of the Year by the U.S. Small Business Administration. They will be honored in Washington along with those other individuals who have been recognized from across the Nation during Small Business Week, May 1 through May 7, 1994.

George Riggs is currently president and Tom Wells is vice president of Embroidery Services, Inc. an embroidered apparel company located in Erlanger, KY. Incorporated a mere 12 years ago, the company has become a leader in the field of ornamental designed clothing. Embroidery Services, Inc. furnishes an entire line of apparel for Disney World and Disneyland, in addition to supplying resorts around the world with clothing bearing the resort logo.

Prompted by an article heralding the growing market for monogrammed goods, George Riggs invested $18,000 for his first 12-head sewing machine and rented 100 square feet of floor space to begin his venture. Within 2 weeks he had hired his first employee and set about the task of embroidering uniform shirts, napkins, and hats for the restaurant and bar industry. That one employee has now grown to 90, and the single 12-head sewing machine he used to get started has been replaced by over a dozen machines and other state-of-the-art equipment.

In 1989, Tom Wells came aboard as vice president and the small company was incorporated. By 1991, Tom's marketing savvy prompted sales to double. Since joining the firm, sales have increased by $6 million, and flagging attendance has been virtually wiped out by an innovative bonus program. By paying workers with a perfect attendance record more than $200,000 in bonuses, Monday morning no-shows have become a thing of the past.

A strong sense of community underlies all of George and Tom's endeavors; from their current project of providing an onsite child care center for employees, to future projects like providing a hot meal on each work shift for their employees. Tom is also a regular speaker for the Chamber of Commerce, and enjoys ecology work, youth sports, and church activities. George is actively involved in the Special Olympics. Both support the Johnny Bench scholarship fund.

Mr. President, George Riggs and Tom Wells set an example of dedication, integrity, and innovation which make them role models for small business persons across my State. In being named Kentucky Small Business Persons of the Year, I believe they can now be recognized by aspiring entrepreneurs nationwide as effective role models of both smart business practices and community spirit.

As we continue Small Business Week, I rise to recognize and congratulate George Riggs and Tom Wells and the other State Small Business Persons of the Year for their distinguished achievements and wish them continued success in the future.

DALAI LAMA SAYS PROTECTION OF HUMAN RIGHTS IS UNIVERSAL RESPONSIBILITY; CALLS FOR DIALOG WITH CHINESE ON TIBETAN FREEDOMS

Mr. PELL. Mr. President, His Holiness the 14th Dalai Lama was in New York City on April 27 to receive the World Security Annual Peace Award and to speak on the challenges of the 21st century and the future of Tibet. It was my good fortune to attend this event, hosted by the New York Lawyers Alliance for World Security and the Council on Foreign Relations.

The Dalai Lama framed his remarks within the concept of universal responsibility, that is, the obligation of each of us, on the basis of our human commonality, to work for the benefit of all. His discussion on the difficult issues of economic development and human rights, overpopulation, and arms control represented a spiritual and practical wisdom too rarely offered to an audience of such significant foreign affairs acumen.

As the leader of the Tibetan people and greatest incarnate hope for a peaceful and just resolution to the situation in Tibet, the Dalai Lama's most important remarks were addressed, perhaps, not only to those gathered in New York, but also to the Chinese Government:

> I take this opportunity to again state my willingness to meet with any of the present members of the Standing Committee of the Politburo in a third country of mutual convenience with the sincere desire to make a breakthrough in our relationship.

Mr. President, I ask unanimous consent that the full text of the Dalai Lama's April 27 remarks, "Reflections on the Challenges of the 21st Century," be printed in the RECORD at this time.

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

REFLECTIONS ON THE CHALLENGES OF THE 21ST CENTURY

(By His Holiness the 14th Dalai Lama)

As the twentieth century draws to a close, we find that the world has grown smaller. The world's people have become almost one community. Political and military alliances have created large multinational groups; industry and international trade have produced a global economy. Worldwide communications are eliminating ancient barriers of distance, language and race. We are also being drawn together by the grave problems we face: overpopulation, dwindling natural resources, degradation of the environment, military build-up and aggression and terrible human rights situations.

I believe that to meet the challenge of the next century, human beings will have to develop a greater sense of universal responsibility. Each of us must learn to work not just for his or her own self, family or nation, but for the benefit of all mankind. It is very old fashioned to think in terms of my nation, or my country. Universal responsibility is the real key to human survival.

Whether we like it or not, we have all been born on this earth as part of one great family. Rich or poor, educated or uneducated, black, white or yellow, belonging to one nation, religion, ideology or another, ultimately each of us is just a human being like everyone else. We have the common human needs and concerns. We all seek happiness and try to avoid suffering regardless of our race, religion, sex or political status. Human beings, indeed all sentient beings, have the right to pursue happiness and live in peace and in freedom.

As free human beings we can use our unique intelligence and try to understand ourselves and our world. But if we are prevented from using our creative potential, we are deprived of one of the basic characteristics of a human being. It is often the most gifted, dedicated and creative members of our society who become victims of human rights abuses. Thus the political, social, cultural and economic developments of a society are obstructed by the violations of human rights. Therefore, the protection of these rights and freedoms are of immense importance both for individuals affected and for the development of society as a whole.

If we accept that others have an equal right to peace and happiness as ourselves do we not have a responsibility to help those in need? Respect for fundamental human rights is as important to the people of Africa and Asia as it is to those in Europe or the Americas. All human beings, whatever their cultural or historical background suffer when they are intimidated, imprisoned or tortured. The question of human rights is so fundamentally important that there should be no difference of views on this. We must therefore insist on a global consensus not only on the need to respect human rights worldwide, but also on the definition of these rights.

Some governments have contended that the standards of human rights laid down in the Universal Declaration of Human Rights are those advocated by the West and cannot be applied to Asia and other parts of the Third World because of differences in culture and differences in social and economic development. I do not share this view and I am convinced that the majority of Asian people do not support this view either, for it is the inherent nature of all human beings to yearn for freedom, equality and dignity and they have an equal right to achieve that.

I do not see any contradiction between the need for economic development and the need for respect of human rights. The rich diversity of cultures and religions should help to strengthen the fundamental human rights in all communities. Underlying this diversity are fundamental human principles that bind us all as members of the same human family. Diversity and traditions can never justify the violations of human rights. Thus discrimination of persons from a different race, of women, and of weaker sections of the society may be traditional in some regions, but if they are inconsistent with universally recognized human rights, these forms of behavior should change. The universal principles of equality of all human beings must take precedence.

Artificial barriers that have divided nations and peoples have fallen in recent times. With the dismantling of the Berlin Wall, the East-West division which has polarized the whole world for decades has now come to an end. We are experiencing a time filled with hope and expectations. Yet there still remains a major gulf at the heart of the human family. By this I am referring to the North South divide. If we are serious in our commitment to the fundamental principles of equality, principles which I believe lie at the heart of the concept of human rights, today's economic disparity can no longer be ignored. It is not enough to merely state that all human beings must enjoy equal dignity. This must be translated into action. We have a responsibility to find ways to reduce this gap.

In this context, another important issue is over-population. From a Buddhist point of view, life of every sentient being is precious, and birth control is not favored. But today, we are facing a situation where the growing number of people poses a threat to the survival of humanity. Therefore, I personally feel we need to be pragmatic and adopt birth control measures in order to ensure the quality of life today in southern countries, and protect the quality of life for future generations. Of course, as a Buddhist monk, I favor non-violent forms of birth control.

Another issue which is very dear to my vision of the future is global demilitarization. This may sound idealistic to many people. I am aware that it needs a process of rethinking, education and a step by step approach. Most important I believe, is to re-evaluate our concept of military establishment. National forces should be gradually dissolved and collective forces on a regional basis should be formed. An important further step toward the goal of global demilitarization is an international ban on arms trade and the expansion of demilitarized zones in all parts of the world. Recent progress on dismantling nuclear arsenals and nuclear test bans are encouraging and significant developments.

Many dictators in the developing world have survived by weapons and armaments supplied by northern countries. So much money has gone toward buying guns instead of feeding people and meeting basic human and environmental needs. Costa Rica, a country which has followed the demilitarized path, has done quite well in areas such as education and health compared to neighboring countries. On the other hand, take Somalia for example, it is such a tragedy that there is no shortage of guns and bullets, but a severe lack of food. In such situations, thousands of innocent people can die, including many innocent children.

Even in your own country, guns and violence are too prevalent. And it seems that a contributing factor is the availability of inexpensive automatic weapons sold to American consumers by companies owned by the Peoples Liberation Army. Those cheap weapons are not only harming Americans, but also financially contributing to the army repressing my people in Tibet.

I have always envisioned the future of my own country, Tibet, as a neutral, demilitarized sanctuary where weapons are forbidden and the people live in harmony with nature. I have called this a Zone of Ahimsa or non-violence. This is not merely a dream—it is precisely the way Tibetans tried to live for over a thousand years before our country was tragically invaded. Also, for at least the last three hundred years, we had virtually no army. Tibet gave up the waging of war as an instrument of national policy several centuries ago.

I would also like to express my deep sense of satisfaction that elections are taking place in South Africa that allow all South Africans to participate. I hope and pray that peoples of all backgrounds and leaders of all communities will continue to work together toward an open, democratic society. I also had the opportunity to visit Israel recently, and there too, I was very heartened to see a process of negotiations toward a peaceful solution. Both these conflicts are being resolved through personal, face-to-face dialogue which I have always believed is essential.

Unfortunately, my efforts to resolve the situation in Tibet have not been a successful. So far, we have not been able to make a breakthrough and establish direct talks.

It has been thirty five years since the Chinese took complete control of Tibet. At that time, I, along with over 100,000 fellow Tibetans, left my homeland to live in exile in India, Nepal and other parts of the globe. As a result of the invasion and the ensuing occupation over 1.2 million of our people died of unnatural causes. Most of our monasteries, the learning centers and repositories of our culture—over 6000 of them—have been destroyed.

Since that time I have pursued a cause of non-violence and have tried in every way I know to find some reasonable accommodation with the Chinese government so that the Tibetan people can resume a life in peace and with dignity.

In 1979, Deng Xiaoping stated that all issues regarding Tibet were open for negotiations—except that of independence. I responded positively in agreement with the principles advanced by Mr. Deng Xiaoping with the hope that the Chinese government would be genuinely committed to negotiate on all other matters concerning the future of the six million Tibetans.

After informing the Chinese of my position on this point, through my emissaries who traveled to Beijing and met with Chinese diplomats abroad as well as through some of our foreign friends, I was hopeful that a forthright response would come from the Chinese so that we could enter into serious negotiations. My decision to make a short trip to Tibet in 1991 would have also given the Chinese government an opportunity to arrange direct meetings between me and some of their senior leaders who could have come to Tibet to meet me.

Unfortunately the Chinese government has yet to accept any of my proposals over the last fourteen years and yet to enter into substantive negotiations with my representatives, who remain prepared to meet with Chinese representatives anytime.

Therefore, I take this opportunity to again state my willingness to meet with any of the present members of the Standing Committee of the Politburo in a third country of mutual convenience with the sincere desire to make a breakthrough in our relationship.

On my part I am continuing with my sincere efforts to resolve the situation through negotiations. If this approach does not bring about a positive result, then I must consult my people over our future course of our freedom struggle. However, my commitment to non-violence is fundamental and there will be no deviation from this path under my leadership.

I think we can say that, because of the lessons we have begun to learn, the next century will be friendlier, more harmonious and peaceful. I am very hopeful. At the same time, I believe that every individual has a responsibility to help guide our global family in the right direction. good wishes are not enough; we have to assume responsibility. Large human movements spring from individual initiatives. I therefore believe strongly that it is the individual who makes the difference.

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

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

Under the previous order, the Senator from Utah [Mr. HATCH] is recognized to speak for up to 15 minutes.

THE RELIGIOUS FREEDOM RESTORATION ACT

Mr. HATCH. Mr. President, I rise today to address an issue of great con-

cern to the citizens of Utah and every other State. This past year, Congress passed the Religious Freedom Restoration Act. This is a landmark bill designed to restore strong protections to citizens exercising their religion against unreasonable Government interference. Unfortunately, the Clinton administration, with breathtaking speed, has interpreted the act in a manner that effectively guts it.

The Religious Freedom Restoration Act was described by many religious leaders—accurately so—as one of the most significant pieces of legislation in support of religious freedom to ever come out of Congress. It was intended to restore to all Americans a fundamental right guaranteed by the first amendment to our Constitution: the free exercise of religion. The act had widespread support from a broad and diverse coalition of religious and civil rights organizations, from the ACLU to the Free Congress Foundation. I was the leading sponsor of this act along with Senator KENNEDY.

Recently, I became aware that the Department of Justice intervened in what I believe is the first appellate case involving the interpretation of the Religious Freedom Restoration Act. To my deep chagrin, I learned that the Department had committed itself to a position in its amicus curiae brief that is contrary to the plain meaning of the act, to the detriment of religious freedom. Despite the act's widespread support and its clearly defined and agreed upon objective, its purpose is being undermined by this administration.

I might add that the core meaning of the bill was never a subject of controversy in Congress.

The underlying case, Christians versus Crystal Evangelical Church, involves a bankruptcy court decision which ordered a Protestant Christian congregation to return money to a Government bankruptcy trustee that was tithed by two members of the church who later filed a bankruptcy petition. The tithes were offered over a period of years in good faith, in the exercise of their religious beliefs and without any fraudulent intent.

Under the bankruptcy code, any transfer of assets made within 1 year of a bankruptcy may be recovered by the trustee to pay creditors. This provision is intended to prevent debtors from fraudulently disposing of or shielding their assets. The tithes that issued in this case were made out of sincere religious belief within 1 year of filing a bankruptcy petition.

No one challenges the importance of the Government's interest in preventing fraud. Preventing fraud would probably satisfy a compelling State interest, which would be all right under the Religious Freedom Restoration Act. However, as in this case, the Government's interest is simply in enlarging the pool of assets for creditors, not preventing fraud. This interest does not satisfy the compelling Government interest standard that must be met under the Religious Freedom Restoration Act. In my view, the interest in collecting for creditors, while very important, would almost never be compelling when weighed against the interests embodied in the first amendment.

In its brief, the Department argues that the Government's interest in protecting the financial interests of creditors conclusively establishes a compelling interest that overrides any religious free exercise right. If the Department's position prevails, it will have a disastrous impact on the Religious Freedom Restoration Act, rendering it virtually meaningless. The department's very broad definition of the compelling State interest test, if adopted by the courts, will once again eliminate any real protection of religious liberty under the first amendment.

Mr. President, just 6 short months ago, President Clinton signed into law the Religious Freedom Restoration Act in a glorious ceremony on the south lawn of the White House before a large group of religious leaders. In his remarks he noted correctly that the act requires that the Government should be held to a very high level of proof before it can interfere with anyone's free exercise of religion. In fact, the Religious Freedom Restoration Act sets forth a specific standard that requires the Government interest to be a compelling State interest, an interest of the highest order.

It is difficult for me to imagine that providing an economic advantage to a pool of creditors satisfies the compelling governmental interests necessary to override our first amendment protection of religious free exercise, but the Department argues this position. And especially is the Department wrong since there was no fraud in this case, or no attempt to defraud.

I intend to ask Attorney General Janet Reno to reconsider the Department's position in this case. Perhaps this is the kind of limited protection President Clinton envisioned when he committed himself to the protection of one of the most precious of all-American liberties—religious freedom—but I can say quite confidently that this is not the type of protection Congress fought so hard and so long to restore. The Department's position is a slap in the face to our religious community, and it should not stand.

I personally believe that President Clinton must not know what they are doing, or he would put a stop to it. So, in a sense, it is a slap in his face, as well, since he was one of the strongest supporters of what we were trying to do. I hope that he will get involved and direct the Department to back off—especially since there is no fraud here—and allow the Religious Freedom Restoration Act to have the widespread, broad coverage that we intended here in Congress in the first place.

I urge my colleagues to join with me in defending the religious liberties guaranteed by the first amendment and reestablished under the Religious Freedom Restoration Act.

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

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

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator is permitted to speak for up to 5 minutes.

AIRLINE SAFETY

Mr. EXON. Mr. President, a very important matter has come up that I hope the Senate and the House of Representatives will address itself to. Under the leadership of our great Secretary of Transportation, Secretary Peña, we should be alerted to the fact that we have a ticking time bomb going on with regard to airline safety.

The Secretary of Transportation has taken the recommendation of a previously structured national commission to ensure competitiveness in the airline industry that this Senator was a part of, to change and challenge the competition, increase safety, and modernize our traffic control system in the United States.

Mr. President, I ask unanimous consent that at the conclusion of my remarks there be printed in the RECORD for the information of all, a report to the President and Congress of August 1993 entitled "Change, Challenge, and Competition," by the National Commission to Ensure a Strong and Competitive Airline Industry; and two articles of the last 2 days, yesterday and this morning, Tuesday, from the Washington Post, by two excellent writers, with regard to the Federal administration's case, supported by the Secretary of Transportation with regard to the need to do something and to plan to do something now before the present situation becomes chaotic.

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

(See exhibit 1.)

Mr. EXON. Mr. President, I salute the great safety record of the Federal Aviation Administration. Certainly, if you look at the record, you will see that with the diligence, the tenacity, and the determination of the dedicated air traffic controllers of the United States of America, we fly an unbelievable amount of aircraft and flying hours to the benefit of the traveling public. Their record has been exemplary.

The fact of the matter is that something needs to be done with regard to planning for the future. If you will take the time to look firsthand today at the equipment that is available to the air traffic controller, which all of us as the traveling public and all of the employees of the airlines rely on to keep track of and keep the proper distance between the mass of air traffic today, particularly at certain of our more heavily controlled airports, you will begin to realize the enormity of the situation.

In addition, Mr. President, this has a national security implication because, in addition to the private aircraft and the commercial aircraft, all of the aircraft flown by the military of the United States of America in at least our airways and our skies in the United States of America are, once again, controlled and kept separated by the Air Traffic Controllers Association and their dedicated people.

If you take the time to look at the equipment that they use, you will find, Mr. President, that in all too many cases the computers, the viewing screens, the communications facilities that make and bring all this together are older than any of the aircraft and in many instances older than any of the air traffic controllers that are now using them. In the days of yesteryear we relied basically on the vacuum tube from the standpoint of being the heart and soul of radio, including, in the early days, television. The vacuum tube is a thing of the past. The vacuum tubes that we are using in our air traffic control system today are not, by and large, manufactured in the United States but abroad, because the computer chips and other technologies have made the vacuum tube obsolete. When you realize that certain parts of our air traffic control system are relying on a vacuum tube, you realize how far behind we are.

Mr. President, the Secretary of Transportation has suggested that a new type of corporation, which would be owned and controlled by the Federal Government not unlike the Tennessee Valley Authority, should be enacted as recommended by the Airline Commission in order to streamline, to speed up, to enhance, if you will, the Federal Aviation Administration, and to move the Federal Aviation Administration from its present status to the new corporation. This would contribute a great deal to the advance that has been made to speed up and modernize our air traffic control system.

Why is this necessary? I simply submit for the RECORD that there are currently 19,000 scheduled airline flights a day in the United States. Air traffic control systems are being stretched to their absolute limit and, as I referenced earlier, have done an excellent job. In 1980, there were 300 million passengers flying. Last year, there were more than 500 million passengers flying. By the year 2005, there will be 800 million passengers flying in the United States. The number of flights per year is expected to increase from 60 million in 1993 to 74 million by the year 2005.

I simply say that, of the budget of the United States, 80 percent of the current Federal Aviation Administration budget goes to the air traffic control situation. Restructuring the Federal Aviation Administration could save, according to the recommendations and belief of the Secretary, about $7 billion over 10 years. Rapid response to new technology and a relief from present procurement rules are an absolute necessity if we are to be able to keep pace with the obligation that we have to better serve the public.

I simply say, Mr. President, that there may be some changes that should be made. Possibly those of us responsible for this in the Government could come up with something better, but I simply salute the Secretary of Transportation for his forthrightness, for his looking into the future, for his citing the safety problems that are likely to accrue, not now, not today, but tomorrow, unless we take some action.

Therefore, I recommend the reading of these articles that I have submitted for the RECORD to the Members of the House and the Senate. While there seems to be some opposition in some parts of the Congress today to any change whatsoever, this Senator is taking a totally open mind on this proposition, and I hope that my other colleagues will not only take an open mind but work collectively together to try to address this problem that is with us today and is going to be more serious unless we attack it now and begin to change what I think is a very dangerous precedent that we have been setting by having the air traffic control system not keep pace with the traveling public and its needs.

EXHIBIT 1

[A report to the President and Congress, August 1993]

CHANGE, CHALLENGE AND COMPETITION—THE NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

RESTRUCTURING FAA

To ensure the timely and efficient implementation of state-of-the-art technology for the operation and funding of the air traffic control system, the FAA must be established as an independent government corporation and removed from the federal budget process. That process provides neither a stable, predictable source of revenue nor the ability to leverage that revenue, both of which are required to fund the high-technology capital improvement program needed for a state-of-the-art air traffic control system. Put simply, the federal budget process cannot be relied on to provide adequate, continuing funds for FAA's operations or capital programs. The improvements we believe are necessary in our air traffic control system cannot be accomplished without a stable, predictable source of revenues and the ability to use those revenues to secure long-term financing.

The Airport and Airway Trust Fund was designed to provide a dedicated source of user funding to pay for airport and airspace improvements. It should not serve as a general fund asset for the federal government. User demand and the stability and growth of user revenues must drive air traffic control operations and modernization. A recent Office of Management and Budget (OMB) memorandum contemplates hundreds of millions of dollars in operating and maintenance budget reductions for FAA in fiscal year 1995. These cuts would have a devastating impact and illustrate how the vagaries of the federal budget undermine the funding stability necessary to provide efficient air traffic control services.

Few high-technology, capital-intensive businesses attempt a pay-as-you-go approach to major capital investment projects. The existing user-fee revenue stream must be used rationally to fund the massive capital projects needed to keep our air transportation system the most efficient and technologically advanced in the world.

Unfortunately, federal agencies like the FAA operate under severe limitations. These include total dependence on a political and unpredictable budgetary process; a cumbersome procurement system designed to prevent fraud but even better at thwarting the timely and efficient acquisition of sophisticated and rapidly evolving high-technology goods and services, and, a federal personnel system that makes it unnecessarily difficult to attract and retain a talented and technically sophisticated work force.

The FAA must be restructured fundamentally if we are to take full advantage of new developments in air traffic control technology. If it is, the U.S. can ensure that its air traffic control system remains efficient and the world's best, and provides an important export opportunity in a high-technology, high-wage sector.

Adoption of the following recommendations would create a self-funding and leading-edge system capable of meeting the needs of travelers, shippers and airlines in a high-technology environment. The Commission also emphasizes that it believes the federal government should maintain policy control of the air traffic control system and its oversight of system safety.

Specifically, we recommend: Creation of an independent federal corporate entity within the DOT to manage and fund air traffic control and related functions, including system development, procurement and maintenance. Policy control of the air traffic control system and safety oversight should stay with the federal government;

Establishment of a panel of FAA and industry experts, with the participation of the Department of Defense, which will report in 90 days on the specific structure and method of implementation, and which will draft legislative proposals for creation of the corporate entity; and,

The following principles should be embodied in the federal corporate entity's implementing act:

Ability of the corporate entity to create and use a predictable, stable source of revenue for operations, maintenance and capital investment;

Ability of the corporate entity to issue long-term bonds for capital purchases;

Removal of current expenditures and revenues from the federal budget in equal amounts for a fiscally neutral effect;

Sufficient management flexibility and compensation to attract and retain high-caliber leadership and staff;

Flexibility to create systems for procurement, staff and budget consistent with best practices in the private sector:

Flexibility in an orderly transfer of operating functions to the reorganized entity; and,

Continued air traffic control service to the Defense Department, meeting national security requirements.

OTHER SYSTEM CAPACITY ISSUES

The Commission gave high priority to examining ways to make our air transportation system more efficient and technologically advanced. Our recommendations to restructure the FAA and accelerate the use of GPS for air traffic control are critical to achievement of the goal.

The Commission also examined other options for improving system capacity issues and developed these recommendations. We recommend

FAA review the rule that limits operations at "high density" airports with the aim of either removing these artificial limits or raising them to the highest practicable level consistent with safety requirements. (Washington National Airport's legislated limits would not be affected.)

Congress fully fund system capacity elements—facilities and equipment; airports; research, engineering and development, and FAA operations—as long as these remain within the federal budget process.

Finally, the Commission urges the FAA and the Department of Defense to cooperate actively to make maximum possible joint use of airspace and military airfields. In addition, we believe costs related to system capacity improvements could be lowered significantly if airport bonds were classified as public-purpose bonds, as recommended by the Anthony Commission.

[From the Washington Post, May 2, 1994]

UNITED STATES TO SHAKE UP AIR TRAFFIC BUREAUCRACY

(By Richard M. Weintraub and John Burgess)

The Clinton administration has decided that the vast network of computers and people who guide 19,000 scheduled airline flights a day across the country is so bureaucratically encrusted that both safety and efficiency will be threatened unless a new way is found to run it.

An administration proposal to remove the air traffic service from the Federal Aviation Administration and turn it over to a government corporation, long sought by the airline industry, will be officially announced this week, according to government sources.

Thousands of aircraft fly at hundreds of miles an hour through crowded skies without bumping into each other in large measure because of 38,000 air traffic controllers, technicians and managers who operate the system's radars and computers.

But, despite huge expenditures and a major improvement program dating from 1981, some of those computers run in part on technologically extinct vacuum tubes that until recently could be acquired only from factories in Poland and Czechoslovakia. Others come from China.

At sprawling Los Angeles International Airport, the radars that monitor planes on the ground on often fog-enshrouded runways depend on tubes made only in a British factory. The FAA has no way to test them other than by plugging them in.

The FAA's premier project, a multibillion-dollar program to replace its entire aircraft-tracking computer system, is so burdened by mismanagement that officials have concluded that it probably never can be completed as presently designed.

According to both the statistics and safety specialists, the air traffic control system is safe today. But the argument for reinventing it insists that, if it is to stay safe and efficient as air travel grows, it must escape the snail-like decision-making and procurement that many feel have characterized FAA management.

"The plan to establish an air traffic control corporation is a model of our reinventing government effort," said Vice President Gore, who brushed aside the most recent internal opponents to the concept at a White House meeting last month.

"The plan will cut red tape and make it easier to procure the most up-to-date equipment. By improving working conditions through the use of updated equipment, the plan allows air traffic employees to focus on the business of ensuring safer air travel for everyone."

Not everyone agrees, and when Gore and Transportation Secretary Federico Peña announce their plan to split the agency, it will set off a battle on Capitol Hill, where key congressmen are questioning whether the administration's solution is the safest path to follow.

DIFFERENCE OF OPINION

The aviation community has many more players than the airlines, and they do not all agree on what, if anything, should be done.

"We need a system that will keep up with the industry it serves," Peña told a group of air traffic controllers at a recent meeting in Leesburg. "We've been talking about this for 10 years. Let's do it!"

But Rep. James L. Oberstar (D-Minn.), chairman of the House aviation subcommittee, said: "This is just the wrong course and it would take years to recover from it. . . . Shake up the agency; don't dismember it."

Oberstar said the sheer disruption of massive change to the FAA that a new corporation would create threatens the excellent safety record.

Other key congressional figures are split, although most are withholding comment until the administration delivers its proposal.

Sen. Ernest F. Hollings (D-S.C.), chairman of the Commerce, Science, and Transportation Committee, and Sen. Wendell H. Ford (D-Ky.), chairman of the Senate aviation subcommittee, have serious doubts about the idea, according to aides.

But the transportation appropriations committee chairman, Sen. Frank R. Lautenberg (D-N.J.) and Rep. Bob Carr (D-Mich.), are leaning in favor.

Interestingly, Peña and Oberstar and most everyone in between agree that something is broken at the FAA. It's how to fix it that creates the differences.

Just as the Federal Communications Commission allocates what frequencies can be used by radio and television stations, the FAA tells airplanes where they can fly.

There's one big difference. After the FCC makes its decisions, its functional role is over. Radio and television stations maintain and operate their own transmission equipment. The FAA maintains and runs a multibillion-dollar system that interacts tens of thousands of times daily with commercial flights, corporate jets, recreational pilots and the military.

Air traffic controllers, aided by an elaborate web of radar antennas and computers, direct those 19,000 commercial flights every day, but the closest a passenger gets to this network is an announcement from the cockpit that "we're number one for takeoff" or, in times of bad weather, "air traffic control has told us to hold here."

Such delays translate directly into dollars. American Airlines Executive Vice President Robert W. Baker said that a 15-minute delay for the airline's smallest plane, the Fokker-100, costs $1,800, while the same delay for its biggest, the McDonnell-Douglas MD-11, costs $8,024. These are the kinds of numbers that have led a financially beleaguered industry to argue for change.

Peña said that tinkering around the edges will not fix the FAA. To bring about the transformation, the administration would send the air traffic control functions to a government-owned corporation, something like the Tennessee Valley Authority.

Of the agency's 52,000 employees, 38,000 would go into ATC Corp. These are the controllers who work in the towers and regional radar centers, and the computer specialists, the electricians, mechanics and others who maintain the system.

What's left of the FAA would continue to be responsible for regulating aviation safety by setting standards for aircraft and aircraft parts and writing the rules for everything from pilot and flight attendant training to airport security to grants for airport improvement.

A suggestion to take the entire FAA into the corporation was rejected by the White House, as was a proposal to create a fully privatized corporation instead of a government-controlled one.

While the administration's corporation would be a "business" in the technical sense, the government would be the only shareholder. The secretaries of transportation and defense would sit on its board, along with representatives of unions, the general public, the business community, the airline industry, recreational pilots and other users of the system.

The board would hire a chief executive and set policy guidelines, as any corporate board would, although the FAA would continue to monitor ATC Corp. for safety compliance, just as it monitors aircraft manufacturers. The safety guidelines by which controllers operate still would be written by the FAA.

Initial funding would come from the 10 percent ticket tax all airline passengers pay. Since about 80 percent of the FAA's current $9.1 billion budget goes to air traffic control, 80 percent of the ticket tax would go to ATC Corp., except that it would be called a fee rather than a tax. Administration officials estimate savings for taxpayers over a 10-year period would be several billion dollars.

EASIER ACCESS TO FUNDS

An important difference—and one that would theoretically make it possible for ATC Corp. to move more quickly on a major procurement than the FAA can today—is that the corporation could borrow money or float bonds rather than await the annual congressional appropriation from the aviation trust fund, which is regularly held hostage to deficit control.

The remaining ticket tax funds would flow into the trust fund to support airport projects, which would remain under the control of the FAA. The FAA's safety functions would be covered by general fund appropriations as they are now.

Congressional critics question the administration's funding assumptions. Other critics of the proposal ask whether a corporation is necessary at all.

"Air traffic control is a natural monopoly, and the only way to protect the public interest is to maintain it as a government function with broad, informed oversight," the Aircraft Owners and Pilots Association (AOPA) told the task force that drew up the

proposal. The AOPA, long powerful on Capital Hill in part because many members of Congress also are private pilots, represents 324,000 general aviation pilots.

The association expressed fears of an increase in taxes and fees accompanying a deterioration in safety and efficiency, especially during a transition period.

John Olcott, head of the National Business Aircraft Association (NBAA), which represents companies that use aircraft for business purposes, argued that the "checks and balances provided by Congressional oversight should be maintained so that political agendas of the executive branch . . . and the vested interests of any single user group do not compromise system safety or service to all users."

Oberstar, like the AOPA and the NBAA, favors change within the existing government structure.

"There has been no effort to fix what is there while proposing radical surgery. Will they just fire people? That is terribly disruptive," Oberstar said, recalling the turmoil tht followed the firing of 11,400 illegally striking controllers by President Reagain in 1981.

The corporation, Oberstar argues, is being designed to serve the interests of airlines. In hard times, they may push to cut fees, to cut the number of controllers. That could lead to . . . precariousness for safety."

"Oberstar's argument . . . assumes that the industry will 'own' this corporation. It won't," Pena counters. "All the stock will be owned by the government and we think we will actually increase safety because we can bring on technology sooner."

Adds FAA Administrator David Hinson: "Even today, we oversee safety for thousands of operations at [aircraft manufacturers like] McDonnel-Douglas and Boeing. It wouldn't be any different with air traffic control."

COMMITTED TO SAFETY

Some controllers bristle at the suggestion safety would suffer. "Why do these people in Congress think I am going to be any less safe under a corporation? That burns me!" said Mark Meuwissen, a controller at Detroit.

And the controllers want that new equipment. "I've been here for years and I've never seen anything done in less than three years with regular procurement," said Paul Jester, who is in charge of computer and radar maintenance at the regional air traffic control center at Leesburg. "Everything is maxed out in this facility. We are at capacity."

His lament is heard often in air traffic control facilities, whether older ones such as in St. Louis and Chicago or one like Detroit, where a new control tower is filled with equipment dating from the 1960s and 1970s.

For now, even proponents are waiting on the sidelines for the administration to fill in the blanks on the details.

When Peña told top executives of the airlines recently that it was time to stand up and be counted, the answer was: We are for it in principle but first show us how this corporation will be funded.

"Whatever fixes the system, I'm in favor of," said Randy Babbitt, head of the Air Line Pilots Association. "But we have concerns over how certain components now within the FAA that work well together because they are part of the same unit" will interface. "Today they work very closely."

In meetings with controllers in the past, Peña was peppered with questions about pensions, job protection and the like. Time and again, the answer was: it's under study. At one point a controller exploded: "I'm hearing only vague references. . . . Sounds to me like it hasn't been thought through."

The drafters of the plan said they will fill in the details in days and weeks to come.

Peña said, "What I ask is, hear us out. The burden of proof is on us. . . . If we can't answer questions, we ought not pass it."

[From the Washington Post, May 3, 1994]

FAA'S CASE STUDY IN COMPUTER CHAOS—SNARLED AIR TRAFFIC CONTROL PROJECT POINTS UP RISKS OF BIG PROJECTS

(By John Burgess and Richard M. Weintraub)

The team would call at Federal Aviation Administration offices with lengthy requests for reports and interviews related to a single question: How far behind and over cost was the agency's multibillion-dollar program to modernize the nation's air traffic control computers?

Team members often worked nights and weekends, meeting in an 8th-floor room at the FAA's Independence Avenue headquarters. In the end, they decided that the agency's pledge to finish the job for $6 billion was fanciful.

"We came to the view that you just can't get there from here," said Mark Gerchick, a member of the inhouse FAA group that sorted through the project's debris.

The "Advanced Automation System" contract offers lessons for big government computer jobs everywhere. It shows how they tend to bloat, how agencies and contractors can grow too close, how officials dither on decision-making in a quest for the system that is perfect rather than the one that is possible now.

It shows that however good the intentions, creating the complex codes that drive the computer age—software—always exacts greater time and expense than their creators predict. Programmers at times must scale back ambitious plans and settle for the equivalent of paving a cow path—making an established system a little better than creating a revolutionary new one.

The tale also offers a window into the often-mysterious work of the many software companies that ring the Capital Beltway and win work from the federal government. Close to 1,000 people in this area, most of them working in Rockville, earn their livings from the air traffic control contract alone.

Their assignment was bold from the start. They were to create, essentially from scratch, one of the largest and most complex computer networks in history. It would link thousands of computers at hundreds of facilities, processing and transmitting radar images from all over the country where each day 165,000 aircraft take off and land.

To ensure that none of those airplanes collided, it would have extremely high reliability: It would fail for not more than three seconds per year.

Now the contract's future is in question. FAA Administrator David R. Hinson has suspended work on parts of it and thrown into question the entire plan, one of the biggest civilian contracts in federal history. Promising to set things right once and for all, Hinson transferred the project's manager and opened the door to canceling other parts or giving them to other companies.

While specialists agree that the air traffic system is basically safe, no one denies that the computers must be replaced to keep things that way and allow air traffic to grow. Further, the FAA's handling, or mishandling, of the contract is providing ammunition for the Clinton administration's push to turn the air traffic service into a government corporation, divorced from the FAA. The administration is schedule to issue a formal proposal for the split today.

Everyone in the industry has a tale of how old the equipment is. Randy Babbitt, head of the Air Line Pilots Association, recalls his shock at visiting a control tower recently and finding that the radar screens were essentially the same ones he had encountered as a new pilot at Eastern Airlines in 1966.

The FAA was thinking of a grand modernization as long ago as the late 1970s. But it was the 1981 strike by most of the nation's air traffic controllers that moved the agency to act.

As conceived, the Advanced Automation System would operate with a small work force. It would have intelligence that would safely place aircraft closer together in the skies to reduce costly delays and chart out routes that would produce big fuel savings to the airlines.

The price tag estimate in 1981: $2 billion.

By the time the contract was let in 1988 to International Business Machines Corp., the FAA had already spent close to $700 million in research and development and the contract had become quite a bit bigger as new features were added. The estimated cost was $4.3 billion, but that was just a guess because officials had left unanswered questions about whether to add many features.

The first big-ticket phase was the replacement of aging consoles that controllers use in the FAA's 22 regional centers—such as one at Leesburg—that guide planes between airports. Plans called for controllers to get modern "workstation" computers and displays that would be more reliable, color-code traffic and let them select radio frequencies by touching screen buttons instead of dialing dials or switching switches.

Most of the hardware being used was standard commercial equipment. The cost was in sofware—computer instructions that would tie the hundreds of sites together. It entailed writing and testing more than 1.2 million lines of computer instructions, each of which had to fit perfectly with the rest or risk bringing the entire system to a halt.

To write those instructions, IBM had chosen a relatively rare computer language called Ada. Early on, work was slowed because the market lacked a good selection of Ada "development tools"—essentially software that engineers use to write more software. IBM had to create many of the tools.

Moreover, the FAA continued to dither about what it really wanted. A key question that caused endless delays: How would the system accommodate "flights strips," pieces of paper that controllers use to keep track of information about individual flights? The FAA at first wanted to replicate the strips electronically on the display screen. Later, after controllers had been shown prototypes, it opted to store the information out of sight so that controllers could "call it up" as needed.

"They never wanted to close the door, because they were always afraid that better technology would pass them by," said Clark Onstad, a Washington aviation attorney and former FAA chief counsel. His clients include Loral Corp., which recently bought the IBM division handling the air traffic job.

Changing FAA positions over the number of air traffic control facilities also complicated the job. When the agency backed way from an ambitious plan to consolidate many facilities into regional ones, software code had to be rewritten.

With the schedule slipping, IBM began cutting corners, putting software into use be-

fore it had passed the company's usual battery of tests, IBM said. In an interview last year, Gerald Ebker, then chairman of the Bethesda-based IBM unit handling the job, put it this way: "The problem is key individuals in key slots who didn't do their jobs." The company replaced its team leaders and brought in more talent from outside the area.

In the fall of 1992, things came to a head. IBM officially informed the FAA that another 14-month delay was likely. With the airline industry pushing for a faster, more flexible system and Congress looking over its shoulder, the FAA responded by sending IBM a "cure letter," which demanded a fix and functioned as the first step for a potential revocation of the contract.

IBM and FAA people met constantly in the spring of 1993 and reached a plan. IBM would demonstrate the basic soundness of the software for the regional centers by September 1994. It would be allowed to add certain key layers of software after that, rather than before as previously planned. The software would be tested simultaneously.

The agreement laid out a series of "milestones" that IBM would pass to ensure that the job stayed on schedule for an October 1996 opening at the Seattle regional center.

John Burt, at the time the FAA's top systems acquisition officer, argues that this was a feasible approach: Unless firm deadlines were created, he said, people would never get the job done. Testing the software sequentially, as was originally planned, would take longer and would ensure that when the ultimate system was finally turned on, it would be much closer to obsolescence.

By now the total estimated cost was $4.7 billion. Members of Congress wrung their hands but took no action. Things seemed settled—until a new secretary of transportation, Federico Peña, and a new FAA administrator, Hinson took office. Their people began nosing around the program and found out late last year that the official estimate had grown again, this time to $5.9 billion.

So Hinson created a team of FAA people who had taken no direct role in the project. Their job: to do a "reality check," sort through the mountain of paper and charts that had been generated and give their own best estimate.

In ensuing weeks, the team conducted roughly 100 interviews at the FAA and at contracting companies. They pored over a stack of paper 25 feet high.

They did not always feel welcome. "There was some mistrust that we couldn't really understand, that we hadn't walked a mile" with the contract team, said John Cassady, FAA deputy chief counsel and staff director of the task force.

In the end, the task force concluded that IBM and FAA officials had made unrealistic assumptions about progress. It was "as if wishing would make it so," said one member of the inquiry team.

Particularly troubling was that under the revised schedule, IBM would be officially credited with having demonstrated basic feasibility in September 1994 even though key pieces of software would not be finished. They would be developed later as what had been finished was tested. That was asking for trouble, the group thought.

Another warning sign: There was no letup in the project's generation of "problem reports"—official notice of something that needed fixing. IBM was eliminating about 300 a month, but generating roughly the same number. Unless something gave, about 3,000 problem reports would still be pending this September, when IBM would supposedly demonstrate the system's fitness.

Another problem: Engineers were still having to go back into line after line of software code to fix past mistakes or incorporate new FAA design changes. Virtually all lines were being reworked; IBM's target had been 40 percent, the task force said. As of February of this year, the contract team had pending requests for changes in close to 650,000 lines of instructions.

Buried in the report was a finding that the FAA had given IBM almost $19 million in "award fees," special incentive payments granted when a contractor has shown "exceptional performance in such areas as schedule, performance, program and contract management."

In March, the team reported these and other findings to Hinson. Its best judgment was that under a "moderate risk scenario," the ultimate cost would come to $7 billion; delivery would likely be 20 months later than the schedule the FAA had negotiated with IBM. In response, Hinson replaced the project manager and commissioned an outside study to decide how to proceed.

In a hearing last month, members of Congress needled Hinson about imposing some kind of punishment for the delays, either on FAA officials or on IBM. Hinson fended them off. "I am less interested in affixing blame for the past poor showings than I am with shaping and managing a program that will accomplish what we need," he said.

Now a new player has entered the scene. In March, defense conglomerate Loral bought the IBM division handling the job. To date, however, the FAA has not formally transferred the job to Loral

While Loral lobbies to preserve as much of the work as it can, companies such as Hughes Aircraft Co., BDM International Inc., Raytheon Co. and Unisys Corp., which all make air traffic control equipment, are telling Congress that their products could be substituted for parts of what Loral is supposed to develop.

At a recent hearing, Loral Chairman Bernard Schwartz proposed pushing the testing schedule back to give more time to ensure soundness of the software.

Hinson has promised decisions by the end of May. But in the hearing, he gave a hint of his direction: "To the extent feasible," he said, "high-risk activities will be minimized and the use of available, off-the-shelf technology will be a preferred option."

Doing so may entail junking some of the advanced features of the system but getting something sooner and at lower costs. After years of promises and failed commitments, many top officials think that's not a bad trade-off.

Mr. EXON. I thank the Chair and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON] suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Maine [Mr. COHEN] is recognized for not to exceed 10 minutes.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN and Mr. FORD pertaining to the submission of Senate Resolution 208 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Madam President, I ask unanimous consent I be allowed to speak for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Carolina [Mr. THURMOND] is recognized for not to exceed 7 minutes.

SO-CALLED RACIAL JUSTICE ACT PROVISION IN HOUSE-PASSED CRIME BILL

Mr. THURMOND. Madam President, I rise today to speak against a provision in the House-passed crime bill which would effectively abolish the death penalty across the Nation, at the Federal and State levels.

The antideath penalty provision is title IX in the House-passed crime bill and often mislabeled by its proponents as the Racial Justice Act. This language would allow death-sentenced murderers the opportunity to avoid the death penalty by using a statistical quota system to challenge their sentence. We have defeated this legislation time and time again in the Senate when offered by those who are opposed to the death penalty.

To those who claim that this provision is necessary to prohibit a death sentence based on considerations of race, I would point them to the 14th amendment to the Constitution. The 14th amendment, along with other protections, contains a fundamental proposition which prohibits any person from being sentenced to death on the basis of race.

Title IX in the House-passed crime bill would permit a defendant in a capital case to make a showing that race was a statistically significant factor in decisions to seek or impose the death sentence in the jurisdiction in question. Once this minimal standard of a statistical imbalance is shown, a heavy burden of rebuttal is then imposed on State or Federal prosecutors.

I have been a judge and a practicing attorney. It has always been my understanding that individuals are tried on the facts of his or her case, not on the facts, circumstances or statistics from unrelated cases. This has been a fundamental precept in our criminal justice system. Passage of the so-called Racial Justice Act would relegate the outcome of capital cases to statistical assertions from other unrelated capital cases. Needless to say, the focus of the trial should be whether the defendant committed the offense for which he was charged and it should not be overshadowed by statistical jousting.

Clearly capital cases should be race neutral. The proposal in the House bill

brings race consciousness into the trial in order to attain a racial balance. This actually heightens the role of an individual's race in capital cases and establishes a quota system in death penalty cases. The guilt or innocence and imposition of the death penalty should turn on the facts of an individual's case having nothing to do with the defendant's race or the race of individuals in unrelated cases.

Let there be no mistake, title IX in the House-passed crime bill would effectively abolish the death penalty at the Federal and State levels. Also, it completely overturns the Supreme Court decision in McClesky versus Kemp. In that decision, the Supreme Court held that a defendant who contests his capital sentence on the basis of racial discrimination is required to prove that the decisionmakers in his own case acted with discriminatory purposes.

The Supreme Court has rejected the statistical theory of racial discrimination in death penatly cases and the Racial Justice Act is a thinly veiled attempt to overturn the Supreme Court on this matter. It is important to note that Justice Powell, writing for the Court in McClesky, observed that the statistical premise of discrimination advocated by the defendant—and now as title IX in the House bill—throws into serious question the principles that underlie our entire criminal justice system.

We will soon go to conference with the House to resolve our differences in the crime bills passed by our respective bodies. We have a good opportunity to pass a comprehensive anticrime measure which the American people deserve. If the conference report is to be adopted, it must be void of title IX from the House bill. This provision is opposed by the National Association of District Attorneys and the National Association of Attorneys General. These are the men and women who have the responsibility for prosecuting death penalty cases all across the Nation on behalf of the American people. I am hopeful that the House conferees will not let the American people down by insisting that this antideath penalty provision remain in the conference report. If necessary, the Senate should vote in the near future on a sense-of-the-Senate resolution on this matter to alert House Members that we cannot support the inclusion of the so-called Racial Justice Act in the final anti-crime bill.

I look forward to working with my Senate colleagues to ensure the passage of a responsible comprehensive anticrime bill and the removal of language from the House bill which will abolish the death penalty across the United States.

I yield the floor.

Mr. GRAHAM. Madam President, I ask unanimous consent to speak for up to 20 minutes.

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

HAITI

Mr. GRAHAM. Madam President today I once again rise to condemn the intransigence of the coup leaders in Haiti and the continued failure of the United States and the world community to restore democracy to that beleaguered country.

Six months ago, I visited Haiti to meet with government officials and members of the military about the country's prospects for democracy. The mood in Port Au Prince in early October was one of growing despair.

The U.S.S. *Harlan County*, a U.S. ship with military trainers, Seabees, and the Corps of Engineers was supposed to dock that day and facilitate Haiti's transition to democracy.

But due to the failure of the Haitian military to meet its commitment to provide adequate security for our troops and dockage for the *Harlan County*, that single symbol of hope, sat helplessly off shore, while prospects for a peaceful restoration of President Jean Bertrand Aristide faded away.

I met with several members of the civilian government during my 2-day visit, including Justice Minister Guy Malary and Prime Minister Robert Malval. Both were discouraged and rightfully so. Every hour brought new reports of terrorism.

At dinner, my conversation with Malval was cut short by a call from his wife, who reported gun shots in the neighborhood and begged him to come home.

Today, 6 months later, conditions in Haiti could not be worse. Malary is dead, killed 3 days after our dinner by armed thugs as he drove to work. Malval has submitted his resignation, unable to sustain the farce of a legitimate government while trapped in his home.

And the military is in complete control, even more entrenched and recalcitrant than they were in October.

Our country's policies continue to be impotent in restoring democracy to Haiti. The U.N. embargo is in reality a sieve, enriching the military at the expense of Haiti's already impoverished masses. Even the U.S. Embassy is relying on contraband gasoline, thereby unintentionally helping to sustain the military government.

Finally, a week ago today, on Tuesday, April 26, President Clinton fired the United States special envoy to Haiti, Lawrence Pezzulo, in an effort to demonstrate United States resolve on the Haiti issue.

Now the United States must choose. We can accept the status quo and leave Haiti at the mercy of its ruthless military, we can accept the nightly parade of corpses to which we have been assaulted through television in recent weeks, or we can fulfill our professed goal of the last 31 months and two administrations—restoring Haiti's democratically elected President, Jean Bertrand Aristide.

Late last week, the administration announced that it would seek U.N. approval for a comprehensive embargo of Haiti, but stronger sanctions will not end up meaning a restoration of President Aristide. These sanctions will more likely mean more money, ill-gained from their failure to abide by their commitments, to the Haitian military. It will mean more suffering for the poor of Haiti, the entire population of that destitute nation, except for a small class of military and economic elites.

I am convinced that we cannot achieve our goal without military force, without the threat and willingness to use credible military power. The Haitian military will never negotiate itself out of power without such a threat of force. And if we continue to delay intervention, our hand, the United States hand will be forced—forced by an overwhelming waive of refugees, by increased violence and chaos, or by domestic revulsion at our passivity in the light of flagrant human rights abuses and drug flow through Haiti.

The only option remaining is a military option, preferably multilateral but unilateral if necessary. Military intervention is always the solution of last resort. But as the failed policies of the last 2½ years attest, unfortunately, it has become Haiti's only chance and our only means to accomplish an important national foreign policy objective.

Military intervention should involve the following three steps:

First, conveying to the Haitian military that they will be held strictly accountable for further violence in Haiti.

Second, consulting with out hemispheric allies on assembling a multilateral military force. This force should have the following missions: separate the combatants, restore President Aristide to office, assist in the deployment of U.N. peacekeepers and then withdraw.

Third, coordinating with the United Nations for the United Nations to provide peacekeepers who would remain in Haiti after the withdrawal of the United States-led multilateral force and until stability has been restored.

This operation would be similar to the one successfully carried out in El Salvador, where the bulk of peacekeepers had completed their work and were out of the country within 2 years.

The United States cannot be the world's police force. We must balance our interests and responsibilities to determine which world crises justify the risk of deploying American military forces.

When diplomatic channels prove time and time again to be exercises in futil-

ity, however, the United States must examine the credible use of force to end totalitarian injustice, to protect our national interests particularly in our own hemisphere.

Madam President, time is not on our side. The longer we acquiesce to brutal dictators the further we slide down the slope of world credibility. We are in a weaker position now than we were in September of 1991 immediately following the overthrow of President Aristide.

We have witnessed two administrations, and their policies have achieved the same failed results. Once again I here an administration stressing a new tougher policy. The old adage rings as true today as it has throughout the history of diplomacy—diplomacy without the backing of credible force is almost without exception failed diplomacy.

The other rule is that embargoes are very blunt instruments and are extremely difficult to enforce, a rule we are learning every day again in Haiti.

And yet, the proposed changes in U.S. policy, announced last week, strongly resemble the failed policy of the past 2½ years. In September 1991, the overthrow of President Aristide resulted in the suspension of all aid to the Haitian Government from the United States, France, Canada, Venezuela, and the European Community.

In addition the OAS imposed a trade embargo in early October 1991. On October 4, 1991, President Bush stated:

> I'd like to think that this mission by the Organization of American States will do it. So, let's hope that that (restoration of democracy) can be done without any kind of force.

This was followed on May 28, 1992, when President Bush issued a statement saying—

> In accordance with the recent OAS resolution, we are examining other steps to tighten sanctions against the illegal regime in Port au Prince.

On November 24, 1992, the U.N. General Assembly adopted a resolution urging member states to institute the trade embargo on Haiti as called for by the OAS' existing embargo. Once again we assumed a little economic screw-tightening would restore President Aristide. Once again, we have been proven wrong.

The Governor's Island Accord provided the framework and timetable for the restoration of President Aristide by October 30, 1993. It is important to note the successful implementation of the agreement would have marked the first time in Latin American history that a president ousted by violent means was restored through a negotiated process.

Lawrence Pezzullo confidently states on July 26, 1993:

> With strong international support and the good faith efforts of all Haitians, I am sure that the Governor's Island Accord will succeed in restoring constitutional government and returning President Aristide to office through a peaceful transition.

That was July 26, 1993.

It should be as painfully obvious to the United States as it is to President Aristide that no policy can succeed that relies on the good faith efforts of the military leaders in Haiti.

This brings us to the present U.S. incremental policy of tightening existing sanctions. This week President Clinton stated, "We ought to change our policy. It hasn't worked."

Madam President, as history attests, any proposed policy that does not include the credible threat of force does not have much hope of achieving the United State goal of the restoration of democracy in Haiti.

Many Americans are loath to commit United States forces to yet another troubled country after our experience in Somalia. But Haiti is not an isolated country halfway around the world. Haiti is our virtual next door neighbor, less than 800 miles off the coast of Florida. We cannot afford to walk away.

First, the United States is responsible for democratic leadership, particularly in the Western Hemisphere. Bowing to the military leaders in Haiti will destroy American credibility both with the Haitians and with other would-be dictators. If we cannot stand up to military thugs in our own hemisphere how can we maintain international credibility?

It sets a poor precedent in dealing with potentially trouble spots in Bosnia or North Korean or South America and the Caribbean.

Since the coup in Haiti, there have been efforts to dislodge democracy in Venezuela, Peru, and Guatemala. Abandoning Haiti would send a dangerous message resonating throughout the Caribbean and Latin America—that our commitment to democracy is shallow, short-lived and ineffective, and should be tested.

Second, the United States cannot stand by and watch the obliteration of human rights so close to its shores. An average of 40 political killings have been reported each month since 1993. Reports say the wave of savagery and terrorism under the military regime is even worse than under the Duvaliers. We cannot turn our backs on torture and suffering.

Third, an economically and politically unstable Haiti means more refugees flowing into the United States. Having served as Governor of Florida during the Mariel boatlift, I remember all too well what a mass exodus to the United States can do to our local economies and law enforcement capabilities.

Many communities continue to be challenged by the problems associated with illegal immigration, and the administration has faced strong pressure to tighten immigration laws, a fact well known to our Presiding Officer.

The administration has faced strong pressure to tighten immigration laws. The most effective way to reduce illegal immigration from Haiti is to promote democracy and help the development of a stable economy. This is true in that country as it is throughout the Caribbean, Latin America, and around the world.

Without decent lives and hope for the future, it is no wonder that Haitians will risk everything to escape their homeland.

The United States also has a major interest in Haiti because of Haiti's role in the drug trade. Corrupt members of the military have allowed drugs to travel through Haiti, a transshipment point for illegal substances, which end up killing on the streets of America, from Florida to California.

Finally, the United States would benefit economically from a democratic, prosperous Haiti, which would help solidify the momentum for democracy throughout the Caribbean and Latin America.

A few days ago, in late April a boatload of 411 desperate Haitians left their homes, crammed themselves into a 65-foot boat and risked their lives for a chance at freedom. Those who made it arrived recently in Miami with only the belongings they could stuff into overnight bags.

Many reported physical abuse by those in control of the boat. Fourteen passengers required medical attention; six others apparently died in route and were unceremoniously thrown overboard.

As the lull between winter winds and the hurricane season takes hold in the Caribbean Sea, Haitians will continue to risk everything to escape from their oppressive lives. How many more Haitians will we turn back before we hear their tragic pleas?

President Clinton, who campaigned for office criticizing the interdiction of Haitian refugees, has since justified turning these refugees back because of Haiti's substantive moves to restore democracy. That argument no longer stands, and the basis for interdiction has been shattered.

How can we justify sending refugees back to a nation plagued by violence and bloodshed, when there is clearly little hope of a democratic future?

Two-and-a-half years of sanctions have failed to achieve our objective. A new set of strengthened sanctions will cause more needless suffering, increase the incentive for Haitians to flee and further enrich and embolden the military.

The time has come to solve Haiti's problems and provide a promising future for Haitians in their own homeland rather than in the United States. We must use every means available to restore President Aristide to office—

and to restore America's credibility in foreign affairs.

Thank you, Madam President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, thank you.

DOD FINANCIAL CRISIS

Mr. GRASSLEY. Madam President, there is a continuing and a dangerous crisis in financial management at the Department of Defense [DOD] and someone needs to be held accountable for what's going on.

The financial mess at the Pentagon was the subject of an excellent hearing before Senator GLENN's Governmental Affairs Committee on April 12, 1994.

The testimony and discussion were devastating.

I would like to briefly review what was said at the hearing and then followup on the need for accountability.

The worst problem addressed at the hearing were unmatched disbursements.

The easiest way to understand unmatched disbursements is to compare them to something the average American does every day like handling a credit card account.

If we just go ahead and pay the amount shown in the box "total due" on our monthly statements without ever checking the items listed against our customer slips, we have something like DOD unmatched disbursements.

If the matches are not made each month—and this becomes common knowledge like at DOD, then our credit card account could become vulnerable to fraudulent or erroneous charges by a crooked merchant.

The same thing is going on at DOD but on a massive scale.

The GAO says that DOD has at least $41 billion of unmatched disbursements; $41 billion in unmatched disbursements means millions and millions of DOD checks have not or cannot be linked to supporting documentation and contracts.

Comptroller General Bowsher and Deputy DOD IG Vander Schaaf confirm one simple fact: If a check is not matched with an obligation, we do not know what happened to the money.

Unmatched disbursements leave accounts vulnerable to theft and abuse.

We know some of DOD's unmatched payments are legitimate. But some were fraudulent.

We had the case of Mr. James Lugas at Reese Air Force Base, TX, last year, and the case of Mr. James McGill at the Navy's Military Sealift Command this year.

Lugas and McGill were able to rip into the taxpayer's pockets undetected to the tune of $5,119,989.49. These payments could not be matched with anything.

In both cases, the money was stolen from DBOF—the Defense Business Operations Fund.

Both Lugas and McGill were caught by chance and not because of effective internal financial controls.

We do not know how many others, like Lugas and McGill, have tapped into the DOD money pipe undetected.

We also know that unmatched disbursements produce duplicate and erroneous payments.

Mr. Bowsher testified that DOD made about $1.5 billion in overpayments to contractors in fiscal year 1993 and that the overpayments are continuing.

Again, these erroneous payments were not detected because of effective internal controls. There were detected when the contractors voluntarily returned the money.

How many overpayments were not returned? DOD does not know.

To make matters worse, DFAS—the Defense Finance and Accounting Service—the organization in charge of the DOD check writing operation, appears to condone and coverup overpayments.

DFAS wants to avoid the administrative headache and embarrassment of processing returned checks.

Instead of recovering overpayments, DFAS is telling the contractors: just hold on to the money and work off the overpayment down the road against unspecified future work.

So, DFAS is making unauthorized interest-free loans to the defense industry.

Senator GLENN said and I quote:

> This would, in effect, give the company a loan, no interest, no nothing; just keep the money and use it for your own investment for a while if you want to."

DOD could be sitting on billions of dollars of fraudulent and erroneous payments. We will not know how bad it is until all payments are properly matched.

This is a very dangerous mess, Madam President. I think it stinks.

Mr. Bowsher, keeps saying:

> * * * the breakdown of financial control and discipline in accounting for taxpayers' dollars at DOD is inexcusable and must not be tolerated.

Responsible officials must be held accountable and disciplined for what has happened. Gross, continuing financial mismanagement must have consequences.

As I told the committee on April 12, accountability is not on the way. Rather, rewards for business as usual are being dished out.

I have here a DOD memo dated March 9, 1994, signed by D.O. Cooke, Director of Administration and Management. I ask unanimous consent that it be printed in the RECORD.

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

[From the Office of the Secretary of Defense, Washington, DC, Mar. 9, 1994]

MEMORANDUM ON 1993 SENIOR EXECUTIVE SERVICE PRESIDENTIAL RANK AWARDS

An original and integral part of the Senior Executive Service (SES) established by the Civil Services Reform Act of 1978, the Presidential rank awards are the most significant means of recognizing contributions by Federal career senior executives. Each year the President can confer the rank of Distinguished Executive on not more than one percent of the SES and the rank of Meritorious Executive on not more than five percent of the SES.

The Distinguished Executive rank and $20,000 were presented to the following career executives in the Office of the Secretary of Defense (OSD) and the Defense Agencies for 1993:

Kenneth Bruce Boheim, Defense Information Systems Agency; James D. Carlson, Ballistic Missile Defense Organization; Gary L. Denman, Advanced Research Projects Agency; L. Paul Dube, Office of the Comptroller; Frank Kendall, Office of the Under Secretary of Defense for Acquisition; and Homer Diehl McKalip, office of the Under Secretary of Defense (Policy).

Following is a list of career executives in OSD, the Defense Agencies, and the Office of the Inspector General who were awarded the Meritorious Executive rank award and $10,000 for 1993:

Alan J. Andereoni, Defense Medical Programs Activity; Glenwood E. Bradley, Defense Information Systems Agency; Carolyn A. Carmack, Office of the Comptroller; Nathaniel M. Cavallini, Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence); Jeremy C. Clark, Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence); Carol Frick Covey, Office of the Under Secretary of Defense for Acquisition; Sheila G. Dryden, Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence); Arthur H. Ehlers, Jr., Office of the Director, Administration and Management; Thomas E. Ewald, Defense Investigative Service; Douglas B. Hansen, Office of the Under Secretary of Defense for Acquisition; Richard G. Howe, Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence); Clyde E. Jeffcoat, Defense Information Systems Agency; Edward R. Jones, Office of the Inspector General; Lorraine F. Lechner, Defense Finance and Accounting Services; Belkis Leong-Hong, Defense Information Systems Agency; David L. McNicol, Office of the Director, Program Analysis and Evaluation; Patrick J. Meehan, Jr., Office of the Under Secretary of Defense for Acquisition; John S. Nabil, Defense Finance and Accounting Service; Earl W. Phillips, Defense Mapping Agency; John P. Springett, Defense Finance and Accounting Service; Frank A. Tapparo, Office of the Director, Program Analysis and Evaluation; and Charles C. Wilson, Jr., Office of the Under Secretary of Defense (Policy).

D.O. COOKE,
Director.

Mr. GRASSLEY. The memo announces the recipients of the 1993 Presidential Rank Awards.

Four recipients of the award and $10,000 cash bonuses are senior officials of the Defense Finance and Accounting Service or DFAS as follows: John P. Springett, DFAS Director; Lorraine F. Lechner, DFAS Deputy Director; John

S. Nabil, Director, Denver Center; and Clyde E. Jeffcoat, Director, Denver Center, 1991–92.

The Defense Finance and Accounting Service is directly responsible for many of the problems that were the focus of the April 12 hearing.

All four officials have held top management positions at DFAS since day one—November 26, 1990—the day DFAS was created.

Mr. Springett—first as Principal Deputy Director then as Director; Ms. Lechner as Deputy Director for Resource Management and Chief Financial Officer; and Mr. Nabil and Jeffcoat as Directors of major financial centers at Kansas City and Denver.

Three of the four continue to occupy top positions today. They run the show. They are in charge. They are accountable.

Mr. Jeffcoat has retired, but he ran the Denver Center when $649.1 million in M account money was used to plug a gaping hole in Air Force accounting records to make the books balance.

These rewards send the wrong signal to the rest of the financial management community.

We say that fixing the problem is a top priority. Yet we reward the big wheels at the top who are responsible for the mess—who conduct business as usual—who do nothing more than write "cover-your-fanny" memos while the accounting system lies in shambles at their feet.

At the April 12 hearing, I recommended that: "responsible officials should be identified and removed from office; and that the Presidential awards be reviewed and reconsidered."

Mr. Hamre was very disappointed in my remarks. The next day he wrote me a letter, defending the three DFAS officials.

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

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

COMPTROLLER OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, April 13, 1994.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: I am writing as a follow up to yesterday's hearing before Senator Glenn on the issue of financial management reform in the Department of Defense. I am sorry I was not able to be at the hearing at the time you testified. Conflicts in schedule precluded me from arriving until about 10:30.

Then I arrived I learned something that bothered me. I learned that in your statement you criticized four individuals, three of whom worked at the Defense Finance and Accounting Service, for receiving awards when we have been having so many problems in the financial management area. From the tone of the comments I received, it appears people concluded that we have rewarded these individuals for poor behavior when we should have disciplined them or fired them.

I take responsibility for this serious misunderstanding. These three individuals continue to work in DFAS and received the awards just last year. I was not here at the time they were nominated for their awards, but had I been here I would have nominated them myself. These individuals were rewarded for their efforts during the past year, not because of the problems but because they have been leading the fight to overcome the 40-year old problems they inherited.

The case of the fellow who fraudulently billed $3 million to the Military Sealift Command is a good case in point. That case predated the creation of the Defense Finance and Accounting Service. Even before he learned of the case, John Springett initiated a tightening of the internal controls in the various centers. After the case was revealed, he added new procedures to try to avoid similar occurances in other centers. I have enclosed some memoranda he authored as evidence of his efforts.

These individuals were rewarded for leading the fight to correct our problems, not for their work in causing the problems. Like me, they recently moved into these positions of responsibility, and their heroic efforts in these jobs led us to recommend them for bonuses. That is precisely what we should be doint—rewarding the courageous civil servants who are working overtime to correct the systemic problems we all inherited.

May I ask of you a favor? I would like to get on your calendar and bring over these three individuals and have them brief you on the actions that they have taken during the past two years to correct some of our most serious problems. I invite you to judge them at that point, but I am convinced you will conclude as I have that these three people do indeed deserve commendation for their efforts. I will call Charlie Murphy soon to arrange for that meeting.

Sincerely,

JOHN J. HAMRE.

Enclosures.

[From the Defense Finance and Accounting Service, Arlington, VA, Oct. 28, 1993]

Memorandum for Center Directors, Defense Finance and Accounting Service.

Subject: Finance and Accounting Operational Review Program.

Finance and accounting activities have always been associated with high levels of risk. Turmoil in the workplace resulting from the defense drawdown and base realignment and closure activities has increased the challenge of managing this risk. Our traditional role as custodians of the public trust demands that we be certain we are managing our risk as effectively as possible.

The Defense Finance and Accounting Service assumed a higher level of risk as a result of the capitalization and consolidation of finance and accounting functions. Confidence in the effectiveness of programs assimilated by capitalization must be improved as soon as possible. Acceptable confidence levels can best be assured by the consistent application throughout DFAS of a clearly defined operational review program.

Recent instances of reported fraud serve to remind us that we must be constantly vigilant to any compromise and quick to apply well formulated corrective action. It is imperative we begin this important work immediately. We must be able to thoroughly demonstrate continuous verification of the integrity of our operations at all levels—including the lowest operating levels. The work we recently undertook together through the Corporate Management Advisory Board to develop a comprehensive and consistent finance and accounting quality assurance program for DFAS was the first step in achieving appropriate confidence levels in this vital area.

The next step is to implement the embedded program portion of the operational review program beginning December 1, 1993. The following implementing instructions are provided to ensure program consistency throughout DFAS:

Defense Accounting Offices. Reviews of all finance and/or accounting functions within the Defense Accounting Office (DAO) will be performed once every 12 months at a minimum. Each Defense Accounting Officer will prepare an annual review plan, with a copy provided to their Center management support activity. Reviews will be conducted by personnel who are not directly associated with the function itself. The reviews will include all operations to support the function, to include validation and testing of internal controls. Each review will be completed with a written report to the Defense Accounting Officer, to include recommendations for improvements for identified deficiencies. DAOs will provide a quarterly status report on their review plan progress to their Center management support activity; this report may be incorporated into current quarterly reporting requirements.

Centers. Reviews of all finance and/or accounting functional operations, to include the office which provides liaison support between DAOs and DFAS–CO, will be performed once every 12 months at a minimum. Each operating director will submit to the Center Director an annual review plan which schedules the review of each process or group of processes, to include validation and testing of internal controls. Reviews will be conducted by personnel who are not directly associated with the daily management of the process or group of processes. A written report of each review will be provided to the operational Director. The report will include recommendations for corrective actions or improvements. The operating directors will provide to the Center Director a quarterly status report on their review plan progress. Coordination of Center operation reviews with the Center Internal Review program manager is essential to ensure no duplication.

I am confident you will take the necessary proactive steps to ensure the timely completion of the milestones established in your implementation plans. Attached for your information is a summary by Center of the not to exceed approved additive resources.

I have tasked the Deputy Director for Customer Service and Performance Assessment to monitor our progress in this essential program area.

JOHN P. SPRINGETT,
Director.

Attachment.

Summary of Additive Resource Requirements Operational Review Program (Embedded)

	Not to exceed
Kansas City	29
Denver	2
Columbus	10
Indianapolis	[1]0
Cleveland	0
Total	41

[1]Note for DFAS–IN: Increment for DFAS–IN is included in FY 1993 capitalization agreement with Army.

[From the Defense Finance and Accounting Service, Arlington, VA, Mar. 14, 1994]

Memorandum for Center Directors, Defense Finance and Accounting Service.

Subject: Finance and Accounting Independent Operational Review Program.

On October 28, 1993, the Defense Finance and Accounting Service initiated the embedded Operational Review Program, the initial step to address the high level of risk inherent in the finance and accounting business area. Each of you took immediate action to make this a viable and effective program.

To further amplify our responsibilities in the reduction of fraud, waste, and abuse in daily operations, DFAS will now implement the independent phase of the Operational Review Program. The independent Operational Review Program will be functionally independent of operations (an honest broker) and will have the authority, responsibility, and technical expertise to conduct reviews both externally (Defense Accounting Office network) and internally (Center finance and/or accounting operations) under the direct staff control of the Center Director.

The effective date for the independent review program is March 1, 1994. The following implementing instructions are provided to ensure program consistency throughout DFAS:

DFAS Headquarters. Program management for the Operational Review Program is the responsibility of the Deputy Director for Customer Service and Performance Assessment (DFAS-HQ/P). Policies and procedures for independent reviews of functional operations, review criteria and techniques, and program progress oversight will be developed and published by HQ/P. The Operational Review and Management Directorate (HQ/PF) will provide direct oversight for your progress in program implementation.

DFAS Centers. Independent review of all DAOs will be performed at least once every 18 months. Each Center finance and/or accounting functional operations will be independently reviewed at least once every 24 months. Each Center Director will ensure an annual review plan is developed, approved, and provided to DFAS-HQ/P not later than June of the prior fiscal year. Reviews will be conducted by personnel who are not associated with the daily management of the DAO or function scheduled for review. The reviews will include either all of the operations within the DAO or Center functional operations, or any selected group of operations as determined by the Center's independent review program manager or team leader. The reviews will include validation and testing of internal controls. In most cases, reviews will be completed in one week, depending on size and complexity of the activity scheduled for review. The team leader will conduct an exit briefing with the appropriate line manager(s) highlighting positive recognition for commendable actions as well as deficiencies which require corrective action. A written report to the line manager will be completed within seven calendar days after completion of the review. Reports which identify deficiencies will require a response from the line manager with a plan of corrective action; responses must be completed within 30 days after receipt of the review report. Center independent review program managers are responsible for reporting to the Center Director at least quarterly on the program results; some situations may require immediate reporting.

I am confident you will take the necessary proactive steps to ensure timely planning and development of milestones for this portion of the operational review program. The Operational Review and Measurement Directorate will contact you within a few days to initiate the planning process. As before, the Deputy Director for Customer Service and Performance Assessment will monitor our progress in this essential program area.

JOHN P. SPRINGETT,
Director.

Attachment.

Summary of Additive Resource Requirements Operational Review Program

INDEPENDENT PROGRAM

	Not to exceed
Kansas City	4
Denver	0
Columbus	0
Indianapolis	0
Cleveland	4
Total	8

EMBEDDED PROGRAM

(Previously approved by Director on Oct. 28, 1993)

	Not to exceed
Kansas City	29
Denver	2
Columbus	10
Indianapolis	[1]0
Cleveland	0
Total	41

[1] Note for DFAS-IN: Increment for DFAS-IN is included in FY 1993 agreement with Army.

Attachment.

INDEPENDENT OPERATIONAL REVIEW PROGRAM CONCEPT

Independent review DAO/Center Operations: Center Directors responsible for implementation, program managers at each center orchestrate program under the direct staff control of the Center Director.

Establish an annual plan.

Team leaders/members from DAOs for DAO reviews—ad hoc.

Team Leaders/members from each center for center reviews—also ad hoc.

Frequency of reviews: At least once every 18 months, reviews generally completed in 1 week.

Reporting:

Verbal report provided at exit briefing.

Formal written report issued within 7 calendar days to DAO/line manager of center functions (activity reviewed).

Formal reply by DAO/line manager required on all findings.

Reply submitted to the center independent program manager from DAOs through network management channels, or directly from line managers for center functions, within 30 calendar days after receiving written report.

Program manager provides monthly update to center director; sooner if situations dictate.

DFAS—headquarters monitors program progress.

Mr. GRASSLEY. In a nutshell, this is what Mr. Hamre said: "They have been leading the fight to overcome the 40-year-old problems they inherited * * * Like me, they recently moved into these positions of responsibility, and their heroic efforts in these jobs led us to recommend them for bonuses."

Madam President, I do not agree with Mr. Hamre's assessment.

Mr. Hamre's position is based on the assumption that Mr. Springett and company are helping him fix the problem. I would like to try to put Mr. Hamre's belief in better perspective.

DFAS was created in November 1990. It was one of the famous DMR or Defense Management Report initiatives.

To that extent, it was the brainchild of the late Mr. Donald J. Atwood, who was Deputy Secretary of Defense at the time.

I have a document signed by Mr. Atwood. It is dated April 14, 1992. In this document, Mr. Atwood outlines DFAS's million.

One of DFAS's most important jobs, according to Mr. Atwood, was to eliminate unmatched disbursements.

I would like to quote from pages 6 and 12 of the April 1992 document signed by Mr. Atwood:

On October 24, 1991, guidance was issued requiring the DOD Components, under the leadership of the Defense Finance and Accounting Service, to develop a plan for eliminating unmatched disbursements. The Components were requested to identify future actions that will preclude unmatched disbursements in the future. The Defense Finance and Accounting Service is tasked with implementing those plans and actions.

That order went out in October 1991.

Mr. Springett and company held senior management posts at DFAS in October 1991.

The DMR, Mr. Atwood, and the Comptroller all told Springett and company to get on the stick; clean up the mess; and eliminate unmatched disbursements.

They have had plenty of time—several years—but did nothing.

Today's $41 billion in unmatched disbursements is monument to Mr. Springett's do-nothingness. Under the leadership of Mr. Springett and company, the unmatched disbursements have continued to pile up.

I cannot help but wonder what Mr. Springett and company said to the last Comptroller when he ordered them to get rid of unmatched disbursements. I can just imagine. It may have gone something like this: "Yea boss, don't worry, we'll help you fix it. Consider it done."

However, a series of recent IG and GAO audit reports suggest things are still getting worse—not better.

I am told, for example, that disbursements are not being forced into the wrong accounts just to get the numbers down.

I think Mr. Springett and company are accountable. Heads must roll.

All the participants at the April 12 hearing thought someone should be held accountable.

Senator GLENN said: "Somebody must be held accountable on this."

Senator DORGAN asked: "Who is really responsible for allowing things to happen that first-year accounting students would understand are fundamentally wrong?"

Mr. Bowsher and Mr. Vander Schaaf were helpful in pinpointing responsibility.

Mr. Bowsher said: "I think accountability should start at the top and that this committee ought to hold senior financial people at DOD responsible * * * It is the people in charge of these accounting and finance centers."

Mr. Vander Schaaf was more specific. He said: "It is not the GS-5 accounting clerk. It is further up the line," and I "certainly don't walk away from" Senator GRASSLEY's recommendations. "I think that people in the finance and accounting business should be held accountable." That is Mr. Vander Schaaf talking.

I think Mr. Bowsher and Vander Schaaf are trying to tell us something. I think they are telling us that Mr. Springett and company are responsible. There may be others, too.

If they are not responsible, who is?

Madam President, Mr. Bowsher offered to help us determine more precisely where accountability lies. This is what he said: "This committee could easily ask the leadership of the Defense Department who are the responsible people at the key points, and we could go out and review that for you."

Madam President, I would like to call on Senator GLENN and the committee to take Mr. Bowsher up on his offer.

Responsible officials need to be identified and removed from office.

Without accountability, nothing else Congress does will count for much.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized for 15 minutes.

SECTION 531 OF THE STATE DEPARTMENT AUTHORIZATION BILL

Mr. MURKOWSKI. Madam President, on Saturday, President Clinton signed the State Department authorization bill. I rise this morning to speak about a particular provision of that bill, section 531.

Section 531 is an important statement of United States policy toward our friends in Taiwan.

Madam President, back in July of last year, I added an amendment to the State Department bill that reaffirmed the primacy of the Taiwan Relations Act, as the law of the land, over the 1982 joint United States-China communique known as the Shanghai Communique, a statement of policy.

The Foreign Relations Committee voted 20 to 0 to reaffirm the primacy of the Taiwan Relations Act as the law of the land by accepting my amendment.

I would remind this body that the Taiwan Relations Act was passed back in 1979 by a greater than two-thirds vote of each House. The TRA, as it is known, is really the cornerstone of our relationship with Taiwan. The Shanghai Communique, on the other hand, was the result of Executive communications that were never ratified by this body. I think the difference speaks for itself.

Last week, the House and Senate conferees accepted a substitute of my original amendment that retained the intent of the original language to specifically reaffirm the primacy of the Taiwan Relations Act over the statements of policy, that is, the Shanghai Communique.

The language adopted in the conference is significant because it reasserts Congress' role, together with that of the President, in determining the extent of defensive arm sales to Taiwan

Madam President, to understand this amendment, I think it is important to look at the relevant language—because, as we have heard around here for a long time, the devil is in the details—of the Taiwan Relations Act as compared to the Shanghai Communique.

I have two charts that highlight the important distinctions between the TRA and the Shanghai Communique. The first chart refers to section 3 of the Taiwan Relations Act which was adopted by the U.S. Congress on April 10. 1979. Section 3(a) says:

> The United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

I want to underline "sufficient self-defense capability." That does not read "offense." It means that the United States will help Taiwan maintain its defensive, not offensive, capabilities.

Further, section 3(b) says: "The President and the Congress"—you notice the Congress is identified with the President—"shall determine the nature and quantity of such defense articles and defense services based solely upon their judgments of the needs of Taiwan." "Their judgment" means the President in consultation with the Congress.

Now, the other chart shows the specific differences between the TRA and the Shanghai Communique. What we have here is the joint communique dated August 17, 1982, and it is quite specific. It says that the administration pledged "to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution."

That is paragraph 6 of the communique.

The language which was accepted by the conference, my amendment, simply reasserts the primacy of domestic law over nontreaty understandings. The United States-China Joint Communique is a nontreaty understanding. The Taiwan Relations Act is still the binding law of the land.

Section 531 not only reasserts the primacy of the domestic law over the nontreaty understandings, but it gives notice—and I think this is important, Madam President—to the administration that the Congress has not been properly consulted over the continuing refinement of United States arms sales policy toward Taiwan.

This congressional statement, which was adopted by the conference, reflects the concern on the part of myself and many of our colleagues over China's military modernization, its increased military spending, and its territorial claims. If one questions whether there is an increased threat from China, I would suggest that you examine the undisputed facts. China is the only declared nuclear power increasing its defense budget and military capabilities; an estimated increase of about 22 percent over last year. That is very significant in a world where other major powers are decreasing their defense budgets.

In addition, China has reaffirmed its right to use force against Taiwan in a white paper on the Taiwan question.

Section 531 also calls on the President to assess changes in the PRC's—People's Republic of China—capabilities and intentions on a regular basis in considering whether it is appropriate to adjust arms sales to Taiwan.

So the President is required to monitor the changes and make adjustments either upward or downward.

The language of the amendment makes clear that the U.S. Congress, this body along with the House, is committed to providing Taiwan the defensive means necessary to ensure its safety.

My intent in pushing for this amendment was simply to point out the inconsistency between telling the Taiwanese that we would provide for their defense needs but then arbitrarily limiting what we would sell to them.

I am referring here to the so-called defense bucket amendment. As a result of the Shanghai Communique, the bucket of defensive articles and defensive services that we will sell to Taiwan has been declining over a period of time from about $820 million in 1982 to approximately $580 million in 1993. Now, these numbers suggest that there will be less in the bucket, but if we want to make sales that are in our interest, perhaps our political interest—for example, F-16 sales—it can be considered outside the bucket. So nobody knows what is in the bucket or outside the bucket except the State Department, and the negotiating process is, to me at least, hard to understand. The loss of exports to Taiwan that has resulted from the inconsistencies in our policy is staggering.

But the Taiwan Relations Act is explicit that the nature and quantity of defensive arms transferred to Taiwan would be based solely upon the judgment of the President and Congress of the needs of Taiwan, not on political decisions.

Thus, whether we are talking about sales of United States manufacturing equipment on third-country frigates in to the Taiwanese navy or ballistic missile systems, the decision must be based on Taiwan's needs and not on arbitrary principles. And that is an important requirement.

I am pleased, Madam President, that our Secretary of State, Warren Christopher, has sent me a letter as part of our discussion of this amendment, which reaffirms the administration's commitment to the provisions of the Taiwan Relations Act, including acknowledging the Taiwan Relations Act's legal precedence over the Shanghai Communique.

But more changes are needed in United States policy toward Taiwan to treat Taiwan with the respect that they deserve.

Taiwan has the world's 14th largest economy and is the United States' sixth largest trading partner. Taiwan holds the world's largest foreign reserves. Moreover, Taiwan is a dependable friend and a good international citizen.

Many United States policies are simply out of date, out of line with the practice of our major Europian allies, and out of touch with current realities in East Asia, including the fact that Taiwan and the PRC are themselves exchanging citizens and trading and that Taiwan has invested over $10 billion in the Peoples' Republic of China.

Let me give you a few examples before I close:

The administration should change its policy prohibiting high-level contacts. Our President attended a meeting between Vice President GORE and the Dalai Lama, Tibet's exiled ruler. Just last week Hong Kong's Chief Secretary, Mrs. Anson Chan, paid official visits to the State Department and the National Security Council. We have Yasser Arafat going to the White House. None of these individuals have official U.S. diplomatic status. But the White House has made policy decisions to have contacts. But President Lee Teng-hui cannot land in my State of Alaska nor can he land in Hawaii to visit.

Carla Hills, the USTR under President Bush, was the last Cabinet-level officer to visit Taiwan and, I might add, the only one. The administration should send Secretary of Commerce Brown or USTR Kantor to Taiwan. The administration should allow Taiwan's Economic Minister to visit his counterpart in the United States.

The administration should allow the Taiwanese to change the name of their representative office here. Currently, the Taiwanese conducting nondiplomatic activities in the United States are forced to live with an acronym more appropriate for perhaps a basketball league.

CCNAA—the Coordinating Council of North American Affairs. Who could make that connection with Taiwan? This is simply silly. Let us get on it with it and let the Taiwanese change the name to something that at least identifies the office and the country.

Then there is the matter of the visa stamp. When a visa is obtained in Taiwan, it bears a Hong Kong stamp. What are we going to do in 1997 when Hong Kong reverts to China? The policy must be changed. Let us do it now out of respect for friends in Taiwan.

Finally, and perhaps most important, let us support Taiwanese membership in multilateral institutions like the GATT, APEC and the United Nations.

Madam President, I have been told that the administration is conducting an interagency review of its Taiwan policy, and that is good. But the fact is, Madam President, that review started last July and it is still going on and we are still waiting for an announcement of what the policy is so everyone will understand the game rules.

I hope the administration will listen to some of these recommendations. I know that many of my colleagues will support many of these changes, and I ask them to communicate their views directly to the administration.

I would like to conclude by thanking my colleagues in the Senate—particularly on the Foreign Relations Committee, Senator PELL, and Senator HELMS—for their support in the conference of my amendment.

And I want to thank National Security Advisor Tony Lake, Ambassador Winston Lord, Congressman Hamilton and their staffs for working with me, and Deanna Okun of my staff, as well, and those who helped in reaching an agreement in conference on the language of the substitute amendment. I think it is long overdue and most appropriate as we deal with our friends in Taiwan.

Madam President, I yield the floor, and wish you a good day.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. If there is no Senator seeking recognition, this body will stand in recess until 2:30 p.m.

Thereupon, at 12:42 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KOHL].

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

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

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million would you say are in a trillion? And when you figure that out, just consider that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business on Monday, May 2, the Federal debt stood—down to the penny—at $4,577,740,134,850.29. This means that every man, woman, and child in America owes $17,558.68, computed on a per capita basis.

Mr. President, to answer the question how many million in a trillion, there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

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. BRYAN. 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. BRYAN. Mr. President, I am informed we need to report the bill.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONSUMER REPORTING REFORM ACT OF 1994

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 783, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 783) to amend the Fair Credit Reporting Act, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BRYAN. Mr. President, I ask unanimous consent that the report accompanying S. 783 be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. No objection, Mr. President.

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

Mr. BOND. Hold it.

The PRESIDING OFFICER. There is objection.

Mr. BOND. Mr. President, my apologies. I thought we had this cleared. I believe we may have it cleared within one moment. The staff wanted to check again. So I would ask that we withhold.

Mr. President, I am now advised that there is no objection to this unanimous-consent request.

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

Mr. BRYAN. Mr. President, I thank the Chair.

AMENDMENT NO. 1667

(Purpose: To make a series of amendments)

Mr. BRYAN. Mr. President, I send to the desk a managers' amendment and

ask unanimous consent that the amendment be agreed to and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself, Mr. BOND, and Mr. RIEGLE, proposes an amendment numbered 1667.

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

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

The amendment is as follows:

On page 80, line 2, strike "and".

On page 80, between lines 2 and 3, insert the following:

"(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

On page 80, line 3, strike "(B)" and insert "(C)".

On page 80, line 20, strike "subsection (d)" and insert "subsections (a)(2) and (d)".

On page 105, strike lines 17 through 21 and insert the following:

"(3) if the consumer certifies in writing that the consumer—

"(A) is unemployed and intends to apply for employment during the 60-day period beginning on the date on which such certification is made;

"(B) is a recipient of public welfare assistance; or

"(C) has been the victim of fraud.

On page 106, line 7, strike the quotation marks and the final period.

On page 106, between lines 7 and 8, insert the following new subsection:

"(c) CONSUMER REPORTS AT SPECIFIED CHARGE.—

"(1) IN GENERAL.—Upon the written request of a consumer, a consumer reporting agency that maintains a file on the consumer shall make all disclosures pursuant to section 609 once during any 12-month period at the applicable charge described in paragraph (2).

"(2) APPLICABLE CHARGE.—For purposes of paragraph (1), the applicable charge shall not exceed the lesser of—

"(A) the total costs incurred by the consumer reporting agency in making the disclosures; and

"(B) $3.".

On page 107, strike lines 16 through 18 and insert "paragraph (2); and".

On page 112, between lines 14 and 15, insert the following new subsection:

(d) AFFILIATE SHARING NOTICE REQUIREMENT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by subsections (b) and (c), is amended by adding at the end the following new subsection:

"(f) AFFILIATE SHARING NOTICE REQUIREMENT.—Whenever credit or insurance for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased, either wholly or partly because of information that is furnished to the user of the information by a person related to the user by common ownership or affiliated by corporate control, and that bears upon the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall—

"(1) notify the consumer of the action, and upon a written request from the consumer for the reasons for such action that is received by the user not later than 60 days after transmitting such notice, not later than 30 days after receiving such request, disclose the nature of the information to the consumer; and

"(2) provide to the consumer a toll-free telephone number that is established and maintained by the user and that enables the consumer to contact the user regarding the action.".

On page 112, line 20, strike "A person" and insert "Except as provided in section 622(c), a person".

On page 112, line 23, strike "subsection (c)" and insert "subsection (b)".

On page 113, strike lines 1 through 3.

On page 113, line 4, strike "(c)" and insert "(b)".

On page 113, line 18, strike "(d)" and insert "(c)".

On page 114, line 6, strike "A person" and insert "Except as provided in section 622(c), a person".

On page 114, line 9, strike "subsection (c)" and insert "subsection (b)".

On page 114, strike lines 10 through 12.

On page 114, line 13, strike "(c)" and insert "(b)".

On page 114, line 23, strike "(d)" and insert "(c)".

On page 115, strike line 23 and all that follows through page 116, line 2, and insert the following:

"(2) DUTY TO CORRECT AND UPDATE INFORMATION AFTER REINVESTIGATION.—A person who furnishes to a consumer reporting agency information that is disputed by a consumer in accordance with section 611 and that, as a result of an investigation conducted in accordance with subsection (b), is determined by the person to be inaccurate or incomplete shall—".

On page 116, between lines 9 and 10, insert the following new paragraph:

"(3) DUTY TO CORRECT INFORMATION OTHERWISE DETERMINED TO BE INACCURATE OR INCOMPLETE.—A person who regularly and in the ordinary course of business furnishes to a consumer reporting agency information that, other than as a result of an investigation conducted in accordance with subsection (b), is determined by the person to be inaccurate or incomplete shall—

"(A) promptly notify the consumer reporting agency of that determination; and

"(B) provide to the agency any corrections to that information, or any additional information, necessary to make the information provided by the person to the agency complete and accurate.

On page 116, line 10, strike "(3)" and insert "(4)".

On page 116, line 18, strike "(4)" and insert "(5)".

On page 117, line 1, strike "(5)" and insert "(6)".

On page 117, strike line 9 and all that follows through page 118, line 10.

On page 118, line 11, strike "(c)" and insert "(b)".

On page 118, line 19, strike "25-day" and all that follows through "611(a)(1)" and insert the following: "applicable period under section 611(a), during which the consumer reporting agency is required to complete actions required by that section regarding that information".

On page 118, line 25, strike "(d)" and insert "(c)".

On page 119, strike lines 1 through 3 and insert the following:

"(1) LIMITATION ON LIABILITY.—Sections 616 and 617 do not apply to any failure to comply with paragraph (1), (3), (4), (5), or (6) of subsection (a).

"(2) ENFORCEMENT.—Paragraphs (1), (3), (4), (5), and (6) of subsection (a) shall be enforced exclusively under section 621 by the agencies identified in that section.

On page 119, line 4, strike "(2)" and insert "(3)".

On page 120, line 9, insert "except in the case of a violation of section 622(a)(1)," after "(D)".

On page 121, line 23, insert ", except that no civil penalty may be imposed for a violation of section 622(a)(1)" before the quotation marks.

On page 123, between lines 18 and 19, insert the following:

"(ii) section 605, relating to obsolete information, except that this clause does not affect the applicability of any State law in effect on the date of enactment of the Consumer Reporting Reform Act of 1994;

On page 123, line 19, strike "(ii)" and insert "(iii)".

On page 124, line 3, strike "(iii)" and insert "(iv)".

On page 124, line 8, strike "(iv)" and insert "(v)".

On page 124, line 18, strike "under—" and all that follows through "622(b)(2)" and insert "under section 609(c)".

On page 126, line 6, strike "under—" and all that follows through line 8 and insert the following: "under section 609(c).

"(4) APPLICABILITY.—Notwithstanding any other provision of this subsection, beginning 6 years after the date of enactment of the Consumer Reporting Reform Act of 1994, a State may adopt a law, or certify that the voters of the State have voted in favor of a constitutional or other provision, which states explicitly and by its terms that the law or provision is intended to supplement this Act, if the law or provision gives greater protection to the consumer than is provided under this Act.".

On page 133, line 7, strike "You have" and all that follows through the period on line 10.

On page 133, line 10, strike "also".

On page 133, line 14, insert the following after the period: "You are also entitled to receive a free copy of your credit report if you are unemployed and intend to apply for employment during the next 60 days, if you are a recipient of public welfare assistance, or if you have been the victim of fraud.".

Mr. BRYAN. Mr. President, I ask unanimous consent that a summary of the managers' amendment be printed in the RECORD.

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

SUMMARY OF MANAGERS' AMENDMENT TO S. 783

SUNSET

Sunset Section 624 concerning Preemption. Sunset effective 6 years after date of enactment. Following the sunset, states must enact new laws. Old laws will not go back into effect automatically.

CIVIL LIABILITY

Clarify Section 622(a), the Duties of Furnishers, so that there is no private cause of action against furnishers for failure to furnish accurate information. In such instances, only FTC and State Attorneys General may enforce the Act, but they may not seek civil money penalties. The legislation creates a private cause of action only for failure to properly reinvestigate information and correct mistakes once the furnisher has been formally notified of a problem under the Act.

OBSOLETE INFORMATION

Preempt Section 605, regarding the time periods for which information may be main-

tained on a consumer report. This provision grandfathers all existing state laws.

AFFILIATE SHARING

Clarify Section 603(d) so that when credit is denied based on information obtained from an affiliate, the credit grantor must notify the consumer of such adverse action and provide a toll-free number.

ONE-TIME NOTICE

Delete Section 622(b), the furnishers' one-time notice requirement to the consumer that information on that consumer is furnished to consumer reporting agencies.

IDENTIFIER

Expand Section 604(d)(2) to allow a person to receive with the prescreen list an identifier that is not unique to the consumer.

REINVESTIGATION TIME PERIOD FOR FURNISHER

Amend Section 622(c) to allow the furnisher time to consider information submitted by the consumer in accordance with Section 611(a).

FREE REPORT

Replace the provision in S. 783 requiring credit bureaus to provide the consumers a free report every other year with requirement that a free report be provided for people who are unemployed, people who are on welfare, and people who have been the victim of fraud. All consumers are entitled to one report per year, upon written request at the lesser of cost or $3.

The PRESIDING OFFICER. Without objection, the amendment is agreed to and the motion to reconsider is laid on the table.

So the amendment (No. 1667) was agreed to.

Mr. COVERDELL. I rise today to express my appreciation to Senator BRYAN and Senator BOND for their willingness to address my concerns regarding S. 783 and the free credit report requirements of the bill. S. 783, as originally reported out of the Banking Committee, provided for four instances in which a consumer could obtain a copy of his or her credit report free of charge. First, a consumer was entitled to receive a free credit report upon being turned down for credit or otherwise adversely affected and again after the disputed information has been reinvestigated. Additionally, a consumer was further entitled to a free report 1 year after the reinvestigation report is provided, as well as a free credit report every other year upon written request.

Mr. President, I was particularly troubled by the provision of S. 783, as it was reported out of the Banking Committee, which required credit bureaus to give away free credit reports upon written request by a consumer. I believe that it is simply wrong for the Congress of the United States to require a private business to give its product away for free. School registrars, hospitals, motor vehicle agencies and other State and Federal Government agencies charge fees for providing information to individuals, yet S. 783 as originally reported would have prohibited credit reporting agencies from recovering the costs associated with preparing and reproducing this report. Though the provision as drafted tried to limit its scope to nationwide credit reporting companies, the cost of the free report would have ultimately been passed onto the 700 independently owned credit bureaus which may or may not be affiliated with a nationwide credit reporting system. This would have amounted to a mandate on small business.

That is why I am very glad that I was able to work with Senators BOND and BRYAN to reach an agreement, which is included in the managers' amendment to this bill, which allows the credit reporting agencies to charge $3 for credit reports issued to consumers upon their request. As part of the agreement, consumers who are either unemployed and intending to seek employment, receiving public welfare assistance or who have been the victim of fraud will be entitled to receive their credit report free of charge. While I have agreed to including these exceptions in the managers' amendment, I wanted to make it clear that these exceptions should be narrowly construed, so as not to be the exceptions that swallowed the rule. It is my friend from Missouri's opinion that this legislation would not prohibit credit reporting agencies from establishing reasonable procedures to ensure that persons receiving free reports meet the criteria set forth in the legislation?

Mr. BOND. I want to assure the Senator from Georgia that it is the managers' intent that these exceptions should be construed narrowly, and that credit reporting agencies would be permitted to institute safeguards to ensure the reasonable use of these exceptions. The exceptions were included as a way to ensure the disadvantaged persons would be able to obtain copies of their credit report without incurring prohibitive costs. The exceptions are not intended to require credit reporting agencies to provide free credit reports upon request on a widespread basis.

Mr. COVERDELL. Would the Senator from Missouri think it reasonable that a person who is "unemployed" within the meaning of the managers' amendment would have to show some written proof from an unemployment office or other entity proving that he or she is unemployed and looking for a job? Or that a person who has been the "victim of fraud" would be required to show some written proof of the fraud? Like credit card records showing that someone used his or her credit cards?

Mr. BOND. I would think that those sorts of requirements would be reasonable and appropriate.

Mr. COVERDELL. I thank the Senator from Missouri for his thoughts on the meaning of the language in the managers' amendment, and again, I thank him and the Senator from Nevada for their work in reaching this compromise.

Mr. D'AMATO. Mr. President, today the Senate continues consideration of S. 783, the Consumer Credit Reform Act. S. 783 was introduced by Senator BRYAN and cosponsored by Senator BOND and Chairman RIEGLE. This bill was reported by the Banking Committee on a bipartisan 15–4 vote. This committee support for S. 783 is a tribute to the hard work that Chairman RIEGLE and Senators BRYAN and BOND have invested in this issue. They have demonstrated great dedication in tackling the many tough issues surrounding the Fair Credit Reporting Act, the law that S. 783 substantially amends.

The Banking Committee markup produced a bill that goes a far way toward striking a proper balance between the legitimate consumer protection concerns raised by the current law's operation, and the very real operational concerns of the industries that must comply with the FCRA. The committee markup produced a bill that provides certain statutory uniformity that will allow businesses to develop consistent compliance guidelines on key operational issues.

During the committee markup, I expressed my concern with respect to two issues. First, I was concerned about the civil liability that S. 783 would impose on industries that provide credit history information to credit bureaus. Second, I was concerned about the provision that required credit bureaus to provide consumers a free copy of their consumer report upon request every 2 years. I was uncomfortable requiring any business to provide its work-product without proper remuneration.

Nevertheless, I felt that the total package, as revised through the efforts of Chairman RIEGLE and Senators BRYAN and BOND, struck a practical balance between privacy, accuracy, and bottom-line business sense, and I was able to support the hard work of my colleagues, as reported by the Banking Committee.

Today we will consider the committee-reported bill, as well as a floor manager's amendment to be offered by Chairman RIEGLE and Senators BRYAN and BOND. Again, our colleagues should be congratulated for their hard work. I am pleased that the floor manager's amendment addresses the civil liability and free report problems that I had previously expressed concern about.

Again, I congratulate Chairman RIEGLE and Senators BOND and BRYAN for their diligence and hard work. I will leave it to them to describe the details of their floor amendment. I would also like to congratulate Chairman RIEGLE on his continued leadership. S. 783 is the third bill reported by the Banking Committee to be considered on the floor this session. The chairman is to be commended for completing this legislative agenda.

Mr. BRYAN. I thank the Chair.

I advise my colleagues that we are now available to consider any amend-

ments they may have. I would want to acknowledge my able colleague, who has worked so dutifully over the last 4 years, in trying to fashion a piece of legislation that addresses the problems of consumers and responsibly deals with the concerns of the business community, together with Senator BENNETT, who had some concerns earlier about one of the provisions. We have addressed that. I thank the Senator from Utah for his cooperation. And the distinguished Senator from Missouri, who is a cosponsor of this legislation with me, his efforts I wish to note as well. I express my appreciation.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, again, I said yesterday how important the leadership of my colleague from Nevada, Mr. BRYAN, has been on this bill. He has labored long and hard.

This is a very technical bill. There are some very controversial issues in it. We have spent a great deal of time trying to work out what we believe is a reasonable compromise so that consumers' interests are protected and so that credit supplying and utilizing industries can move forward.

As I discussed with my colleagues at the regular policy meeting today, it required a great deal of compromise, but I am, indeed, grateful for the excellent leadership that Senator BRYAN has displayed on this bill. That is the reason we are at this point.

I, too, wish to express thanks to Senator BENNETT, from Utah, who raised with us some very legitimate concerns. Through his guidance, I think we have been able to make some further improvements. We may have even more improvements before we are finished voting on the amendment, but I urge all my colleagues to look carefully at the bill, to recognize that a great deal of compromise has gone into this effort. We are always willing to find ways to improve it. But at the end of the day or shortly thereafter, we hope to be able to pass this bill and send it to the House because there are some very real needs for the protection of consumers, for the effective functioning of the credit information system in our country today that are addressed in this bill. Without these provisions, I do not think consumers' interests are well served nor is the credit industry.

So with that, Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

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

HAITI

Mr. PRESSLER. Mr. President, I thank the managers of the bill for this opportunity to say a few words about the situation in Haiti.

I believe strongly that we should not send any troops to Haiti. We should have a policy of keeping our troops out of there. We should have a policy of keeping illegal immigrants out of the United States; and proceed only with lawful, traditional immigration rules.

We should keep a light embargo on Haiti to signal that we are for democracy. But the United States cannot solve the problems in Haiti. The people of Haiti have to solve them themselves.

If we send troops, it will just enmesh us and put a great burden on the U.S. taxpayer. In the end, we will be blamed for everything.

Haiti has been an economic disaster for the past 100 years, and nothing is likely to change that fact. Certainly the presence of U.S. troops will not. We saw what happened in Somalia.

We cannot have a domestically-driven foreign policy. Just because certain groups in the United States advocate the invasion of Haiti does not mean that we should do so. We should base foreign policy on foreign policy objectives. We must not engage in foreign policy adventures. We must think of the American taxpayer and the long-run implications of our actions.

Mr. President, in summary, the policy this Senator recommends, based on listening to my constituents in South Dakota and people elsewhere, is the following:

First, we should keep our troops out of Haiti; no use of United States troops;

Second, keep any illegal immigrants from coming to our shores; only legal immigrants;

Third, continue with a light embargo because a very heavy embargo hurts the poorest people and lines the generals' pockets.

I do not necessarily approve of the government in Haiti. But I do not want a single drop of American blood shed in this dispute. Can you imagine what would happen if a prisoner of war or prisoners of war were taken in Haiti? Getting out would be the problem.

It is easy to advocate sending troops but that is an adventure. Let us look 1, 2, 3 years down the road. We saw what happened in Somalia.

Mr. President, on a somewhat related note, I would like to congratulate the people of Panama on their upcoming national elections. Senator PELL and I have been asked to join President Jimmy Carter on a delegation to observe the elections in Panama on May 8, 1994. The delegation, led by President Carter, is sponsored by the Council of Freely Elected Heads of Government, an organization composed of 24 heads of government. I was privileged to accompany President Carter, previously, to observe the historic elections in Nicaragua in 1990.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONSUMER REPORTING REFORM ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, if it is agreeable to my colleagues, the managers of the bill, I will make my own statement about the legislation at this point.

Mr. BRYAN. We would be delighted to have the distinguished chairman, and I would like to acknowledge him and thank him again, as did Senator BOND, for his leadership and support for bringing this measure forward.

Mr. RIEGLE. I thank the Senator from Nevada. I want to commend and compliment the Senators from Nevada and Missouri for their bipartisan effort on this legislation.

I am pleased that the Senate is considering S. 783, the Consumer Reporting Reform Act of 1994. This is one of the most important pieces of consumer legislation that this Senate will consider this Congress, and I urge its swift passage.

The bill contains a comprehensive package of amendments designed to modernize the Fair Credit Reporting Act. I am proud to have been an original cosponsor of this legislation with Senators BRYAN and BOND. And I want to again commend them for their important leadership in this area.

Together with Senators D'AMATO and others on the Banking Committee, we worked on a bipartisan basis to craft this important legislation. The committee reported the bill out favorably by a vote of 15 to 4, a strong bipartisan basis of support.

The Fair Credit Reporting Act was enacted in 1970 to regulate the credit reporting industry. The act has been amended only once since its passage, and is now I must say badly outdated. Since 1970, credit reporting has grown into a multibillion-dollar industry affecting each and every consumer in the country. Credit bureaus now maintain 450 million credit files on individual

consumers, and they process almost 2 billion pieces of data each month.

As the industry has grown, the number of problems associated with consumer reports has also escalated. From 1990 to 1993, the Federal Trade Commission received more complaints regarding credit reporting than any other industry. Evidence presented before the Banking Committee indicates that all too many consumers have been denied credit, housing, and even employment due to errors in their credit reports.

In short, the Fair Credit Reporting Act is sorely in need of modernization. This legislation takes vital steps to ensure that credit reports are accurate, that mistakes are identified and corrected, and that the privacy of the information contained in those reports is protected, as it should be.

There are several aspects of S. 783 that represent clear improvements over the current law. The bill seeks to safeguard the privacy of information contained in a consumer's credit file. It requires users of consumer report information to identify a permissible purpose under the law to acquire a report and to in turn certify that purpose. Likewise, the bill provides consumers with an affirmative right to opt out and ensure that the information in their credit files is not used for direct marketing.

The bill also seeks to ensure accuracy in consumer reporting. It increases the ability of consumers to identify problems by providing them with an actual copy of their report rather than the summary allowed under current law. When mistakes are identified, the bill requires credit bureaus to develop and update disputed information within 30 days. For the first time, the bill will apply the Fair Credit Reporting Act to creditors who provide the information contained in credit reports.

Under current law, those furnishing information to credit bureaus are not covered by the act leaving a consumer helpless when a creditor mistakenly places adverse information in his or her credit file. S. 783 requires creditors furnishing information to do so accurately, and moreover to investigate disputes promptly.

Finally, S. 783 provides protections against abuses by credit repair organizations. As consumers have experienced problems with credit bureaus, a new industry has emerged offering to assist consumers in cleaning up their credit files. Too often, however, the representations of these so-called credit doctors prove misleading, deceiving consumers into paying higher fees or causing credit bureaus to waste time and money on spurious disputes. The bill provides several protections, including prohibiting credit repair organizations from collecting fees until their services have been fully performed.

We worked on a bipartisan basis in the Banking Committee in drafting and reporting this legislation. The product of this effort is a bill that has broad support from both industry and consumer advocates.

In particular, I want to place in the RECORD a copy of a letter that I received from the Associated Credit Bureaus, a trade association representing over 700 credit bureaus nationwide. The letter expresses the association's unqualified support for S. 783, and the managers' amendment. I want to thank them for the letter. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. RIEGLE. I also want to express my full support for the bipartisan managers' amendment developed with Senators BOND and BRYAN. This amendment improves the bill in several areas. In the area of liability, it ensures that providers of information are not held to a perfection standard, shielding them from private causes of action for initially furnishing inaccurate information to credit bureaus.

At the same time, the amendment clarifies that private remedies are available if the provider of the information fails to properly address a mistake once the issue has been raised. At the same time, it provides a 5-year sunset on the provisions of the bill and preempts State law. I believe this sunset reflects a reasonable compromise between the need for uniformity and the maintenance of effective consumer protection and credit reporting. At the same time, I urge my colleagues to join in opposing any efforts to further preempt State credit reporting statutes. Credit reporting is an area of swift technological change. I think we have to be careful not to infringe upon the rights of States to respond and properly protect their citizens. The managers' amendment substantially improves the legislation. I support it and support its adoption.

Let me conclude by saying that Senator BRYAN of Nevada and Senator BOND of Missouri have given great effort and leadership on a bipartisan basis to this important area of legislative focus that brings us here today. I thank them for that work. This is an area that touches virtually every person in the country. These are important advances and reforms and safeguards. I have appreciated their work as chairman, and I think this is a bill we can enact today with confidence and with some degree of pride.

EXHIBIT 1

ASSOCIATED CREDIT BUREAUS, INC.,
Washington, DC, May 2, 1994.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: We are pleased to advise you that the Executive Committee of Associated Credit Bureaus, Inc. (ACB), voted unanimously today to enthusiastically endorse Senate passage of S. 783, the Consumer Reporting Reform Act, as reported by the Senate Banking Committee and as further amended by the Manager's amendment. Participating in this endorsement were the three nationwide consumer reporting systems referred to in S. 783 (Equifax, Trans Union and TRW) and representatives for the 700 additionally independently owned Credit Reporting Division members of ACB.

ACB's support of S. 789 as amended is unqualified and we urge its passage. Consistent with this position, today ACB has advised all its credit reporting members to urge their Senators to support you and your colleagues in passage of this landmark legislation.

The bill that you and Senators Bond, Bryan and D'Amato have crafted represents a delicate balance of interests for which you should be commended by all affected groups. While you have been careful to consider the legitimate concerns of our members and customers, there is no question but that American consumers are the real winners today. We support S. 783 because it provides consumers with meaningful protection while recognizing legitimate business costs.

Congratulations and our thanks to you and your staff for the effort you have put into amending this 23-year-old law. We look forward to continued cooperation with you and your staff toward final enactment.

Best personal regards.

Sincerely,

D. BARRY CONNELLY,
Executive Vice President.

PRIVILEGE OF THE FLOOR

Mr. RIEGLE. Madam President, I ask unanimous consent that during today's consideration of this legislation S. 783, Edwin O'Connor be granted the privilege of the floor.

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

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BRYAN. Mr. President, I ask unanimous consent that there be a time limitation of 1 hour for debate on the pending Lieberman amendment to be equally divided between Senators LIEBERMAN and LEVIN, or their designees; that, at the conclusion or yielding back of time on the Lieberman amendment, Senator LEVIN be recognized to offer a relevant second-degree amendment thereto; that there be a time limitation of 30 minutes on the Levin second-degree amendment equally divided between Senators LIEBERMAN and LEVIN or their designees; that, at the conclusion or yielding back of time on the Levin amendment, the Senate, without any intervening action or debate, vote on or in relation to the Levin amendment; that,

upon the disposition of the Levin amendment, the Senate, without any intervening action or debate, vote on or in relation to the Lieberman amendment, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, there is no objection on this side.

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

AMENDMENT NO. 1668

(Purpose: To express the sense of the Senate that the Financial Accounting Standards Board should maintain the current accounting treatment of employee stock options and employee stock purchase plans)

Mr. GRAMM. Mr. President, I know that we are waiting for amendments to come to the floor. I would like to do something a little bit out of the ordinary; that is, I would like to speak on behalf of an amendment that has yet to be introduced. I am cosponsoring that amendment with several of our colleagues, in fact with our colleague who is now the Presiding Officer. In order to speed up the process, I would like to go ahead and speak on behalf of that amendment now.

The PRESIDING OFFICER. As a proponent of the amendment on behalf of which the Senator from Texas wishes to speak, the Chair has no objection.

Mr. GRAMM. Mr. President, the Financial Accounting Standards Board is generally an excellent board. It has proposed standards that have guided the American system of accounting for many years.

Normally, the decisions they come up with make a lot of sense. But today we are trying to send a very clear signal that the proposal that they have made concerning employee stock options makes no sense. It does not reflect reality. And what are books and records for other than to give people a picture of what is in reality happening, particularly financially? If the way we keep our books, the way we engage in accounting does not reflect reality, it is not valuable.

Here is the problem in a nutshell. I think you could make it complicated, but I think if you step back and look at it, the issue is very simple.

Currently, one way that growing companies, especially many high-tech companies, attract good management and employees is by giving them a stake in the success of the company by offering them stock options. So, for example, a growth company with a new idea but without a lot of money would say to a person who was a proven manager that if he came in and ran this company they would pay him a modest salary, but they would also give him the right in the future to purchase the stock of the company at a fixed price. If as a manager this officer was successful, and therefore the company was successful, then that officer would be able to buy the stock at the agreed to price, which, given the successful management, would be below the market price of the stock at the time that the option was exercised.

This is an established principle of financial compensation. It has been used a great deal in our country and has been very successful in helping growth companies become growth companies. It has helped them grow, create jobs, new technologies and opportunity for our country.

The way that this has been accounted for and has been accepted is that the company notifies the stockholders that these stock options have been given as compensation by putting the information in their financial reports. It has not been the practice to apply the value of stock options against the earnings of the company. The very logical reason is that the granting of the employee stock options does not affect either the flow of cash into the company in terms of the sale of goods and services the company produces or the cost of producing those goods and services.

What our amendment says is basically this: the current accounting procedure reflects reality far better than does the FASB proposal. If you guarantee an executive the right to buy the stock of a company at a fixed price and that price is below the market price, you are not affecting the earnings of the company one way or another by giving him the right to exercise that option. It is true that may be diluting the ownership of the company, but you are notifying the existing stockholders that such action has been taken. The stockholders are generally happy with the decision, because the employee would not exercise the option unless the stock price had gone up, increasing the value for all shareholders. This is an established principle that allows companies to attract good management and employees if they do not have a lot of cash.

What the FASB proposal would do, remarkably, is to require companies to charge off stock options against their earnings. This in no way reflects reality, because giving employees the right to have an option to buy the stock does not affect the earnings of the company at all.

What we are trying to do with this sense-of-the-Senate resolution is simply say to FASB to keep an accounting procedure that is related to reality. Let us keep our books in a way so they make sense.

I would have to say, Mr. President, that I cannot understand why the Financial Accounting Standards Board came up with this proposal. I cannot understand how under any circumstances anybody would believe that a stock option ought to be charged against the earnings of a company. It makes no sense. For tax purposes we would never allow that to be done. It does not reflect the reality of what is happening in the company.

The procedure that is now used requires the stockholders to be informed. Since they elect the officers of the company, they have a right to change the officers if they do not support the procedure. What we are trying to do is to keep in place a process that makes sense, that reflects reality, and that allows small companies to become big companies, allows them to generate jobs, growth, and opportunity.

While normally it would be my position that this is something we ought not to get involved in, I think that this FASB proposal is so extreme and so potentially harmful, so in conflict with reality, that we should at least take a position on it.

Let me also say that most of the stock owner groups in the country have taken a similar position. As ranking member of the Securities Subcommittee, I participated in a hearing on the subject last fall. There was great opposition to this proposed rule then, and that opposition has intensified. What we are doing in this sense-of-the-Senate resolution, and I want to be sure that we vote on it so we have a recorded vote, is we are simply sending a signal about how deeply we feel about this proposal. Hopefully, along with all the other people who have taken a position in opposition to these new rules, we will successfully encourage the Financial Accounting Standards Board to change this whole ruling.

I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey [Mr. BRADLEY].

Mr. BRADLEY. Mr. President, I rise in support of the sense-of-the-Senate resolution that the distinguished occupant of the chair will be offering in a short while and that the distinguished Senator from Texas has just addressed.

This resolution mirrors a concurrent resolution that I offered, along with Representative ANNA ESHOO of California. Make no mistake about it, the reason this proposal is on the floor of the Senate today is because of the leadership of Representative ESHOO. She has been tenacious in this regard and she does so out of the best interests not only of her constituency in the high-technology community, but the whole economy of the United States, She deserves a lot of strong support for her leadership on this issue in the House of Representatives. She has also been very active in lobbying a number of the Senators who will vote on this issue today.

Let me also say at the outset that I have the highest respect for the Financial Accounting Standards Board. As I will state in my prepared remarks, I do not think that it is wise to write accounting standards on the floor of the Senate. At the same time, I think

there are times when it is important to speak out, and I look at this resolution as one of those moments.

The resolution asks the Congress to go on record against a proposed change in the accounting treatment of the employee stock options recommended by the Financial Accounting Standards Board, FASB. The basic question is whether, as FASB has proposed, a company should be required to recognize compensation cost for fixed stock options granted to employees.

That is the basic issue before us. It is an accounting principal issue. It is not a tax issue. It is an accounting principal issue.

The debate over the FASB proposal on employee stock options is one that has far-reaching consequences outside of ivory-tower discussions about whether stock options are compensation. The FASB proposal will seriously jeopardize one of the best tools that American companies have to attract, retain, and motivate their workers, all of their workers. It will impose a heavy burden on the ability of our crucial high-technology and entrepreneurial sectors to raise funds in the capital markets. And it will do so at a cost to our system of financial reporting.

Mr. President, I am reluctant to have Congress weigh in on issues of accounting standards. The Financial Accounting Standards Board plays a critical role in assuring the integrity of our financial statements. At the same time Congress cannot remain silent when, in the pursuit of questionable accounting purity, FASB threatens entrepreneurship and growth. That is why this resolution is so important today. I am not seeking to legislate changes to our accounting standards. I simply think that Congress should go on record in the form of a resolution before FASB final action on this issue and unwarrantedly harms our economic future. The timing of this resolution is particularly appropriate given that FASB has recently completed its formal review process.

I would hope that they would not turn away from an expression of the Senate on this issue. And I hope that they would pay attention to some of the issues that are raised in the course of this debate. And one would hope that no legislation would ever be necessary because FASB perceived the need to move in the correct direction and not issue this particular provision. That is why, as I said, the resolution is important today.

Mr. President, I do not expect Members of Congress to take my word on this issue about how important this is. The truth is that the FASB proposal has been nearly unanimously opposed by those who draft financial statements and those who rely upon them to make investments. Each of the big six accounting firms has spoken out against the proposal. The Council of Institutional Investors and the United Shareholders Association oppose the proposal. The National Venture Capital Association, the Biotech Industry Organization, the National Association of Manufacturers, the NASDAQ Stock Market, the Financial Executives Institute, the U.S. Chamber of Commerce, and the American Electronics Association oppose the proposal. Secretaries Bentsen and Brown have expressed serious concerns about the proposal. And perhaps most telling, a majority of the accounting standards executive committee of the American Institute of Certified Public Accountants, oppose this proposal. Mr. President, when management, their accountants, and their shareholders can all agree on something, then it is time for Congress to take notice.

Let me state at the outset that I do not believe that the debate we are having today is about whether CEO's in America are getting paid too much. I expect to hear, in great detail today, about the large salaries being paid to our top executives. The irony is that FASB itself would be the first to admit that their proposed rule change has nothing to do with executive compensation. Critics of executive pay have simply focused on the wrong solution to the right problem. If we want to control executive compensation, then we should focus on strengthening the shareholder's hand against entrenched management. We should tighten disclosure and improve our proxy and independent director approval processes. I commend the recent SEC requirements to this end. I remain open to even tougher efforts to give shareholders a larger voice in executive compensation decisions. I simply do not believe that requiring an earnings charge for broad-based stock options plans will constrain CEO pay at all.

Mr. President, it is ironic that those who would take aim at executive pay by opposing this resolution will, in fact, achieve the opposite result. CEO's will continue to get their pay packages if FASB continues and issues this regulation. It is rank-and-file employees that will be harmed. The companies that will be penalized the most through this proposal are the ones that offer stock option plans to all employees; not just senior management, but to all levels of employees. This proposal puts the company in the position of abandoning its broad-based stock option plan or taking a large hit on earnings.

(Mrs. BOXER assumed the chair.)

Mr. BRADLEY. And if given the choice, Madam President, what do you think a company is going to do? It is not going to have an employee stock option program for the secretaries or for the janitors or for the midlevel management or for other levels of the company. It is simply going to abandon them. The CEO's will be able to take care of themselves, as they always do.

We passed a provision last year that was supposed to limit executive compensation. I cannot tell you how easy that provision is to get around and how many lawyers have been employed to do just that. That will clearly happen. When you have CEO's who are paid a lot of money, they will find a way to get the money, even with this proposal. Those who will not find a way to do it are the so-called little people in firms that simply seek to have their investment grow with the company as it succeeds.

Mr. President, the real debate we are having today is whether the benefits of the FASB proposal outweigh its costs. In its mission statement, FASB states that it should "promulgate standards only when the expected benefits exceed the perceived costs." I feel that the proposal we are looking at today fails this standard—and by a wide margin.

The burden of the FASB proposal will fall disproportionately on our Nation's high technology sector. Not only do they rely much more heavily on stock options than other companies, but they also show more stock price volatility. Under the FASB proposal, this volatility will require them to take even larger earnings charges. One survey by the Wyatt Co. indicated that high technology companies will suffer an almost 50 percent decline in earnings, while other companies will lose about 6 percent of their earnings. Given that this sector will play an increasingly important role in the American economy, I question the wisdom of putting them at a disadvantage in the capital markets.

Worse, the biggest hit will be taken by entrepreneurial companies. Startups must often rely on granting options to attract employees. They make up for the riskiness of their ventures by sharing the upside potential with their employees. Unlike other forms of compensation, stock options also result in a net inflow of capital into the corporation. And while their costs fall largely on corporate shareholders, they are already subject to shareholder approval and their dilutionary impact is disclosed by the earnings per share calculation. FASB's proposal will make these stock options much more expensive to provide, needlessly putting in jeopardy our successful model of entrepreneurship in this Nation.

You might be able to justify these costs to our Nation's economy if there were offsetting benefits in the form of more credible financial statements. But the expense that FASB will be requiring will be uncertain and speculative. FASB's proposal requires an immediate charge against earnings regardless of whether the stock price rises or whether the options are actually exercised.

More important, FASB is also relying on models designed for publicly

traded options to assign values to these options.

This is a faulty analogy. Employee stock options are nontransferable and subject to stringent vesting requirements. Further, FASB's proposal eliminates stock price volatility as a variable for privately held companies. If the end goal for FASB is comparability and credibility, then one has to question whether that end is served by different models applying to different companies.

The crux of this debate is over this one issue—can these stock options be credibly valued. By far the vast majority of analysts who have looked at this issue suggest that they cannot. I would like to quote extensively from the comment letter to FASB from the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants—a group that clearly has no interest in this debate other than the creation of credible and sound financial statements.

A majority of the Accounting Standards Executive Committee disagrees with this proposal as to fixed stock options granted to employees because (1) the models used to calculate the fair value of such options were designed for use with traded options—in other words, options where you can actually set a price because there is a market—and (2) the expense amount for such options based on those models cannot be validated by reference to transactions with third parties and therefore lacks sufficient reliability for recognition in financial statements. This majority concludes that the usefulness of statements for investment and credit decisions would not be improved by including in financial statements the expense amounts determined under those models. They believe that current or improved disclosure requirements would adequately inform financial statement users about fixed stock options granted to employees.

So there it is. In any cost-benefit analysis, it is critical to consider possible alternatives. In this instance, a reasonable compromise for FASB to take would be expanded footnote disclosures as proposed by the AICPA. If the goal is to provide shareholders with information about the costs of stock options and a basis on which to make company-to-company comparisons, then an appropriate response would be to require an unambiguous, uniform disclosure. Not surprisingly, this is the approach that also has been favored by the major business associations, the Big Six accounting firms, and the major shareholders associations. The only group that has not signed onto this approach is FASB.

In closing, I think it is important for Congress to listen to the true users of financial statements—shareholders and investors. They have been lobbying against this proposal. Quoting from the United Shareholders Association, "We do not believe FASB's proposal would clarify the reports we receive. In fact, we believe that including speculative estimates of future stock options values in corporate earnings statements diminishes rather then enhances their usefulness."

It is not too late for Congress to send a clear signal to FASB that questionable accounting purity cannot be allowed to jeopardize entrepreneurship and economic growth. It is not too late to prevent FASB from harming the credibility of financial statements.

I strongly encourage everyone to support the resolution today that will be offered by the distinguished Senator from Connecticut. I am proud to join as a primary cosponsor.

I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Connecticut.

Mr. LIEBERMAN. 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 Connecticut [Mr. LIEBERMAN], for himself and Mr. MACK, Mrs. BOXER, Mr. GRAMM, Mr. BRADLEY, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. DECONCINI, Mr. WELLSTONE, Mr. GORTON, Mr. SHELBY, Mr. BENNETT, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. LAUTENBERG, and Mr. ROBB proposes an amendment numbered 1668.

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

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

The amendment is as follows:

At the appropriate place insert:

SECTION 1. FINDINGS.

(a) The Financial Accounting Standards Board (FASB) is currently considering changing the Generally Accepted Accounting Principle relating to employee stock option plans and stock purchase plans;

(b) FASB's proposal that would require the use of complex mathematical formulas to estimate a value for employee stock options at the date of grant and requires those estimated values be deducted from earnings on companies' income statements;

(c) FASB has just completed an extended review of its proposal which included a public comment period, numerous field hearings and a field test;

(d) FASB's proposal has generated opposition which is unprecedented in both its intensity and universality;

(e) The accounting profession, as represented by the American Institute of Certified Public Accountants and each of the 6 largest national accounting firms, oppose FASB's proposal;

(f) Individual investors, as represented by the United Shareholders Association, oppose FASB's proposal;

(g) Institutional investors and pension funds, as represented by the Council of Institutional Investors, oppose FASB's proposal;

(h) Both the Secretary of the Treasury and the Secretary of Commerce have raised serious concerns about FASB's proposal: "Most troubling is the possibility that implementation of the proposal might result in more volatile and less accurate and consistent financial statements because of the extreme difficulty of valuing long-term, non-marketable, forfeitable stock options;"

(i) There is a broad consensus among those who have studied the FASB proposal it will diminish and not improve either the integrity or comparability of information available to investors;

(j) The National economic policy implications of FASB's proposal are substantial because small, growth-oriented companies often lack capital and therefore regularly rely on broad-based employee stock options to attract employees and large business provide employee stock options and broad-based employee stock purchase plans to help motivate their employees and improve productivity; and

(k) The FASB proposal will diminish the ability of small companies to raise capital and attract employees and it will curtail, not enhance broad-based employee ownership.

SEC. 2. SENSE OF THE SENATE.

It is the Sense of the Senate that—

(a) the new accounting treatment of employee stock options and employee stock purchase plans, proposed by the Financial Accounting Standards Board, will have grave economic consequences particularly for businesses in new-growth sectors which rely heavily on employee entrepreneurship;

(b) the new accounting treatment of employee stock options and employee stock purchase plans, proposed by the Financial Accounting Standards Board, will diminish rather than expand broad-based employee stock option plans; and

(c) the Financial Accounting Standards Board should not at this time change the current generally accepted accounting treatment of stock options and stock purchase plans contained in Accounting Principles Board Decision 25.

Mr. LIEBERMAN. Mr. President, I thank my colleagues, the Senator from Texas and the Senator from New Jersey—both of whom are cosponsors—for the statements they have made in anticipation of the introduction of this amendment.

Mr. President, as both of my colleagues have indicated, this amendment expresses the sense of the Senate about the Financial Accounting Standards Board, a little known but powerful entity—and the occupant of the chair may not know this—which actually exists in Norwalk, CT. Our expression here is a sense of the Senate that FASB, as it is known, should drop its highly controversial stock option proposal and maintain the current generally accepted accounting treatment for employee stock options.

To the listener this may seem like a lot of technical, arcane accounting jargon. Stock options seem themselves far away. But this is real stuff and it relates directly to the ability of new companies to raise capital; the ability of new companies to create jobs; the ability of new companies and older companies to attract the best employees. And part of the attraction is to offer them a stake in the company, a piece of the ownership.

Stock options are a remarkable and uniquely American device for literally spreading the wealth, for creating a broad class of owners in companies that are starting up and those that are well along in their history.

So, though it may be arcane, though it may deal with technical accounting

rules, in my opinion what is on the line here really is the future of jobs in this country, and the ability of high-tech, cutting-edge companies to start up and create the new jobs that we need to put people back to work, particularly those who have lost their jobs in the recession.

Let me try to set out and explain some of the vocabulary. What is a stock option? A stock option is the future right of an employee to purchase a certain number of company shares, shares in the company, at a fixed price. Presuming the company does well and the stock price increases, the employee obviously shares some of the benefit. But if the stock price remains constant or decreases because the company has not done well, the employee gets nothing.

The Financial Accounting Standards Board has proposed a highly controversial and almost universally opposed accounting standard which would require companies to use a complex mathematical formula to estimate the value of an employee's option on the day on which the company grants it to the employee and to record that estimate as a reduction to their earnings regardless of whether the employee ever receives a benefit—in other words, whether the company does well and the stock option is actually worth anything.

This is an attempt by FASB, in my opinion, to carry out its responsibility for disclosure but to ultimately try to do something it is impossible to do, which is to value something that has no value at the moment at which FASB wants to value it.

I think we can all agree that the goal of financial reporting should be to maximize the integrity and comparability of financial statements. No one is arguing—I am not arguing and saying that stock options create jobs, that job creation justifies bad accounting. But we are saying that an accounting standard ought not to move forward if the economic consequences of that proposed standard so clearly outweigh the alleged accounting benefits, and that is exactly what we have in FASB's proposed rule.

This rule has been subjected to a long string of hearings. The argument that I am making now has been made consistently at those hearings held by FASB. Both the public comment period and the public hearings made clear that FASB's proposal will be uniformly unaccepted by nearly all parties that are affected by it including investors, preparers and accountants. Indeed, the public comment period and the field hearings that are now concluded should lead to a summary and a conclusion that the stock option project ought to be dropped in favor of an alternative that discloses what stock options have been granted. In other words, not to require a charge against earnings but just to have the statement of the company say very clearly what options have been granted. That would be full disclosure and would have none of the negative consequences that the proposed rule would have.

Mr. President, the extensive hearing process that FASB has been through taught us some important lessons about this proposal, and I would say probably the most important is that the current accounting treatment for employee stock options is not the result of some conspiracy to enrich corporate executives. It is the result of a genuine accounting quandary and dilemma.

Second, accurately estimating the present value of an employee stock option at the date on which it is granted is, as I have said, simply not possible. The option is granted on a given day. It is only later that it is determined by market forces whether the option is worth anything and what it is worth. How can we possibly have a system which values that option on the day on which it is granted before there is any clear understanding of its value?

During the FASB hearing process, there has been a genuine flood of testimony and letters and studies from all sides of the financial community making this point. Let me just quote from a letter sent by Secretary of the Treasury Lloyd Bentsen and Secretary of Commerce Ron Brown. They say:

> Most troubling is the possibility that implementation of this proposal might result in more volatile and less accurate and consistent financial statements because of the extreme difficulty of valuing long-term, nonmarketable, forfeitable stock options.

Even the American Institute of Certified Public Accountants, representing more than 310,000 CPA's in America, has withdrawn its support of this proposed rule, saying that it is too complex and unreliable. So the accountants who were a part of raising the question have now rejected the proposed answer that FASB has given. Since the FASB comment and testing process has now been concluded, it seems to those of us who are sponsoring this amendment it is now appropriate for Congress, we in the Senate in this case, to express our opinion on the matter. Indeed, the FASB stock option proposal is so potentially damaging to job creation and to economic growth that we would be abdicating our responsibilities if we did not weigh in and do all we could to prevent this damage from occurring.

(Mrs. BOXER assumed the chair.)

Mr. LIEBERMAN. Madam President, let me just take a few moments to outline the three reasons why I believe my colleagues should vote in favor of this resolution. First, stock option plans are broad based and are growing. We all know, as the Senator from New Jersey said, some of the dramatic stories about a relatively small number of very well-compensated executives. The fact is that last week's Business Week had their annual survey on executive compensation and pointed out that Michael Eisner, the CEO of Disney, had a salary last year that was just short of the gross national product of Grenada.

Now, it may be, Madam President, that my children feel Mr. Eisner deserves that extraordinary salary. However, those stories do not paint an accurate picture—and the public reaction to them of anger understandably—of the role stock options play in the U.S. economy, nor, most importantly, who gets stock options. In fact, this debate has nothing to do with executive compensation. That, incidentally, is one point where FASB and those of us who are putting forth this amendment are in agreement. FASB has pointed out over and over again that their proposal is about accounting, not compensation. To assert that FASB's proposal is about executive compensation is like arguing that the Boston Tea Party was about tea. Obviously, it was about something larger, as is the FASB proposal.

Now, I understand it is difficult to separate the two issues, but let me make a few points. The fact is that there are thousands and thousands of companies throughout America that offer stock option packages, and hundreds of thousands, probably millions, of employees who receive them.

Let me just mention a few of the companies that have broad based stock option plans. They include Microsoft, Genentech, Wal-Mart, Intel, Motorola, Wendy's, Pepsico, DuPont, NationsBank and Pfizer.

Even long-established companies like Greyhound Lines give options to 60 percent of their hourly employees, and the practice is even more widespread and probably even more critical among smaller newer companies. The fact is that America's most dynamic job-creating companies consistently rely on employee stock options to attract and motivate their employees—not just their top executives, all their employees, the employees that make the companies go.

To make this point, let me mention two recent surveys. The NASDAQ stock market reported that 95 percent of NASDAQ firms offer stock options to employees—95 percent of NASDAQ firms. And of those firms, 33 percent have plans to expand the scope of their option offerings to more employees in the near future.

Another survey which is highlighted on this chart, Madam President, makes the point even more strongly.

This bar is a dramatization of companies in America which have fewer than 100 employees that offer stock options. Of companies in America with fewer than 100 employees that offer stock options, 89 percent of them offer them to every one of their employees, the boss right down to the person sweeping the

floors. So in companies of less than 100 employees, 9 out of 10 of those companies offer options to every employee. You can go down the list.

Incidentally, as we see it, it is only the very largest that have over 5,000 employees, where 4 percent offer to every one of the employees.

This is a slightly different dramatization which makes another point. This is of all companies offering stock options. In a way, you have to see this as a total of what we have just seen on the other chart. Of all companies offering stock options, 35 percent offer them to every employee; 48 percent offer them to all in the managerial groups. But what I really want to point out is that of all companies offering stock options, 7 percent only offer them to senior managers. So these stock options really are a great, broad-based middle-class benefit.

Madam President, the second point why I think it is an important amendment is that stock options really represent enormous opportunities. That is why it is described as a great middle-class benefit. They make it possible to start new companies and create new jobs. They enable growing companies to attract and keep people. They stretch scarce venture capital dollars and allow companies to hire more people than they otherwise would.

Part of the damage of the FASB proposal is that in forcing companies to take a charge against earnings, there is a danger that in reducing the apparent earnings of a company, a new company particularly, they will make that company less attractive for investment, and therefore make it harder for that company to attract the capital it needs to grow and create new jobs.

Nearly every study of what works in successful companies advocates, encourages, employees to buy and own meaningful purchases of their company's stock. There is just no substitute for an employee feeling that he or she is not just getting a salary but they own a piece of the company, and when the company makes money, they make money and the value of that stock goes up.

One of the most recent studies that has been done on this question deals with the charge against earnings which had a dramatic result, is that smaller companies would be hit with as much as a 40 percent annual charge to earnings. If this proposed FASB rule would go into effect, that would have a devastating effect on the companies' ability to attract investment, and therefore would put tremendous pressure on the company not to offer stock options to as many employees as they do.

I must say to my colleagues who may be concerned about executive compensation, that again this is not about executive compensation. But you know, the net effect, if the FASB rule went into effect, would be that the folks at the top would hardly see a difference because the folks at the very top of the companies would continue to receive the stock options. That is just the nature of the relationship; the reality of it. It is the people in the middle and below that would be deprived of owning a piece of the company that they work for. Stock options represent significant economic opportunity for those mid-level and middle-class employees who receive them.

For these people—and I have talked to a lot of them as I have gotten into this issue—these stock options represent the difference between working for a company, and participating in a company, owning part of the company. But they represent something much more than that in personal terms. For these hundreds of thousands of employees, stock options are an extra bonus. They are a dividend, if you will. They are the means by which an employee can make the downpayment on a new house, can pay for a child's college education, can create a nest egg for retirement, or perhaps even can put together enough money to have the capital to open a business of his or her own and create more jobs that way.

Third, and finally, the FASB proposal is, as my colleagues have stated, being universally opposed by the overwhelming majority of the financial community. Last summer, the United Shareholders Association, the national group representing 65,000 individual investors, said:

> As investors and regular users of corporate financial reports, USA members are the very people the accounting rules are designed to protect. Our members oppose charging earnings for stock options. We do not believe FASB's proposal would clarify the reports we receive. In fact, we believe that including speculative estimates of future stock option values in corporate earnings statements diminishes rather than enhances their usefulness.

These are individual stockholders, investors.

Perhaps the strongest statement, however, that I have seen comes from the Council of Institutional Investors representing the largest institutional investors in pension funds. Before I read it, I want to note with some disappointment that my colleagues and I have received a letter from the AFL-CIO Legislative Alert urging opposition to this amendment. I do want to say two things: One is that the letter is mistaken about the content of the amendment. The letter refers to a bill that the occupant of the chair and I have cosponsored overturning the FASB ruling if it goes into effect.

This amendment does not do that. This amendment, as its proponents have stated, expresses the sense-of-the-Senate that FASB withdraw this proposed rule. It is in that sense not mandatory. But if my legal days are not too far behind me and I remember the word correctly, it is "preparatory." I will check that as the day goes on.

The AFL-CIO letter says that the group is concerned because of their position as shareholders in pension plans. But here is the group, the Council of Institutional Investors, representing the pension plans, representing the institutional investors saying:

> There is no group that has a greater interest in the principled "right' answers to accounting questions than we do. We are the people who invest real money—huge amounts of money—based upon what we read in financial statements.

Here is an important line: "We are America's employees * * *" and I would daresay, parenthetically, a lot of them are unionized employees.

> * * * and America's retirees, and we will not get our pensions if we do not invest wisely based on accurate financial information. So no one will be hurt more than we if any other agenda—however virtuous—is pursued at the expense of the accuracy and usefulness of financial statements. This is real people's grocery money.

She goes on to say:

> The exposure draft requires companies to put something in their financial statements that simply isn't true.

That is the end of the quote, and a very powerful statement from people who have a real interest in accurate accounting standards.

Madam President, this is an important statement for the Senate to make. A lot of us—the occupant of the chair, myself—represent States that do not feel that they really have come out of this recession. Although the national economic indicators say that the Nation has, we know that our people have not. We know that a lot of people are still unemployed as a result of the recession. We know a lot of these people are highly capable. We know we can retrain them. But then the question is, train them for what? And we have to create the jobs that will put our people back to work. To make a long story short, stock options are one of the great tools that we have today to create new companies and give the workers who are hired by those companies a piece of ownership in those companies, to enrich themselves and their families.

This accounting rule, motivated by good intentions—accounting intentions—has a disastrous effect on this wonderful and uniquely American idea of stock options.

So I urge my colleagues to support the statement of the opinion of the Senate, hoping that it has an impact on the people at FASB and that they withdraw this rule.

I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. BOXER. Will the Chair inform me as to how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut controls 20 minutes.

Mrs. BOXER. I ask if it would be all right if I took about 12 minutes of that time.

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from Connecticut, yields 12 minutes to the Senator from California.

Mrs. BOXER. I thank the Chair.

I am very proud to be a cosponsor of the amendment, along with Senators LIEBERMAN, MACK, GRAMM, BRADLEY, FEINSTEIN, BINGAMAN, DECONCINI, WELLSTONE, GORTON, and SHELBY.

I would venture to say that there are not many times in the Senate when I can read to you a list of Senators of such diverse philosophies that have come together to say that the FASB stock option proposal would be damaging to many companies in our Nation. I can certainly say, as one of the Senators from California, it would be very damaging to California's nascent economic recovery.

I would say that the investors do not want the new FASB rule, as the Senator from Connecticut stated. The accountants do not like it. I think I can only conclude that FASB just does not get it, Mr. President. I know they do come from the Senator's beautiful State of Connecticut, and they seem to have their green eyeshades on all right, but they just do not seem to get the ramifications of this seemingly simple proposal.

I feel it is very important that we speak out today in a clear voice, and what we say by supporting your amendment is that stock options are an important tool for high-tech and start-up companies. I have met with the Chairman of the SEC and discussed this with him on a one-to-one basis. I questioned him about it on the Banking Committee. I met with the head of FASB, along with Congresswoman ESHOO who has been a tremendous leader on this. Yet, we cannot seem to get through.

This proposal ought to be dropped and it ought to be dropped now. It has taken them years and years to get to this point, and now they are saying they are not going to have a decision for another year. Maybe the reason it has taken so long is that in their hearts they know it is wrong. What we are saying today as the Senate—I hope what we are going to say today—is that they have to take their green eyeshades off over at FASB and pay attention to the ramifications of this proposed rule.

As the Chair pointed out, companies in our country use stock options to hire the talented scientists, engineers, and executives needed to make a high-risk enterprise a success.

Mr. President, in March of this year, more than 3,000 employees of the Silicon Valley companies showed how important stock options are by rallying in San Jose against the FASB proposal, and there were employees there from very large companies and from very small companies. It was not the highly paid executives that marched. There were middle managers, researchers, scientists, engineers, and receptionists. They understand that if FASB goes forward with their rule, the stock options of the lower paid employees will be the first to go. They understand that FASB's rule will cut short the trend of companies to grant stock options to employees up and down the corporate chain of command.

In October 1993, ShareData—a company that provides software for stock options—conducted a survey of companies that grant stock options. They found—and the Chair pointed this out, and I am being repetitive, but sometimes that helps—that roughly 35 percent of these companies, large and small, give stock options to all employees. So much for the argument that this is for the highest paid. You have pointed out very clearly with your charts that only 7 percent of the companies that give stock options give it to the highest paid managers.

So let us get this straight: When we talk about stock options, we are talking about middle-class America. We are talking about people in many cases who are just entering the job pool. These options are critical to high-tech and biotech companies who must attract the best talent. They cannot afford to pay them in hard cash at the beginning.

Again, as you have pointed out, Mr. President, it gives these young people a chance to be part of the company, to work so hard, because they know that, in the end, they have an ownership of this company.

Let us not put the brake on our economy in California. We make up 14 percent of the Nation's gross domestic product. If we see this FASB rule go into effect, and suddenly companies have to treat these stock options as a charge against their earnings, we are going to see this economy brake so fast it is going to make our heads spin. And that is wrong. That is wrong for ordinary people who need these kinds of jobs.

When companies cannot attract capital because their bottomline looks bad, even though it is not bad, that would be the result of the FASB rule. They cannot get the capital. And if they cannot get the capital—and for those watching us, capital is dollars, money, investment dollars that we need to put people to work. If these people cannot get capital, they cannot grow. We already worry about interest rates rising, and it is true that the Federal Reserve Board controls that. Some of us are worried. We want to check inflation, but we are worried that the cost of capital—money—is too high. But here is something—the FASB rule—which will make a problem out of no problem.

The Fed has reasons. It says we want to check inflation. OK, we can understand that. We may not agree, but we understand it. But the FASB rule has no rhyme or reason as far as I can tell.

I want to talk to you, Mr. President, about a company in my State called Shaman Pharmaceuticals, because I am so proud of this company. It is a 4-year-old company in South San Francisco, and this is what it is doing: Discovering and developing new classes of pharmaceuticals from rain forest plants that have a history of medicinal use. They send their people into the rain forest, and they are finding products. They are in the clinical trial stage with at least two drugs I know of. One will treat a common respiratory illness that strikes all children at least twice before the age of 5 and is one of the major killers of children in developing countries. There is another one, a skin treatment that helps ease the pain of those suffering from AIDS.

The reason I am particularly proud of this company is that it was founded by a young woman whose name is Lisa Conte, who made her dream come true through cash advances on her own personal credit cards. At a time when many California companies were giving their workers pink slips, Shaman Pharmaceuticals grew and hired employees for research and development and management jobs. They grew from one employee, Lisa, to 90 employees in just 4 years.

Shaman Pharmaceuticals, Mr. President, provides each and every one of its employees with stock options. These are people who have a stake in the company.

Here is what Lisa Conte, head of Shaman Pharmaceuticals, has to say about the FASB proposal that we are working to derail. She says that it represents "a critical threat to the Nation's entrepreneurial companies." This is a young woman who started a company from nothing, that grew to 90 employees in 4 years. Every single person in her company has stock options. This is what she says:

> Were FASB to require that we treat stock options as expenses, the bottom line "hit" we will take will reduce dramatically our attractiveness as an investment. Without an ability to raise capital in the public markets, we simply cannot survive as an entrepreneurial entity. Furthermore, we will lose an important means of attracting talent to our industry.

That is from someone who is out there creating jobs.

We all come to this floor. We talk about how important it is, and with all due respect to my colleagues, we do hire people and they go on the Federal payroll. But many of us used to work in the private sector. We no longer do, but we do look to the private sector now to build jobs for people. And here is someone, a young woman who started a company with a couple of thousand of her own dollars. She is now up to 90 people. She is begging us to intervene in this situation.

All in the name of an accounting theory, we could truly dampen this economy just as the President said we are coming out of a recession. We cannot afford this FASB stock option proposal.

We know the accountants do not like it as was brought out. The accounting profession, as represented by the American Institute of CPA's and each of the Big Six accounting firms, opposes this FASB proposal. It is not good for companies, it is not good for our economy; investors do not want it, and accountants do not like it.

I do not know who likes this proposal. I am sure we may hear a few come out on the floor today. But if you take the green eyeshades off, Mr. President, and open your eyes to what would happen, unless you want to put the brakes on this economy, you really should stand up and be heard today, this evening, and support Senator LIEBERMAN's proposal.

Again, I have met with the FASB people. I have to admit, here on this floor I am told I am a persuasive person, I am not terribly sure I moved them. And I am very concerned. I do not like to interfere with an independent accounting board. I do not want us to legislate accounting rules.

Let me be clear on the RECORD, since others have said other things. If it means we need to do this, I am going to stand with the occupant of the chair. If we need to legislate accounting rules, I am not going to walk away from that fight, because precedents are fine, but once in a while, you have to say what is the pragmatic result of what a little-known board is doing somewhere up in beautiful Connecticut.

Now there is talk of delay. They are talking about 1995 when they will give us their decision. That has a chilling impact on what is happening out there.

So, in conclusion, I urge my colleagues to send a strong message to those green eyeshade folks who make up FASB. I urge my colleagues to support the Lieberman-Mack-Boxer-Bradley resolution, and the other fine names that are attached to it.

It is time to tell FASB to take the blinders off and lift the cloud that is hanging over the heads of our growing job-creating industries, vote for our resolution, and send FASB the message that this body will not allow an accounting rule to get in the way of job creation and business growth.

Mr. President, once more I thank you for your leadership in this. I am very, very proud to be working on this issue with you, and I yield the floor at this time.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mrs. FEINSTEIN].

Mrs. FEINSTEIN. Mr. President, I commend my colleague, Senator BOXER, for those excellent comments on the subject. I would like to add my own remarks to this in support of my colleague's, and Senator LIEBERMAN's sense-of-the-Senate resolution, essentially to ask FASB to cease and desist in this proposed accounting rule.

At a time when California continues to just begin to break out of the recession, when our economy is struggling to convert thousands of defense jobs into private sector jobs, I think it is critical to ensure that the growth of the high technology industry, over one-third of which is located in the State of California, is not curtailed by FASB's decision to impose huge new accounting charges on the use of employee stock options.

I am concerned that if FASB's rule is adopted tens of thousands of desperately needed jobs in California and the Nation will never, in fact, be created.

Now, a lot of my colleagues may not be familiar with the widespread use of employee stock options. Certainly, we have heard them attached to CEO salaries. We have heard them attached to golden parachutes. But this is not what we are talking about. Broad-based employee stock option plans play a crucial role in creating and sustaining the entrepreneurial culture that is essential to competitiveness in high technology.

They are especially important to startup companies that depend on options to attract and retain key technical talent that would be beyond their ability to attract with cash compensation alone.

A stock option is a right granted to an employee to purchase stock in his or her own company at today's price for a specified time in the future. Options help the company by giving employees a strong incentive to work to increase the value of their company's stock. Stock options help create jobs by stretching the cash of venture capitalists and other risk capital investors. By sharing stock with employees in addition to their cash compensation, more companies and more jobs can be created from the limited investment capital pool that is available today.

Let me just quote some of the views of those who use stock options.

James Diller, chairman and CEO of Sierra Semiconductor in San Jose has stated:

> If the FASB proposal were to be enacted, Sierra would be forced to scale back or drop altogether our broad-based employee equity programs. If, after the proposed accounting rules took effect, we were to keep these programs in their current form our earnings would be severely impacted, which in turn would depress our stock price, make it harder to borrow money and as a result make it much harder to grow and create additional jobs.

This is not what we should be doing.

Mr. Paul Commons, vice president of finance at Connect in Cupertino wrote:

> Because most information technology companies lack the financial resources to attract highly skilled and experienced employees, stock options make it possible to compete, attract investors and capital and to reward employees who perform well. The FASB proposal will threaten the livelihood of my company and the high technology industry as a whole by making this reliable recruitment tool prohibitively expensive.

The Secretary of the Treasury, the Secretary of Commerce, and each of the Big Six accounting firms oppose FASB's proposed rule on the treatment of stock options.

Here you have the Secretary of the Treasury, the Secretary of Commerce, and every Big Six accounting firm in opposition to what FASB is proposing to do. Although this might seem like a technical matter, it is extremely important to the workers of California.

I would like to show you, Mr. President, petitions signed by 8,000 employees in California who were saying, "FASB do not do this." You may think FASB—what do employees know of FASB? I can assure you that every employee of every high-tech firm in the United States knows exactly what this proposed FASB rule is. It is key and critical to their well-being, to the well-being of their company and, frankly, to the well-being of their jobs.

(Mrs. BOXER assumed the chair.)

Mrs. FEINSTEIN. I hope the Members of this Senate will register their concern by voting for the Lieberman amendment that is before us, and I join you, Madam President, in my support for that amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut controls 1 minute and 30 seconds.

Mr. LIEBERMAN. Madam President, I suggest the absence of a quorum, and ask unanimous consent the time be charged equally to both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, I oppose the amendment which is before the Senate, which is aimed at blocking the proposed stock option accounting reforms that have been proposed by the independent accounting board which is in charge of accounting rules.

Over the last few years, I have spent a lot of time learning about stock options. They are complicated to understand and complicated to explain. I am convinced, however, despite the well-meaning intention of my colleagues and despite some of the rhetoric relative to the involvement of small business in this whole effort, that this resolution, if adopted, would put the Senate on the record against honest accounting. And that is what the issue comes down to—simply honest accounting rules; and, who is going to make the decision on those rules, political bodies or independent accountants?

The way I got into this issue was through the controversy over the high levels of executive compensation that were being paid to CEO's of American corporations, as compared to what their workers were making, as compared to what the cost of living was doing, as compared to CEO's elsewhere in the world.

The Senate subcommittee which I chair, the Subcommittee on Oversight of Government Management, held a hearing in 1991, after business publications ran cover stories about the explosion of executive pay in this country and the disconnect between executive pay and corporate performance. That hearing showed that CEO pay of American companies skyrocketed during the 1980's, outpaced CEO pay in the rest of the world, outpaced the pay of average workers and, indeed, outpaced corporate profits.

The first chart, which we used at that hearing, shows what happened to CEO pay over the period 1960 through 1990. During the 1960's, during the 1970's until 1980, there was a relationship between corporate pay and the pay of, say, an engineer, which is the black line here; the pay of a schoolteacher here, which is the blue line; and the pay of a factory worker, which is the red line.

Until about 1980, those pay levels were relatively the same. Our boats kind of rose and fell together in this country. The average factory worker went up, the schoolteacher would tend to go up, and the engineer would tend to go up. The executive, of course, was always above them, but nonetheless went up at about the same level generally.

Then something happened in 1980, when, all of the sudden, corporate executive pay in this country skyrocketed literally off the charts, while the rest of us continued more or less to be moving at about the same direction and at about the same pace.

This next chart shows a little more detail about that widening gap. This now picks it up in 1986. It takes a look at CEO pay in the 25 largest industrial companies in America with revenues over $2 billion. It looks at workers' pay, which is the red line; and it looks at the cost-of-living, which is the blue line, which means, by the way, that worker pay actually fell behind the cost-of-living during those years. In the second half of the 1980's, the average worker in this country could not even keep up with the cost of living. But look what happened to CEO pay. It skyrocketed dramatically.

How does this compare to other countries? This chart that we looked at in our subcommittee compared executive pay in 10 countries in 1991. It showed that same-size companies—we are comparing apples and apples—we are looking at chief executive officers of organizations with $250 million in annual sales—that executive pay for American companies of that size generally was twice or more as much as executives in other countries.

The pay gap between the CEO and the worker in this country is now 150 times, according to "Business Week". When you look at that CEO, and look at that average worker in America, the CEO is making 150 times the average worker.

Fifteen years ago it was 35 times. In Germany the pay gap is 23 times between the CEO and the average worker. In Japan it is 17 times. J.P. Morgan said it should not exceed 20 times, that the chief executive of a company should not be making more than 20 times more than the average worker of that company. But now that pay gap in America has skyrocketed from 35 times, where it was 15 years ago, to 150 times where it is now.

We had another hearing in 1992. We discovered that one of the most important factors that was driving the increase in CEO pay is stock options. Over 90 percent of large American corporations pay their CEO's with stock options—not exclusively, but they use stock options as part of the CEO's pay. Stock options at those companies provide not 5 percent or 10 percent of the CEO pay, but 30 percent of the CEO pay on the average. And when the press reports on the highest paid CEO's in this country, the majority of their pay is typically from stock options.

In 1992, of the 10 highest paid CEO's in America, all 10 received more than 90 percent of their pay from stock options. The amounts that they received from stock options alone for the top CEO's in 1992 ranged from $22 million to $126 million that year.

In 1993, the highest paid CEO received $203 million. That was the highest paid CEO in the whole country in 1993. Of the $203 million that CEO got, $202 million came from stock options.

What is incredible about this compensation is that it is stealth compensation. It does not show up on the books as a deduction against corporate profits. It does not show up as an expense. Unlike all other forms of compensation, no exception, stock options are not treated as an expense on the company's books. And that is what FASB is proposing to change.

Other forms of compensation, be they performance-based compensation or not, be they speculative or not—all other forms of compensation show up as an expense on the company's books but not stock options.

Stock options are stealth compensation. Stock options are taken by a company as an expense on their income taxes but do not show up as an expense on their annual reports. And the independent accountants of this country say they think something is wrong with that. They think stock options have value. They think stock options have a cost to the company. And they think stock options, like every other form of compensation with no exception, should be treated as an expense on the company's books. That is what that independent accountants' board believes. That is what is in their proposed rule.

We are going to hear a lot—we already have—about the fact that some companies—some companies—use stock options for the average employee. And it is true, there are some companies that do it. Very few, by the way, but some companies do. But with few exceptions, stock options primarily compensate top corporate executives. Data on the 1,100 largest companies in this country show that less than 2 percent of them issue stock options to any employees below management and only 15 percent issue them as far down the ladder as middle management. So that means that 85 percent of the top U.S. corporations, the 1,100 largest companies in America, grant stock options only to their top executives. That is the big picture.

The tail which is wagging this dog is those small companies which people refer to, and indeed there are some. But the resolution which is before us is not limited to those small companies. The minority of small companies issue stock options in this country. The big stock option picture is these big 1,100 corporations which issue stock options to their top executives and to no one else.

My good friend from Connecticut has read the names of a number of companies which have broadly based stock option plans. Indeed, there are some; not many, but there are some. But of the top 1,100, 2 percent are the ones which issue stock options to any employees below management at all. That is what we have to focus on. Because the resolution is not limited to small companies or to new high-tech companies or to new starts. That is the argument which is being put forward here to argue for a resolution whose scope is way beyond that. It goes to all the companies, and most stock options in this country—most—are by the large companies to their top executives. And that is where the main part of the issue

lies. If we ignore that and instead just focus on high-tech companies or small companies we are going to be missing the big picture instead of looking at the big picture.

Madam President, I said a moment ago that the stock option is the only kind of compensation which is not charged to earnings as an expense. Let us take a look at the kinds of compensation that are charged to earnings as an expense: Signing bonus, salary, annual bonus, performance bonus, grant of stock, a performance stock grant.

For instance, if we say you are, in a company, going to get a certain number of shares of stock based on performance—hey, that counts. That company has to take a charge to earnings. That is compensation. Restricted stock grants, phantom stock grants, stock appreciation rights, life insurance, club dues—everything. Every form of compensation is charged as an expense to earnings, but not stock options. And that is what FASB is saying they want to change.

That is what this resolution is saying from a perspective of Washington, of the U.S. Congress: "FASB, don't change that. FASB, we know more than you do about what represents honest accounting." The problem is, Madam President, we do not.

We may all have opinions on it, and I have an opinion on it, as to whether or not stock options should be charged to earnings and as to whether honest accounting rules should require that stock options be treated as all other forms of compensation. But the independent accounting board is in a far better position to reach an objective, nonpolitical judgment on that issue. If we want our annual statements of corporations to represent honest accounting instead of political judgments, we better let that independent accounting board be in terms of their judgments and not start legislating accounting rules.

This stock option exception was created by a 20-year-old accounting loophole, called Opinion No. 25. It is that loophole which FASB has said after 10 years of study and saying they are going to do something about it, is finally doing something about it. That loophole was created by an organization which was the predecessor to the Financial Accounting Standards Board or FASB.

I think maybe we ought to spend one moment as to what FASB is. They are not a Government agency. The most important thing they have going for them is that they are not a Government agency. They can be free of the kind of political considerations which otherwise is going to go into a judgment which should be free of political considerations.

It was not established by Government. FASB is independent of Government and if we are wise, we are going to try to keep it that way. They were created by the accounting profession and by the business community because those groups saw clearly that honest accounting rules are one of the bedrocks of a healthy economy. They knew that while individual businesses want to minimize reported costs and maximize reported earnings, that rosy scenarios are not what markets need to function effectively. What they need is honest financial reporting, and that is what FASB was designed to provide and that is what it has been providing.

What the businesses want us to do—and we have heard a lot from the businesses—they have come clamoring to this town trying to protect this status quo which favors their executives so much. What they want Congress to do is to reverse FASB's effort to reform stock option accounting.

Opponents have said that most of the business community opposes this change that FASB is proposing, and that is not surprising. It is not surprising because of the intense personal involvement of the CEO's in this issue. FASB has received more than 400 letters from CEO's opposing stock option accounting reform. FASB will also tell you that they have never seen that level of involvement by CEO's on any issue until it came to their stock options. They never saw that level of involvement by the CEO's even when FASB proposed a new earnings charge, a charge against corporate earnings for retiree health benefits, a charge that dwarfs any of the stock option charges that FASB is contemplating today.

What FASB has been saying, in essence, is that stock options have a value; that they have a cost; and that the accounting fiction which hides the cost to the company has to end.

Most of FASB's opponents readily admit that stock options have value and that is why executives want stock options. That is why there has been such an intense lobbying effort by executives to save their stock options.

Then we are told the six big accounting firms oppose FASB. And relative to that issue as to why all of a sudden the accounting firms, the big six oppose FASB, I want to quote from some remarks by the chief accountant of the Securities and Exchange Commission, a man named Walter Schuetze who made a speech to the American Institute of CPA's in January of this year.

Here is what he says:

> It also appears to me, and to other outside observers, that CPA's may have become cheerleaders for their clients on the issue of accounting for stock options issued to employees.

He went on to say:

> In 1984 and 1985, in response to the Invitation to Comment that began the FASB's reconsideration of the existing accounting rules for stock options granted to employees, all of the then big eight accounting firms, except one, wrote to the FASB supporting, (a), reconsideration of the accounting rules and, (b), a charge to compensation cost/expense for all options granted to employees.
>
> But, in February of 1993, even before the FASB issued its exposure draft on the subject * * * all of the big six accounting firms joined forces with certain members of industry and a group of users to recommend to the FASB that there be no formal recognition for the cost of stock options * * * The big six accounting firms did not, in February 1993, offer an explanation for their change of mind.

He went on to say, and this is the chief accountant for the SEC:

> I would be the first to say that anyone can change his or her mind. I changed my mind on several accounting issues over the years. But I think the public deserves an acknowledgment of that change of mind by the firms and the reason why.
>
> Such a change of position, without a corresponding change in the underlying concepts and issues that led the firms * * * initially to support FASB's project, has left some members of the public with the impression that the switch was in response to the fear of losing clients or other forms of retaliation. I do not know if this is true. However, if public companies are pressuring their outside auditors, and the Accounting Standards Executive Committee * * * to take particular positions on financial accounting and reporting issues, and outside auditors are subordinating their views to their clients' views, can the outside auditor community continue to claim to be independent?

He concluded:

> I make these comments with a heavy heart. As many of you know, these comments do not come from an ivory tower. I lived and worked in the accounting profession for more than 30 years. I know the realities of saying no to a client. I know the disappointment some clients express when an auditor makes a decision to support an accounting proposal that may reduce those clients' reported earnings. I know the long and often heated telephone calls and client visits, the emotional strain, and the financial cost that follow such decisions. But I also know the rewards—a clean conscience, not having to worry about losing lawsuits based on the merits, and pride in the profession, the credibility of financial accounting and reporting.
>
> I hope that the profession and registrants will, through self-restraint, take a fresh look at these independence issues and * * * let nothing stand in the auditor's way of telling the truth as he or she sees it.

Madam President, it is hard to argue against the proposition, I think, that stock options impose costs on the companies at issue. That is the second point. The first point is they have a value. That is what FASB is saying, stock options have a value. Again, that should not shock anybody. If they did not have value, we would not have all the CEO's descending on us to try to keep this the way it is in terms of accounting rules. That is why they are fighting FASB so hard.

There is a second proposition FASB is working on, and that is that the stock options have a cost to the companies that issue them. That is the only reason that companies are permitted to deduct stock option com-

pensation from their Federal taxes as a business expense.

This is the only item that I know of which a company can deduct and does deduct from its taxes as a business expense that it does not list as a business expense on its books.

We give them a tax deduction for this because it is a business expense, and when it comes to tax time companies argue, oh, it is a business expense. We want to deduct the difference between what the value of that stock is when exercised and what that so-called strike price or option price was. We want to be able to deduct that as a business expense. We say go ahead; it is a business expense. And you and I pay for it. It is a tax deduction.

But when it comes to their own books and records at the end of the year, they want to maintain the fiction that there is no cost to the company. There is no expense, they argue, when it comes to their annual report. It is only an expense, they say, when it comes to their income tax.

They cannot have it both ways. It is one or the other. It is either an expense for income tax purposes and in terms of their own books, or it is neither. It cannot be both.

What is really interesting here in this regard is a letter that was written in 1993 to the Senate Finance Committee by someone who opposes stock option reform now, the Biotechnology Industry Organization. The Biotechnology Industry Organization opposes what FASB is doing. They do not want this to be treated as a charge to earnings. But when they were talking about a slightly different issue, when they were trying to keep stock options as an expense for income tax purposes, when it came to the research and development tax credit evaluation, they took exactly the opposite position.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has just about expired; he has 1 second remaining. And then under the previous order, once he offers his amendment, he will control 15 minutes of time, and the Senator from Connecticut 15 minutes of time.

So the Senator's time has expired on the first-degree amendment.

Mr. LEVIN. I thank the Chair.

AMENDMENT NO. 1669

(Purpose: To express the sense of the Senate regarding the protection of accounting principles)

Mr. LEVIN. Madam President, I send the second-degree amendment to the desk at this time.

The PRESIDING OFFICER. The clerk will report the second-degree amendment of the Senator from Michigan.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1669 to amendment numbered 1668:

The amendment is as follows:

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

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the status of the Financial Accounting Standards Board as a private body of independent accounting experts should be respected and safe-guarded; and

(2) the Congress should not impair the objectivity or integrity of the Financial Accounting Standards Board's decisionmaking process by legislating accounting rules.

Mr. LEVIN. Madam President, the issue before us is not whether or not stock options are good or bad. As far as I am concerned, they are good. I like performance-based pay. I put a whole list of performance-based pay up here. I think we ought to encourage it, but not at the expense of honestly accounting for stock options.

That is what Warren Buffett, who I think is known to all of us as really one of the great entrepreneurs of our age, wrote to the Banking Committee. He wrote them that we should not—we should not—be reversing FASB. FASB is seeking honest accounting. I wish to read parts of his letter. He said that he summarized his views on that subject in an annual report of his company, Berkshire Hathaway, and he quotes them here.

The most egregious case of let's-not-face-up-to-reality behavior by executives and accountants has occurred in the world of stock options. The lack of logic is not accidental: For decades, much of the business world has waged war against accounting rulemakers, trying to keep the cost of stock options from being reflected in the profits of the corporations that issue them.

Typically, executives have argued that options are hard to value and that therefore their costs should be ignored. At other times managers have said that assigning a cost to options would injure small start-up businesses. Sometimes they have even solemnly declared that "out-of-the-money" options have no value when they are issued.

He says:

I see this line of reasoning as offering exciting possibilities to American corporations for instantly improving their reported profits. For example, they could eliminate the cost of insurance by paying for it with options. So if you're a CEO and subscribe to this "no cash-no cost" theory of accounting, I'll make you an offer you can't refuse: Give us a call at Berkshire and we will happily sell you insurance in exchange for a bundle of long-term options on your company's stock.

Shareholders should understand that companies incur costs when they deliver something of value to another party and not just when cash changes hands. Moreover, it is both silly and cynical to say that an important item of cost should not be recognized simply because it can't be quantified with pinpoint precision. Right now, accounting abounds with imprecision. After all, no manager or auditor knows how long a 747 is going to last, which means he also does not know what the yearly depreciation charge for the plane should be. No one knows with any certainty what a bank's annual loan loss charge ought to be. And the estimates of losses that property-casualty companies make are notoriously inaccurate.

Does this mean that these important items of cost should be ignored simply because they can't be quantified with absolute accuracy? Of course not. Rather, these costs should be estimated by honest and experienced people and then recorded. When you get right down to it, what other item of major, but hard-to-precisely-calculate cost—other, that is, than stock options—does the accounting profession say should be ignored in the calculation of earnings?

He said:

Instead, as the debate about stock option accounting has gone forward, "sweep-the-costs-under-the-rug" proponents have argued fervently for disclosure—for the presentation of all relevant information about options in the footnotes to the financial statements, rather than in the statements themselves * * *

This approach, so the argument proceeds, is especially needed for young companies: They will find new capital too expensive if they must charge against earnings the full compensation costs implicit in the value of the options they issue. In effect, the people making this argument want managers at those companies to tell their employees that the options given them are immensely valuable while they simultaneously tell the owners of the corporation that the items are cost-free. This financial schizophrenia, so it is argued, fosters the national interest, in that it aids entrepreneurs and the start-up companies we need to reinvigorate the economy.

He goes on to say:

Let me point out the absurdities to which that line of thought leads. For example, it is also in the national interest that American industry spend significant sums on research and development. To encourage business to increase such spending we might allow these costs, too, to be recorded only in the footnotes so that they do not reduce reported earnings. In other words, once you adopt the idea of pursuing social goals by mandating bizarre accounting, the possibilities are endless.

Indeed, I would argue that the national interest theory is not only misguided, but wrong. True international competitiveness is achieved by reducing costs, not ignoring them. Over time, capital markets will also function more rationally when logical and even-handed accounting standards, rather than the "feel-good" variety, are followed.

Madam President, I ask unanimous consent that I may put the entire letter of Warren Buffett to the Banking Committee, dated October 18, 1993, into the RECORD.

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

BERKSHIRE HATHAWAY INC.,
Omaha, NE, October 18, 1993.

Hon. CHRISTOPHER DODD,
Chairman, Securities Subcommittee of Committee on Banking, Housing, and Urban Affairs, Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I regret that I will not be able to attend your subcommittee meeting on October 21.

Could I have appeared there, I would have wished to make certain points, which I will distill here. First among these is the fact that I do not object to the intelligent use of stock options. I have often voted for their issuance, both as a director and as a substantial owner of the issuing corporations making use of them.

I do, however, object to the improper stock-option accounting now practiced. I summarized my views on that subject in the 1992 Annual Report of Berkshire Hathaway and I would like to repeat those comments here:

Managers thinking about accounting issues should never forget one of Abraham Lincoln's favorite riddles: "How many legs does a dog have if you call his tail a leg?" The answer: "Four, because calling a tail a leg does not make it a leg." It behooves managers to remember that Abe's right even if an auditor is willing to certify that the tail is a leg.

The most egregious case of let's-not-face-up-to-reality behavior by executives and accountants has occurred in the world of stock options. The lack of logic is not accidental: For decades, much of the business world has waged war against accounting rulemakers, trying to keep the cost of stock options from being reflected in the profits of the corporations that issue them.

Typically, executives have argued that options are hard to value and that therefore their costs should be ignored. At other times managers have said that assigning a cost to options would injure small start-up businesses. Sometimes they have even solemnly declared that "out-of-the-money" options (those with an exercise price equal to or above the current market price) have no value when they are issued.

Oddly, the Council of Institutional Investors has chimed in with a variation on that theme, opining that options should not be viewed as a cost because they "aren't dollars out of a company's coffers."; I see this line of reasoning as offering exciting possibilities to American corporations for instantly improving their reported profits. For example, they could eliminate the cost of insurance by paying for it with options. So if you're a CEO and subscribe to this "no cash-no cost" theory of accounting, I'll make you an offer you can't refuse: Give us a call, at Berkshire and we will happily sell you insurance in exchange for a bundle of long-term options on your company's stock.

Shareholders should understand that companies incur costs when they deliver something of value to another party and not just when cash changes hands. Moreover, it is both silly and cynical to say that an important item of cost should not be recognized simply because it can't be quantified with pinpoint precision. Right now, accounting abounds with imprecision. After all, no manager or auditor knows how long a 747 is going to last, which means he also does not know what the yearly depreciation charge for the plan should be. No one knows with any certainly what a bank's annual loan loss charge ought to be. And the estimates of losses that property-casualty companies make are notoriously inaccurate.

Does this mean that these important items of cost should be ignored simply because they can't be quantified with absolute accuracy? Of course not. Rather, these costs should be estimated by honest and experienced people and then recorded. When you get right down to it, what other item of major but hard-to-precisely-calculate cost—other, that is, than stock options—does the accounting profession say should be ignored in the calculation of earnings?

Moreover, options are just not that difficult to value. Admittedly, the difficulty is increased by the fact that the options given to executives are restricted in various ways. These restrictions affect value. They do not, however, eliminate it. In fact, since I'm in the mood for offers, I'll make one to any executive who is granted a restricted option, even though it may be out of the money: On the day of issue, Berkshire will pay him or her a substantial sum for the right to any future gain he or she realizes on the option. So if you find a CEO who says his newly-issued options have little or no value, tell him to try us out. In truth, we have far more confidence in our ability to determine an appropriate price to pay for an option than we have in our ability to determine the proper depreciation rate for our corporate jet.

It seems to me that the realities of stock options can be summarized quite simply: If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? And, if expenses shouldn't go into the calculation of earnings, where in the world should they go?

With over six months having passed since those questions were posed, I have had no one heap answers upon me.

Instead, as the debate about option accounting has gone forward, "sweep-the-costs-under-the-rug" proponents have argued fervently for disclosure—for the presentation of all relevant information about options in the footnotes to the financial statements, rather than in the statements themselves. In that manner, they say, investors can be informed about the costs of options without these costs actually hurting net income and earnings per share.

This approach, so the argument proceeds, is especially needed for young companies: They will find new capital too expensive if they must charge against earnings the full compensation costs implicit in the value of the options they issue. In effect, the people making this argument want managers at those companies to tell their employees that the options given them are immensely valuable while they simultaneously tell the owners of the corporation that the options are cost-free. This financial schizophrenia, so it is argued, fosters the national interest, in that it aids entrepreneurs and the start-up companies we need to reinvigorate the economy.

Let me point out the absurdities to which that line of thought leads. For example, it is also in the national interest that American industry spend significant sums on research and development. To encourage business to increase such spending, we might allow these costs, too, to be recorded only in the footnotes so that they do not reduce reported earnings. In other words, once you adopt the idea of pursuing social goals by mandating bizarre accounting, the possibilities are endless.

Indeed, I would argue that the "national-interest" theory is not only misguided, but wrong. True international competitiveness is achieved by reducing costs, not ignoring them. Over time, capital markets will also function more rationally when logical and even-handed accounting standards, rather than the "feel-good" variety, are followed.

Back in 1937, Benjamin Graham, the father of Security Analysis and, in my opinion, the best thinker the investment profession has ever had, wrote a satire on accounting. In it, he described the gimmicks that companies could employ to inflate reported earnings, even though economic reality changed not at all. Among Graham's most hilarious suggestions—because the thought seemed so far fetched—was a proposition that all employees of a company be paid in options. He pointed out that this arrangement would eliminate all labor costs (or, more precisely, eliminate the need to record them) and do wonders for the bottom line.

Today, in the world of stock options, we have life imitating satire. So far, of course, companies have largely substituted option compensation for cash compensation only when paying managers. But there is no reason that this substitution can't spread, as corporate executives catch on to the possibility of inflating earnings without actually improving the economics of their businesses.

One close-to-home example, involving Berkshire Hathaway and its 20,000 employees: I would have no problem inducing each of them to accept an annual grant of out-of-the-money options worth $3,000 at issuance in exchange for a $2,000 reduction in annual cash compensation. Were we to effect such an exchange, our pre-tax earnings would improve by $40 million—but our shareholders would be $20 million poorer. Would someone care to argue that would be in the national interest?

Many years ago, I heard a story—undoubtedly apocryphal—about a state legislator who introduced a bill to change the value of pi from 3.14159 to an even 3.0 so that mathematics could be made less difficult for the children of his constituents. If a well-intentioned Congress tries to pursue social goals by mandating unsound accounting principles, it will be following in the footsteps of that well-intentioned legislator.

Sincerely,

WARREN E. BUFFETT.

Mr. LEVIN. Also, Madam President, I ask unanimous consent that a list of 70 members of the academic community that are supporting the following statement be inserted in the RECORD at this time. The statement is as follows:

Stock options have value; they impose a cost on companies that issue them; and the cost of stock option compensation ought to be charged to corporate earnings.

Madam President, I also would ask unanimous consent that a letter from the AFL–CIO in opposition to the Leiberman amendment and in support of my second-degree amendment be printed in the RECORD.

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

STOCK OPTION ACCOUNTING REFORM

The following members of the academic community endorse this statement:

"Stock options have value; they impose a cost on companies that issue them; and the cost of stock option compensation ought to be charged to corporate earnings.".

Professor Shannon W. Anderson, University of Michigan
Professor Rick Antle, Yale University
Professor Paul Bahnson, University of Montana
Professor Ran Barniv, Kent State University
Professor Mary E. Barth, Harvard University
Professor Vic Bernard, University of Michigan
Former President Derek Bok, Harvard University
Professor Wayne Boutell, University of California at Berkeley
Professor Bill Bruns, Harvard University
Professor John C. Burton, Columbia University
Professor Richard Buxbaum, University of California at Berkeley
Professor Alan Cerf, University of California at Berkeley
Professor Bill Collins, University of North Carolina

Professor Julie Collins, University of North Carolina
Professor Daniel W. Collins, University of Iowa
Professor Graef Crystal, University of California at Berkeley
Professor Bala Dharan, Rice University
Professor Mel Eisenburg, University of California at Berkeley
Professor John A. Elliott, Cornell University
Professor Marc Epstein, Harvard University
Professor David Fetyko, Kent State University
Professor Tom J. Frecka, University of Notre Dame
Professor John R. Hand, University of North Carolina
Professor Bill Holder, University of Southern California
Professor Charles Horngren, Stanford University
Professor Robert Hoskin, University of Connecticut
Professor Gene A. Imhoff, University of Michigan
Professor Sanjay Kallapur, University of Arizona
Professor Bob Kaplan, Harvard University
Professor David Kirch, Kent State University
Professor Don Kirk, Columbia University
Professor Richard Lambert, Stanford University
Professor Wayne R. Landsman, University of North Carolina
Professor Harold Langenderfer, University of North Carolina
Professor John Larsen, University of Southern California
Professor Wayne Lee, Kent State University
Professor Kenneth Lehn, University of Pittsburg
Professor Baruch Lev, University of California at Berkeley
Professor Louis Lowenstein, Columbia University
Professor Terry Marsh, University of California at Berkeley
Professor Maureen F. McNichols, Stanford University
Professor Ken Merchant, University of Southern California
Professor George Milkovich, Cornell University
Professor Merton Miller, Nobel Laureate in Economics, University of Chicago
Professor Paul B.W. Miller, University of Colorado
Professor Paul Munter, University of Miami in Florida
Professor R.D. Nair, University of Wisconsin
Professor Charles O'Reilly, Stanford University
Professor Paul Pacter, University of Connecticut
Professor Krishna Palepu, Harvard University
Professor Michael Pearson, Kent State University
Professor Steven Penman, University of California at Berkeley
Professor Robert W. Rouse, College of Charleston in South Carolina
Professor Doug A. Shackelford, Stanford University
Professor John K. Simmons, University of Florida
Professor Abbie Smith, University of Chicago
Professor David Solomons, Wharton School, University of Pennsylvania
Professor Ray G. Stephens, Kent State University
Professor Amy Sweeney, Harvard University
Professor Brett Trueman, University of California at Berkeley
Professor Jim Wahlen, University of North Carolina
Professor Wanda Wallace, College of William & Mary
Professor Ross Watts, University of Rochester
Professor Jerry Weygandt, University of Wisconsin
Professor Guy Weyns, Harvard University
Dean Doyle Williams, University of Arkansas
Professor Mark Wolfson, Stanford University
Professor David Wright, University of Michigan
Professor Stephen A. Zeff, Rice University
Professor Linda Zucca, Kent State University

AFL–CIO,
DEPARTMENT OF LEGISLATION,
Washington, DC, May 3, 1994.

DEAR SENATOR: During consideration of S. 783, the Fair Credit Reporting Act, the Senate will consider an amendment by Senator Lieberman to prohibit the Financial Accounting Standards Board (FASB) from developing accounting rules that would charge employee stock options as a charge against earnings. FASB was created in 1973 as a private-sector group to develop accounting standards for the securities industry.

The AFL–CIO opposes the Lieberman amendment because it is an attempt to preempt the ability of FASB to develop objective accounting rules.

While this issue is almost exclusively a matter of concern for highly compensated executives who receive stock options, it does affect rank and file workers. As shareholders of corporations through our pension plans, the unions of the AFL–CIO are unable to obtain an adequate financial picture of corporations that use stock options extensively. We approach this issue from the perspective of union fund trustees whose investments and proxy voting responsibilities are impacted by the quality and appropriateness of the financial statement disclosure as well as from the perspective of union members who need to be aware of the financial, health and liabilities of the firms for which they work. The AFL–CIO has contacted FASB offering its suggestions in this complex area. However, we believe that FASB should be able to complete its own recommendation without being swayed by Congress.

Therefore, the AFL–CIO opposes the Liberman amendment which would undermine the integrity of the FASB process.

Sincerely,

ROBERT M. MCGLOTTEN,
Director.

Mr. LEVIN. Madam President, I reserve the remainder of my time.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Chair.

Madam President, it is unusual for me to be in the position of arguing against the Senator from Michigan who I normally consider to be such a rational and objective person. I find myself not feeling this way about his arguments in this particular case.

Madam President, the Senator from Michigan has talked at great length about the compensation of chief executives of companies and the way in which that compensation in so many cases has been rising dramatically and whereas the compensation of the average worker has not been rising. Of course, I share his anger at that.

Obviously, we understand that the public is angry about that disparity as well. And some of the levels of compensation being reported are enormous. It is hard to imagine $100 million or $200 million a year. But it is very important to say that this debate is not about the compensation of chief executive officers. I mean the Financial Accounting Standards Board itself, which the Senator from Michigan is here to protect in that sense, or at least protect the proposed rule in this case, has stated over and over again that their rule on stock options is not about chief executive officer pay. They are concerned, as we all should be, about the integrity and comparability of financial statements so that investors can make informed decisions.

If we are concerned about chief executive officer pay, then this is not the debate to work out that concern. Obviously, any Member is free to speak regardless of the particular subject. But to do anything about it probably would require a look at the Tax Code, not at the generally accepted accounting principles issued by the FASB.

Accounting principles need to reflect neutrality in reporting financial information, not policy judgments such as have been the subject of the statement of the Senator from Michigan. The way any of us feel about executive pay is a policy judgment, a value judgment, and should not find its way into an accounting principle issued by the Financial Accounting Standards Board.

Madam President, I want to make clear again. The Senator from Michigan has talked about the top 1,100 companies, the largest companies, and only 2 percent of them giving stock options. But this denies the chart that I referred to earlier which agrees with part of what he said. But that is only part of the picture. In companies of over 5,000, 4 percent of them actually issued stock options to all of their employees. But look at these companies. The Senator from Michigan referred to 1,100 companies. Over 3 million companies in this country have stock. And look at this bar here. Companies with less than 100 employees that issue stock options give them to 90 percent of the workers; 9 out of 10 workers in those startup companies. That involves an enormous number of employees; hundreds of thousands, I would say.

Take all the companies offering stock options. Let us go beyond the top largest 1,100. Of all the companies offering stock options, 35 percent of those give them to all employees. Only 7 percent of the companies issuing stock options only give them to senior

managers. So let us get the full picture here.

In terms of our concern about the compensation, the pay of the chief executive officers, and our complementary concern about the fact that so many middle-class workers in this country have not seen real wages going up, the irony of the position being taken by FASB, and my friend from Michigan, is that stock options are one of the few great opportunities that middle-class workers have to break out of the cycle of stagnating real wages, to own a piece of the company, basically to make more money, to put a little bit away, to buy the home, to send the kids to college, to have a retirement nest egg, and to go out and start a new business of their own. Look at Wendy's. The great Wendy's gives it to employees all the way down to the people working at the counter.

There was a remarkable event out in California in Silicon Valley 3 or 4 weeks ago where more than 4,000 middle-management, middle-class and lower employees came out, would you believe it, Madam President, to a rally for stock options. There ought to be a paragraph in some economic or political history of America for that event. And why? Because they know how important they are.

I went through one of the companies a while ago. I stopped the workers and asked if stock options matter. "Sure do."

"What did you do with them?"

"Bought a new house, bought a new car."

So the irony is here, while we may rail about CEO compensation, stock options really primarily benefit middle-class workers and lower in companies.

Third, on the whole question of accounting, the Senator from Michigan has listed the series of charges that are taken against earnings. But the difference between those and stock options is that they can be valued on the occasion on which they are granted. Stock options cannot. If stock options could be valued on the date on which they are granted, they would have been on that list. There would have been no argument here.

Stock options are like a lawsuit filed against a company. The lawsuit is disclosed in the report of the company but is not valued. Because how can we value a lawsuit until a judgment is reached or an agreement is negotiated? And the same is true of stock options. They cannot be valued on the date on which they are granted because nobody knows whether they are worth anything, let alone what they are worth.

Let me go back to something the Senator from Michigan said about politics. Again, I want to quote from the American Institute of Certified Public Accountants, a nonpolitical group. These are the pros. Let us listen to what they say.

> Since stock options are nontransferable and cannot be traded on any market, there is no objective market value that can be readily determined for them. Models that attempt to assign a value to a stock option are based on numerous assumptions and projections, and are of such a nature that they are too complex and unreliable.

That is not any Member of the Senate. That is not any corporate executive. That is the American Institute of Certified Public Accountants.

Madam President, I am not going to object or oppose the second-degree amendment offered by the Senator from Michigan because this Senator respects and prefers the independence of FASB, the Financial Accounting Standards Board.

And my hope is that they will act in a way here with regard to this wrongheaded proposed rule that they will withdraw it, to amend it.

In saying that, though, I do want to remind the Senator from Michigan of something that happened. And I share the sentiments that he expressed on an earlier occasion, January 28, 1993, not so long ago, in introducing S. 259 in this 103d session of Congress. The Senator from Michigan said:

> It is not the ideal course for Federal legislation to require the promulgation of specific accounting rules. My preference is, as I have stated many times, is for FASB or the SEC to take the action needed on their own. But FASB, while conceding that the issue must be addressed, has left it unaddressed for a decade. That is why I am introducing this bill today.

Then the Senator indicates that FASB may be taking action. Then he comes back and concludes:

> But if FASB again fails to act, and the SEC again fails to step in, I—

The Senator from Michigan——

> will be back asking my colleagues to support this bill as the only option left to us.

So it is in that spirit that I will support the second-degree amendment, knowing that clearly the best of all situations is for the Financial Accounting Standards Board to have its independence protected. But if it goes ahead in promulgating an accounting rule that has a disastrous affect on the ability of the American economy to raise capital, to create jobs, and particularly the ability of some of those startups the Senator from California [Mrs. BOXER], referred to, then I am going to look back at the statement made by the Senator from Michigan on January 28, 1993, and probably act accordingly.

Mrs. BOXER. Will the Senator yield 2 minutes to me?

Mr. LIEBERMAN. I am happy to do so.

Mrs. BOXER. Madam President, I agree with the Senator's decision to accept the second-degree amendment of the Senator from Michigan. There is nothing inconsistent with the second-degree amendment and the first-degree amendment, as far as I can tell.

We all agree that we want FASB to listen—not to us, but to the hundreds of thousands of people that they are hearing from. I feel so differently from my friend from Michigan, and maybe it is because I come from a State where I have seen the entrepreneurial spirit arising from men and women who are investing their own funds, who are attracting the talent to their companies, because they are able to offer, if you will, a piece of the future action of the company to these people. So they are involved in the company.

The Senator from Michigan himself stated, "I like stock options; they are good." He said, "It is not a matter of whether stock options are good. I like them. They are good."

When you say that, I think you have to take the next step and say if you like them and think they are good, then why would you be on the opposing side from the Senator from Connecticut and the Senator from California? Because we are saying we like stock options, and we think they are good. We think they act to attract good people to the startup companies and retain them there, where they give their all and feel a part of the company, and we may have a rule here that will hurt those very same companies.

I say to my friend from Michigan that I think the large companies can always survive. Their bottom line can take a hit of a large stock option. But it is the smaller companies that we hurt—companies like Shaman Pharmaceuticals and Lisa Conte, who founded that company with a couple thousand of her own dollars.

In my closing second, I ask unanimous consent that I may have printed in the RECORD at this time an op ed piece from the Wall Street Journal of February 8, 1994, entitled "A Rule That Stunts Growth."

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

[From the Wall Street Journal, Feb. 8, 1994]

A RULE THAT STUNTS GROWTH

(By J. Carter Beese Jr.)

All eyes are on the stock market. But while investors look to the Fed, Wall Street analysts and the stars for guidance, perhaps they should pay some attention to a slightly lower-profile group: The Financial Accounting Standards Board, or FASB. That's right, the FASB. While the FASB's work doesn't seem as loftly as setting the nation's monetary policy, the practical effect of an accounting rule currently under consideration is just as serious as Friday's rise in the federal funds rate. The hit to investors would be just as predictable.

At issue are FASB proposals to force companies to expense the value of employee stock options when the options are issued. Criticism of this idea, subject to public hearings next month, has come from all sides. Nevertheless, shareholders and investors may eventually end up joining the FASB as casualties in this conflict.

MASKING TRUE COST

Why? Because the FASB is committed to rendering its final decision without regard to any of the social, economic or public policy

considerations involved. For shareholders and investors, the FASB's failure to consider these nonaccounting factors masks the true cost of its proposals. Unless all the relevant issue are addressed, we may find ourselves paying the price for blindly using the high-cost alternative when a low-cost selection would have performed equally well.

Since its inception, the Securities and Exchange Commission has maintained ultimate authority over the content of corporate financial statements. In 1973, the SEC began looking to the FASB to establish accounting principles "with the expectation that the body's conclusions will promote the interests of investors."

In the context of the stock-option accounting debate, promoting investors' interests boils down to answering one question: Should the estimated value of employee stock options be charged as an expense against earnings, as proposed by the FASB, or should it be reflected in the notes to the company's financial statements, a compromise suggested by the Big Six accounting firms, the Council of Institutional Investors and the Business Roundtable?

Our financial markets, of course, value substance over form. Whether deducted from earnings or disclosed in a footnote, the estimated value accorded to the options will be quickly and efficiently analyzed, checked, re-estimated and assigned its appropriate weight, as only our markets can do so well.

On the other hand, shareholders and the companies in which they invest care a great deal about form, and for good reason. The collateral consequences of the FASB's proposals go far beyond the potential effect on stock prices.

The charge to income will be based on highly debatable estimates produced by complex option-pricing models. By turning a soft estimate into a hard expense, we will immediately raise the up-front cost of using stock options, even though the real cost to the company—the potential dilutive effect to shareholder equity—remains unchanged. Moreover, in today's hostile legal environment—where class-action suits are instantly filed if earnings fall too fast, rise too slowly or remain too steady—the fear of inviting yet more litigation by including "soft" information directly on income statements is a very real concern.

Additionally, employee stock options are a uniquely American phenomenon that allows thousands of U.S. workers to share in their companies' success. As such, employee stock options provide a distinct competitive advantage to U.S companies competing globally for talented employees. The companies and industries most heavily dependent on stock options are also creating the real job growth in our economy. If, to avoid adverse side-effects, U.S. companies limit their use of stock options, we all lose.

Faced with these arguments, the FASB's rebuttal is simple: When it comes to accounting principles, economic consequences be damned; the truth will set investors free. But the truth be told, finding the true value of stock options is an impossible task; and by using estimates, the FASB is not empowering investors with more credible financial statements, only theoretically improved ones.

The merit of these so-called improvements is not clear. Option-pricing models use complicated formulas based on various assumptions, including predictions on interest rates and stock volatility 10 years into the future and produce widely divergent results. The FASB hopes its proposals will enhance the comparability of earnings among companies; but achieving this limited goal is doubtful when the estimates underlying earnings lack comparability.

For example, compensation consultants reportedly estimated the current value of the options package provided to Kodak's new CEO last December at between $13 million and $17 million, a range of 30%. If this range exists for options on Kodak, a mature company with an established trading history and actively traded options for its stock, imagine the range for a new high-tech company in a new industry with no existing market history or options markets. The estimated value of the latter company's options would be all over the board—and, if recorded as an expense, would render its earnings meaningless to investors for comparative purposes.

Moreover, its unlikely that the FASB's actions are needed to curb excessive executive salaries, as others argue. No pay package goes unnoticed under the SEC's copious new executive compensation disclosures, and by linking pay to performance, stock options reward executives only if shareholders win too.

FOOTNOTES WOULD WORK

The bottom line is that by using footnote disclosures, investors will receive the same information that the FASB seeks to present. More important, the income statement will not reflect guesstimates of option values, and the damaging side-effects of the FASB's proposals will be eliminated. All with no discernible harm to shareholders and investors.

Yet the FASB is unable to fully evaluate this alternative approach. As it recently admitted at oversight hearings before the SEC, the FASB lacks the competence to judge nonaccounting issues, and therefore does not consider them when reaching its conclusions.

Promoting investors' interests demands that we not blindly derail the engine of growth that employee stock options so clearly represent. For everyone's sake, the FASB should amend its proposals, or the SEC should act now to avert a disastrous train wreck.

Mrs. BOXER. Reading four simple sentences, it says.

* * * the FASB is committed to rendering its final decision without regard to any of the social, economic, or public policy considerations involved.

I agree with that. It is up to us to listen to the people back home, not to be isolated here in Washington. I found out about this issue from the working people back home.

It goes on to say:

* * * employee stock options are a uniquely American phenomenon that allows thousands of U.S. workers to share in their company's success.

Let us not blindly allow FASB to derail the engine of growth that employee stock options so clearly represent.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 5 minutes to the Senator from Oklahoma [Mr. BOREN].

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. BOREN], is recognized.

Mr. BOREN. I thank my colleague from Michigan. I rise in support of the amendment of the Senator from Michigan. First of all, I commend him for the leadership he has shown on the issue of executive compensation year after year after year.

He has made sure that those stockholders who own the companies know exactly the compensation that is being paid to those that are operating those companies. After all, these companies belong to the shareholders, and they should have that information in a clear form and in a form that is understandable to them.

In some cases in the past, the levels of compensation to some CEO's in this country have been far out of line with the ratios of compensation, compared to the compensation of employees in other countries. That has a potential impact on the productivity and performance of American companies. But executive compensation is not the issue here.

The issue is whether or not we shall have an independent decisionmaking process by FASB or not. That is the issue. Should Congress begin now by applying pressure through a sense-of-the-Congress resolution on FASB while it is undertaking an independent decisionmaking process? I think it is very important that we have an independent process.

Both the past Chair of the SEC, Richard Breeden, and the current Chair, Arthur Levitt, strongly state that they support an independent FASB.

Breeden said:

The purpose of accounting standards is to assure that financial reporting is presented in a way that enables decisionmakers to make informed judgments. To the extent that accounting standards are subverted to achieve objectives unrelated to a fair and accurate presentation, they fail in their purpose.

On January 10, Arthur Levitt, the current Chairman wrote a letter to me and four of my colleagues urging that Congress respect the independence of FASB.

In that letter he wrote:

It certainly is appropriate for Congress to have an interest in accounting issues, particularly one that may have far-reaching implications such as the accounting for employee stock options. * * * However, I believe that it is inappropriate for Congress to prescribe accounting standards through legislation. * * * I am concerned that if the FASB's agenda is limited to those projects that meet congressionally-favored goals, then the process may no longer be perceived as standards setting by an independent body within the accounting profession.

That is what we are involved in here. Should Congress be inserting itself into that independent process, or should we maintain and protect the integrity and independence of this process?

The FASB is not moving at this point in some precipitous fashion. They have circulated an exposure draft; they are conducting field tests, and they are in the process of conducting public hearings. The draft contemplates a 3-year period of disclosing the value of

stock option compensation before any expense is recognized in the financial statements. They are just talking about disclosure to the stockholders, who own the companies.

I happen to think that in many cases the use of stock options as a compensation to executives is a good thing. It aligns the management interest more closely and directly with the fortune of the firm and with the interest of the shareholders who own that firm, especially in companies where we have managers who are not, in general, the real owners of these companies.

But such compensation is not free to a firm, and it should be accounted for accurately. Warren Buffett, one of the outstanding business leaders in this country, supports that idea because he said:

> Companies incur costs when they deliver something of value to another party and not just when cash changes hands.

Business Week, the Washington Post, and others, have endorsed changing accounting rules to reflect the cost of stock option compensation. Whether we favor this change ultimately or not is really, here again, not the issue. The issue is whether or not we are going to inject ourselves and interfere right now in what has been an independent, professional, very thoughtful process that does not even contend that we will reach a resolution of the issue for 3 more years.

Madam President, I think it is improper for us to inject ourselves into this matter at this point. I think the Senator from Michigan is absolutely right. To all of those who have an interest in how we provide executive branch compensation, how it fits into the economy interests of this country, how it impacts the interest of those who own the companies, the shareholders, I think we should all step back and look at what is being proposed here, and that is interference with a process that should be independent. Let us wait for FASB to finish and wait until we see what methodology they come up with for evaluating and placing a value on stock options. Let us let the 3 years run for reviewing the information for the public, and then we can be in a position to evaluate the results. Let us not intrude into the independence of this process. Now let us support the Levin amendment.

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

The Chair wishes to advise the Senator from Michigan that he has 2 minutes and 53 seconds remaining, and to the Senator from Connecticut that he has 1 minute and 34 seconds remaining.

Who seeks time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, our good friend from California asked the question: If stock options are good why not reverse FASB? The answer is a lot of things are good. Our research and development spending is good, but surely that should be shown as an expense on the company's books.

If the test of what is an expense shown on the books is what is good and if it is good it should not be shown, then most of the expenses that a company undertakes are not going to be reflected on the books and we are not going to have honest accounting rules.

This vote today on the Lieberman amendment is about whether or not we are going to interject ourselves into FASB's effort to have honest accounting rules.

I hope my amendment passes. I think now it will with the support of the Senators from Connecticut and California. It should because it says we should not legislate.

But, in addition, after my amendment is adopted, and hopefully it will be, we should then defeat the underlying amendment because the underlying amendment would say that we, the Congress, know better than FASB as to what represents an honest accounting rule when it comes to stock options. It is a bad precedent to set. It is a slippery slope to begin walking down.

We should listen to Warren Buffett and, by the way, we should ignore, if I may say so, in all friendliness with my good friend from Connecticut that chart that has been put up, because that chart is not a scientific chart, not a cross-section. The first chart, if the Senator will put it up 1 minute, I will explain to him why that left-hand column as we understand from the people who put the numbers together represents all of 36 companies; whereas the right-hand column represents 100 companies.

So on his own chart the left-hand column represents companies with under 100 employees, and there are only 36 responses, but of the companies that represent over 5,000 employees there are 100 such companies that are represented. That is the information we got by calling the company that put that together and, of course, they are very much opposed to FASB.

But if the Senator from Connecticut has different information, of course, we would be happy to have him provide it.

In any event, Madam President, I hope my amendment cosponsored by Senator BOREN is, in fact, adopted and that we then defeat the underlying amendment as an improper intrusion in an effort to get honest accounting rules because FASB knows better than the U.S. Congress as to what represents straightforward accounting.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, it is only out of frustration with the direction in which FASB has been going on this accounting rule and the fear of the sponsors of the amendment that it will result in devastating consequences for American companies and workers.

Look. This chart reasonably reflects the world out there. Can anybody argue with the fact that there are many more middle-management workers and lower-management workers that are receiving stock options than the few people at the top that receive these outrageous amounts of money? It is just the fact. Four thousand people in one area of one State come out to rally for their stock options. This is one of the great uniquely American middle-class benefits, a way for people to create financial security for themselves. This proposed FASB rule will devastate that benefit, make it hard for small companies to raise capital, make it hard for a lot of our people who are out there not working now to get the jobs that we all say we want them to get.

Madam President, the underlying amendment, the amendment that I have offered, will make it clear to FASB that there are consequences of their accounting rule that so directly affect areas of our economy that we, in Congress, must be worried about, that we have to speak out and say please withdraw this rule, stay with what you have and let us and those like the Senator from Michigan find a more appropriate forum to go at their concerns about executive compensation.

The PRESIDING OFFICER. All time has expired.

Mr. LIEBERMAN. I thank the Chair.

Mr. LEVIN. Madam President, I ask for the yeas and nays on my second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 1669.

Mr. LIEBERMAN. Madam President, I ask at this time for the yeas and nays on my underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1669

The PRESIDING OFFICER. The clerk will now call the roll on the Levin amendment No. 1669.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—94

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

NAYS—2

Conrad	Dorgan

NOT VOTING—4

Cochran	Metzenbaum
Kennedy	Shelby

So the amendment (No. 1669) was agreed to.

The PRESIDING OFFICER. The distinguished majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that the following be the only remaining first-degree amendments in order to S. 783——

The PRESIDING OFFICER. Will the majority leader withhold? I cannot hear the Senator's unanimous-consent request.

The majority leader may proceed.

Mr. MITCHELL. That second-degree amendments be in order, provided they are relevant to the subject matter of the first degree, that no motions to recommit be in order, and that upon the disposition of these amendments the committee substitute be agreed to, the bill be read a third time, and the Senate without any intervening action or debate vote on passage of S. 783.

The amendment are: An amendment by Senator GORTON regarding the Seattle SEC office; an amendment by Senator DANFORTH, a sense of the Senate regarding trade subsidies; an amendment by Senator HELMS regarding regulatory relief; an amendment by Senator HELMS regarding regulatory relief; an amendment by Senator HELMS regarding regulatory relief; an amendment by Senator LEVIN regarding credit card redlining; an amendment by Senator SIMON regarding privacy protection commission; an amendment by Senator LIEBERMAN regarding advance fee loan scam.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Without objection, it is so ordered.

Mr. MITCHELL. Madam President, the vote now about to occur will be the last vote today.

Mr. KERRY. Madam President, as this vote should suggest to the Financial Accounting Standards Board which promulgates accounting standards for the private sector, the Senate has deep concerns about its proposal to require companies to amortize the value of stock options and deduct them off their earnings statements, with the values derived not from current market prices, but from estimates of future prices derived by computer models.

Many of us have been reluctant to wade into this controversy, because of our fear of politicizing a process that must aspire to absolute clarity and fairness. After all, the day Congress begins devising the generally accepted accounting principles is the day they become generally unaccepted accounting principles.

But I have come to oppose FASB's proposal for two overriding reasons, the rule's purported benefit to the investing public, and its apparent impact on companies. Strictly speaking, FASB's mission is to worry only about the first—the benefit of the rule to investors. Those of us in elected office must be worried about both. I am not an accountant, but I can do figures. I simply cannot see how the FASB rule, as proposed, will benefit the investing public.

Consider, first, that FASB already requires companies to report their earnings per share based on a total number of shares that includes all the stock options they have granted. Consider also that the SEC now requires substantial disclosure to shareholders of the total compensation and incentives awarded to the top five executives of each firm, including their stock options. Companies must also demonstrate how compensation and incentives awarded over time compare to the company's financial performance and that of comparable firms. Finally, I might add, this Congress capped the deductibility of executive compensation at $1 million as part of last year's Budget Act. I have to believe that the greater part of the stealth has now been removed from what had been an excess of stealth compensation.

Contrast all this with the mechanics of the proposed FASB rule. Companies will have to choose from among six computer models to make estimates of the future value of their stock. It seems to me that requiring companies to choose between models is, by its nature, a requirement that introduces uncertainty into the financial reporting process. Then again, even FASB now concedes that the models can produce significant variations in expected values from company to company—yet another element of uncertainty.

Thus, it is not clear to me what the investing public gains from the PASB rule. Clearly, in granting stock options companies grant something that must have value, although they do not represent a cash expense, they are not tradeable, and ultimately they have value only if the company's stock price goes up—in which case ordinary shareholders benefit along with option holders. Stock options must have value, but is the FASB rule the way to establish that value?

In the absence of a clear answer to that question from FASB, we in the Congress have more than enough right to ask how the rule will affect companies and their workers. Here I fear that, while the rule is aimed at larger companies that abused options in years past, it is about to hit smaller companies that are creating new jobs in States like my own.

Madam President, in my State, just as in Silicon Valley, stock options serve as a fundamental means of financing the start-up of new companies. Employees forego salary and benefits in return for stock options. In doing so they bind themselves to the firm for a period of several years, and commit themselves to the goal of all investors: the company's success. Stock options allow the company to reserve critically needed cash for other vital needs of a new or emerging company: for research and development, for marketing, and for getting a new product out the door.

There is no more compelling testimony to the damage the FASB rule will do to these companies than the testimony of the venture capital community. After all, apart from company founders it is the venture capitalists who provide all or most of the ownership capital for emerging companies, so it is the venture capitalists who are giving away part of the store when they grant stock options. The venture capitalists tell me that the FASB rule will simply make stock options more expensive, which means they will be granted less often, which will make recruitment of talent more difficult, and which will make the cost of starting a company rise.

Now, this might be acceptable if some greater public purpose were served by the FASB rule, such as the provision of a clear benefit to the investing public. But as I noted previously, it is difficult to find such a benefit in the current FASB proposal.

To the contrary, the evidence seems compelling that the FASB rule will disproportionately affect startups, smaller growth companies, and companies in new or breakthrough markets—that is, precisely the companies we are relying on in Massachusetts to make up for the thousands of jobs lost over the last 5 years. Companies in larger, more established, and mature markets will be much less affected, because they have financial and stock market track records that will be more easily digested by these new stock option pricing models run by computer.

Madam President, I am proud of the steps this Congress has taken to support new companies and new jobs during the last 2 years, and I am proud that I played a role in taking those steps. We have cut capital gains taxes for investments in new companies, we have reformed the Small Business Investment Corporation Act, we have strengthened and expanded the Small Business Innovation Research Program, we have created the Advanced Technology Program, we have increased expensing provisions for small business taxpayers, and more.

The FASB proposal as it currently stands poses a real threat to these accomplishments, and all in the name of a standard of accounting purity that FASB has great difficulty explaining in simple English. As I have stated before, Congress should be in no hurry to dictate to FASB, but unless FASB can come up with a better and more defensible proposal on stock options, the Securities and Exchange Commission should exercise the authority it manifestly possesses and override FASB on its proposed stock option rule. In the meantime, in this sense of the Senate, we are putting ourselves firmly on record in expressing our concern about FASB's approach.

It is my hope that FASB will take the opportunity provided by this vote to consult with industry representatives and develop a more viable approach in the days to come, one which unlike the current proposal, draws strong consensus and support from those most affected by it.

Mr. MACK. Madam President, I rise today to support this sense-of-the-Senate amendment concerning the Federal Accounting Standards Board's proposal to change the Generally Accepted Accounting Principle relating to employee stock options.

While most people have a tendency to talk about these things strictly in terms of dollars and cents or from an accounting perspective, I believe that this issue goes further than that. I had a younger brother who died of cancer in 1979. You might be thinking, "what has this got to do with employee stock options?" I would say that it does relate. When Michael was diagnosed with melanoma everyone said that there was no cure. At that time if you were diagnosed with melanoma, you were going to die; it was just a question of when.

Dr. Stephen Rosenberg at the National Cancer Institute has done some remarkable work in the area of research on melanoma. In fact, in certain cases he is experiencing a 40 percent cure on melanoma. While this is wonderful progress, I cannot help but think that if there were fewer hurdles for high tech companies and if there were fewer roadblocks in the way of new companies starting up, would my brother have had an opportunity to live?

There are probably hundreds of thousands of people around our country who are looking to the breakthroughs in biotechnology and bioresearch for a cure to their fatal illnesses. I believe that research is being impeded because of roadblocks, like the one the Federal Accounting Standards Board is about to put in place, to the flow of human capital into these new businesses. I have been visited by some of the high tech companies in Florida who explained that they depend on stock options to attract the experts in their field to a newly formed company. These companies do not have the ability to pay the talent up front for their services and need this tool to compensate for the risk typically associated with new businesses.

This is an important issue for our Nation's startup companies. The Federal Accounting Standards Board's proposal has almost universal opposition. I urge my colleagues to support this amendment.

VOTE ON AMENDMENT NO. 1668, AS AMENDED

The PRESIDING OFFICER. The question now occurs on amendment 1668, as amended. 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 Ohio [Mr. METZENBAUM], is necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], is necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 9, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—88

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

NAYS—9

Boren	Dorgan	Levin
Conrad	Exon	Mitchell
Daschle	Graham	Simon

NOT VOTING—3

Cochran	Metzenbaum	Shelby

So, the amendment (No. 1668), as amended, was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

PRESCREENING BY THIRD PARTY DATA PROCESSORS

Mr. PRYOR. I rise in support of S. 783 and would like to commend the managers of this bill for bringing it to the floor. I would also like to take a moment to engage the senior Senator from Michigan, the chairman of the committee, in a brief colloquy.

As the chairman knows, section 103 of S. 783 clarifies and expands upon current Federal Trade Commission [FTC] interpretations of the Fair Credit Reporting Act regarding permissible prescreening activities. One of those activities involves demographic or other analysis performed by third party data processors on behalf of credit grantors on information contained in consumer reporting agency files.

It is my understanding that the prescreening activities performed by these data processing entities have been sanctioned by the FTC. It is further my understanding that section 103 of S. 783 is not intended to change the status of the prescreening services provided by these entities, and in fact, the committee's report helps clarify the status of third party data processors under the act by incorporating the interpretive language adopted by the FTC, is this correct?

Mr. RIEGLE. The Senator is correct. We are aware that these entities exist and what services they provide credit grantors, and as the Senator mentioned, we specifically included language in the committee report dealing with this issue. In particular we are aware that consumer reporting agencies may provide these entities a list with the name and address of each

consumer identified by the prescreening process; addition information regarding any individual consumer on the list may be furnished to the entity provided it is not identified or identifiable with the consumer. We are also aware that the prescreening process may also include demographic or other analysis of the consumers on the list by the consumer reporting agency or by a third party employed for that purpose before the list is furnished to the credit or insurance provider.

Mr. PRYOR. I thank the chairman for his clarification.

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

The PRESIDING OFFICER. The Senator from Nevada suggests the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. 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. 1670

(Purpose: To express the will of the Senate on the closing of the Securities and Exchange Office in Seattle, WA)

Mr. BRYAN. Mr. President, I send an amendment to the desk offered by Senator BOND and I on behalf of Senator GORTON, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for Mr. GORTON, proposes an amendment numbered 1670.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: "Securities and Exchange Commission, Seattle district office:

It is the sense of the Senate that the Securities and Exchange Commission district office located in Seattle, Washington shall not be closed, nor its services, operations, or staff be reduced from the levels in effect on January 1, 1994. None of the operations of the Seattle office shall be transferred to another office of the Securities and Exchange Commission."

SEC SEATTLE DISTRICT OFFICE AMENDMENT TO S. 783, FAIR CREDIT REPORTING ACT

Mr. GORTON. Mr. President, I am offering a sense of the Senate amendment to the fair credit reporting bill regarding the Securities and Exchange Commission's decision to close the Seattle office. Earlier this year, the SEC announced that the Commission's Seattle district office would close in July. The plan is to close the Seattle office and incorporate its functions into the San Francisco and Los Angeles offices. As soon as I heard about this, and knowing how hard the Seattle SEC office has worked to forge a solid working relationship with Northwest firms, I immediately contacted the Commerce Appropriations Subcommittee. Since then, I have received numerous letters of concern. These letters have ranged from the attorney general, county executives, bankers, lawyers, small businesses, and other citizens who are concerned about the impact this move would have on the Pacific Northwest. I agree. This decision is very unwise and extremely shortsighted.

Yesterday, Mr. Levitt, the Chairman of the SEC, visited Seattle and met with several people, including members of my local office staff. I understood his visit was to be centered around listening to people's and businesses' concerns and opposition to this closure. Unfortunately, this was not the case. He came not to listen. Instead, he insisted tht this closure was a done deal and would not hinder the Pacific Northwest.

I do not believe this should be a closed issue. In a recent letter to Mr. Levitt, I expressed some of my concerns on this issue.

Mr. Levitt contends that this modification of the SEC offices is necessary because of Seattle's relatively small securities industry constituency. This is not true. The business of the SEC in Seattle is growing, not diminishing. In fact, the population and the business in the Pacific Northwest is growing proportionally greater than that of the rest of the country. With the rise of many software, bio-technology and other growth companies in this region, the ability to raise investment capital has become more and more critical. Furthermore, with thoughts of putting a permanent APEC office in Seattle, the Northwest is developing as a financial center.

Second, by allowing the closure of the Seattle office, it is saying that the services provided now in the Northwest can be provided just as efficiently in California. That also is simply not true. As Seattle is growing, Federal regulators need to be onsite in order to provide both service and protection. Moreover, the needs of the Northwest will not remain as a high priority as it is in the Seattle office. Enforcement roles and investors' problems cannot be solved with a 1-800 number as Mr. Levitt is suggesting. Without a doubt, the ability of our companies to deal directly with its major regulatory authority on a regional level is much more effective and has proven to have a real significance.

What is true is that Congress and the SEC have always recognized the importance of encouraging and easing the ability of small business to raise investment capital. The follow through of this decision will do the exact opposite. It will inhibit the investment of capital in the Pacific Northwest.

Furthermore, what is true is that this decision to close the Seattle SEC office was not handled appropriately and through the proper channels. Instead of listening and responding to the residents of the Pacific Northwest before anything was decided, it was handled almost secretly and then forced upon us. With a decision as important as this is to the businesses and the citizens of the Pacific Northwest, it is imperative to keep everyone involved in the decisionmaking process. Moreover, after the announcement, opposition to the decision has been met with closed ears and closed doors.

What is true is that the Seattle SEC office is the only office in the Northwest. By closing it we are stating that having this agency is not vital to this area. By closing the operation of the Seattle office, the needs of the Pacific Northwest will not be adequately met.

Finally, what is true is that for almost 60 years the Seattle SEC office has provided the area's investing public and small business invaluable assistance. To continue with the economic development of the Northwest, it is critical to leave the Seattle office open.

Mr. BRYAN. Mr. President, I represent to my colleagues that the amendment has been cleared on this side of the aisle.

Mr. BOND. Mr. President, I thank the manager of the bill for his kind efforts. There is no objection on the Republican side.

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

The amendment (No. 1670) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BRYAN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 826, and Calendar No. 830. I further ask unanimous consent that

the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that upon confirmation the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Rudy deLeon, of California, to be Under Secretary of the Air Force.

DEPARTMENT OF THE TREASURY

Joan Logue-Kinder, of New York, to be an Assistant Secretary of the Treasury.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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 appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second time, by unanimous consent, and placed on the calendar:

H.R. 4013. An act to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2562. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for March 1994; to the Committee on Governmental Affairs.

EC–2563. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, a report relative to the implementation of the Government in the Sunshine Act during calendar year 1993; to the Committee on Governmental Affairs.

EC–2564. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the annual report of the Office's functions and responsibilities for calendar years 1992 and 1993; to the Committee on Governmental Affairs.

EC–2564. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the annual report of the Office's functions and responsibilities for calendar years 1992 and 1993; to the Committee on Governmental Affairs.

EC–2565. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, a report relative to audit and investigative activities for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2566. A communication from the Director of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the audited financial statements of the Corporation for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2567. A communication from the Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board relative to the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC–2568. A communication from the Chairman and President of the National Railroad Passenger Corporation, transmitting, pursuant to law, the calendar year 1993 management report of government corporations; to the Committee on Governmental Affairs.

EC–2569. A communication from the Acting Chairman of the Nuclear Regulatory Committee, transmitting, pursuant to law, a report relative to the administration of the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC–2570. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, a report relative to the audit of the Thomas Jefferson Commemoration Commission; to the Committeee on Governmental Affairs.

EC–2571. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to regulatory development and review procedures; to the Committee on Governmental Affairs.

EC–2572. A communication from the Federal Housing Finance Board, transmitting, pursuant to law, a report relative to the implementation of the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC–2573. A communication from the Federal Housing Finance Board, transmitting, pursuant to law, a report relative to the Board's internal control and financial management systems for calendar year 1993; to the Committee on Governmental Affairs.

EC–2574. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to law, a report relative to audit and investigatory services of the General Services Administration in compliance with the Federal Managers' Financial Integrity Act for 1993; to the Committee on Governmental Affairs.

EC–2575. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to law, a report relative to the establishment of or action taken to comply with the Inspector General Act for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2576. A communication from the Board members of the Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Board's compliance with the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC–2577. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Entering Professional Positions in the Federal Government"; to the Committee on Governmental Affairs.

EC–2578. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Panama Canal Commission's financial statements for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2579. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report on the operations of the private counsel debt collection project for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2580. A communication from the Vice President, Human Resources and Planning, Farm Credit Bank of Spokane, transmitting, pursuant to law, annual reports for calendar years 1991 and 1992 for the Twelfth District Farm Credit Retirement Plan and Thrift Plan; to the Committee on Governmental Affairs.

EC–2581. A communication from the Employee Benefits Manager, Farm Credit Bank of Columbia, transmitting, pursuant to law, a report relative to retirement and thrift plans for the one year period ending August 31, 1993; to the Committee on Governmental Affairs.

EC–2582. A communication from the Governor of the Rural Telephone Bank, transmitting, pursuant to law, a report relative to the Bank's financial management systems and financial condition as relates to the Chief Financial Officers Act; to the Committee on Governmental Affairs.

EC–2583. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the management report in accordance with the Chief Financial Officers Act; to the Committee on Governmental Affairs.

EC–2584. A communication from the Secretary of Labor, transmitting, pursuant to law, the Pension Benefit Guaranty Corporation's Federal Managers' Financial Integrity Act report for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2585. A communication from the Chairman of the Board of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's fiscal year 1993 management report in compliance with the Chief Financial Officer's Act; to the Committee on Governmental Affairs.

EC–2586. A communication from the Director of the National Science Foundation (Legislative and Public Affairs), transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2587. A communication from the Attorney General of the United States, transmitting, pursuant to law, the Justice Department's annual report for fiscal year 1993; to the Committee on the Judiciary.

EC–2588. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report under the Equal Access to Justice Act for fiscal year 1993; to the Committee on the Judiciary.

EC–2589. A communication from the Attorney General of the United States, transmit-

ting, pursuant to law, the annual report on Federal Prison Industries, Inc. for fiscal year 1993; to the Committee on the Judiciary.

EC–2590. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2591. A communication from the Chairman of U.S. Sentencing Commission, transmitting, pursuant to law, the report of amendments to the sentencing guidelines; to the Committee on the Judiciary.

EC–2592. A communication from the President of the Foundation of the Federal Bar Association, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on the Judiciary.

EC–2593. A communication from the Chairman of the Board of Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2594. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2595. A communication from the Deputy Director for Administration for Central Intelligence Agency, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2596. A communication from the Chairman of U.S. Sentencing Commission, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on the Judiciary.

EC–2597. A communication from the National Endowment for Democracy, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2598. A communication from the Assistant Attorney General of the United States, transmitting, a draft of proposed legislation entitled "Digital Telephone and Communications Privacy Improvements Act of 1994"; to the Committee on the Judiciary.

EC–2599. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2600. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2601. A communication from the Deputy Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2602. A communication from the Director of Operations and Finance for the American Battle Monuments Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2603. A communication from the Acting Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2604. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2605. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report on the operation of the premerger notification program for fiscal year 1992; to the Committee on the Judiciary.

EC–2606. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the National Park Foundation for fiscal year 1993; to the Committee on the Judiciary.

EC–2607. A communication from the Acting Register of Copyrights, transmitting, pursuant to law, the report under the Computer Software Rental Amendments Act of 1990; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. BUMPERS, from the Committee on Small Business:

Jere Watson Glover, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration, vice Thomas P. Kerester, resigned.

(The above nomination was approved subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL (for himself, Mr. GRASSLEY, and Mr. EXON):

S. 2057. A bill to replace the Aid to Families With Dependent Children Program under title IV of the Social Security Act and a portion of the food stamp program under the Food Stamp Act of 1977 with a block grant to give the States the flexibility to create innovative welfare to work programs, and for other purposes; to the Committee on Finance.

By Mr. NUNN (for himself and Mr. THURMOND) (by request):

S. 2058. A bill to authorize certain construction at military installations for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

S. 2059. A bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

By Mr. BUMPERS (by request):

S. 2060. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. BUMPERS (for himself and Mr. HATFIELD) (by request):

S. 2061. A bill to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies; to the Committee on Small Business.

By Mr. INOUYE:

S. 2062. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GORTON:

S. 2063. A bill to amend the National Security Act of 1947 to provide for improved coordination of national counterintelligence policy, and for other purposes; to the Select Committee on Intelligence.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2064. A bill to expand the boundary of the Weir Farm National Historic Site in the State of Connecticut; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 2065. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing regulations under the Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 2066. A bill to expand the Mni Wiconi Rural Water Supply Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself, Mr. STEVENS, Mr. COCHRAN, and Mr. CAMPBELL):

S. 2067. A bill to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

By Mr. PRESSLER (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HARKIN, and Mr. DURENBERGER):

S. 2068. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COHEN (for himself, Ms. MIKULSKI, Mrs. HUTCHISON, Mr. GRASSLEY, Mr. STEVENS, Mr. BRADLEY, Mr. BROWN, Mr. JEFFORDS, Mr. FORD, Mr. BURNS, Mrs. MURRAY, Mr. SPECTER, Mr. REID, Mr. MACK, Mrs. BOXER, Mrs. KASSEBAUM, Mrs. FEINSTEIN, Mr. LEVIN, and Ms. MOSELEY-BRAUN):

S. Res. 208. A resolution expressing the sense of the Senate with respect to mammography screening to detect breast cancer in women ages 40 to 49; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. Res. 209. A resolution to express the sense of the Senate honoring Mikis

Theodorakis; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. KOHL (for himself, Mr. GRASSLEY, and Mr. EXON):

S. 2057. A bill to replace the aid to families with dependent children program under title IV of the Social Security Act and a portion of the food stamp program under the Food Stamp Act of 1977 with a block grant to give the States the flexibility to create innovative welfare to work programs, and for other purposes; to the Committee on Finance.

WELFARE TO WORK ACT OF 1994

Mr. KOHL. Mr. President, today I am introducing a bipartisan welfare reform proposal that I have developed with my colleague, CHUCK GRASSLEY. Our legislation is based on one fundamental conviction: that the current welfare system is so bad—so removed from the American values of work, family, and responsibility—that it must be completely abolished. Our legislation will take the Federal Government out of the business of welfare and put the States into the business of empowering their residents to find and keep jobs.

Before I describe our bill, let me talk a moment about the current system. It discourages work, discourages marriage, and discourages responsible choices about parenthood. We have set up a cash grant program that tells young women—don't work, don't marry, have children, and you will get support. Work, marry, plan your family for when you can afford to support it, and we will leave you out in the cold—in fact, we will take your tax money to support those who have decided not to work. The current welfare system pays people to reject the values of work and family that have made this country strong, and the time has come to reject that approach.

Right now, State and local governments that want to reject this system and implement something that helps those down on their luck get jobs don't have the freedom to do so—they have to beg Washington for waivers from myriad Federal rules, and often as not, they get turned down or have to wait years and years for an answer. Meanwhile, another generation grows up in our broken welfare system.

We think there is a better way: A simple, common sense approach, that is consistent with American values. Our legislation truly ends welfare as we know it by abolishing AFDC and most of food stamps. The money now used for welfare payments and Federal administrative costs is turned over to the States in the form of a block grant. They will use the grant to establish welfare-to-work systems designed to meet the needs of their local communities.

Our legislation ensures that the elderly and disabled continue to get food stamp assistance and that needy children get food through an expansion of WIC. Beyond that, States are allowed to use the money we now spend on welfare to connect people to work in any way they determine will be successful—through job placement assistance, job training, child care, transportation assistance, earnings supplements, public service jobs, et cetera.

To have its block grant renewed each year, all a State would have to do is show that it is moving people into work. If it meets this test, then it is doing better than we have ever done at the Federal level, and its block grant will be continued.

Our welfare-to-work legislation will spend not one penny more on welfare than we currently spend. There are many who would argue that we have to add more money to the current system to get it to work. But, as most people operating in the private sector know, it doesn't matter how much you spend to dress up a product nobody wants; in the end, all you have is an expensive product nobody wants. It is time to stop pouring money into a welfare system that doesn't help anyone, because in the end all we will get is an expensive welfare system that still doesn't help anyone. We can use the money currently spent on welfare—including $3 billion in administrative expenses—to let the States design systems that work for them and their citizens. By turning over to the States most of the money we currently spend on Federal administrative costs, and getting States to reorient their systems away from checkwriting and toward helping people find jobs, we can make big strides in getting people to work.

Another reason we keep the block grant at current welfare spending levels is the fact that placing people in jobs will generate savings for State welfare-to-work programs, since such individuals won't need as much assistance as they were getting before, allowing those savings to be used to help harder-to-place people get the job training, child care, and other assistance they need to get and keep jobs. Another part of the answer lies in encouraging States to better utilize other Federal resources they already get. Right now, we give States over $7 billion to help people attain, and maintain self-sufficiency through child care, social services, and job training grants. These grants could be better targeted, and if connected to State welfare-to-work systems, could provide additional support to help welfare-to-work programs be even more successful.

Economic circumstances and people in Kenosha, WI are different from those in Ottumwa, IA. Portland, ME, is not San Diego, CA. A one-size-fits-all welfare plan designed in Washington cannot work for all these communities. By introducing this bill, we are saying that it is time to face the fact that the answer to something as hard as helping people get work is not going to be developed in Washington—the many answers we need are going to come from communities throughout this country. State and local governments have been pleading for flexibility to design programs that work—it is time to get out of their way.

Some may think that we're bashing the Federal Government when we say that we don't think it can solve this problem. We're not. We're simply saying that there are some things Washington is good at, such as the relatively straight-forward tasks of collecting payments for Social Security and sending out the checks our elderly so depend on. And there are some things our Federal Government is not good at, such as trying to help individuals get back on their feet. This is because so much of the answer to getting welfare beneficiaries into jobs depends on an individual's circumstances and the local situation—both of which are impossible to take completely into account when developing a comprehensive, national solution.

The crucial difference between our bill and others you may hear about is this: instead of adding yet another layer to the overly complex welfare system we have today, we admit that it needs to be abolished and completely replaced, and propose to do so with a simple program, run by States, that moves people to work.

Many of us are concerned that welfare reform plans need to show compassion for children. We think this proposal meets that test: it ensures needy children will get nutrition assistance through WIC and that their parents will receive assistance getting connected to a job. Frankly, we think the most compassionate thing we can do for these children is to help their parents get a job, which is more than the current system can say. Our bill says that Government has the responsibility to provide a helping hand to assist individuals, but also that individuals have the responsibility to use the assistance to help themselves.

As a final note, let me point out that this plan would remove the requirement that families break up before they can get assistance. With this block grant, States can help families who need help before they break up. This is one more reason why we think this bill is more consistent with American values—the values of compassion, work, family, and responsibility—than our current welfare system.

Mr. President, I ask unanimous consent to enter the text of the attached bill summary into the RECORD, as well as the entire text of the bill.

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

S. 2057

Be it enacted by 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 "Welfare to Work Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Definition of State.
Sec. 5. Applications by States.
Sec. 6. State welfare to work program described.
Sec. 7. State grants.
Sec. 8. State maintenance of effort.
Sec. 9. Termination of certain Federal welfare programs.
Sec. 10. Eligibility for WIC program.
Sec. 11. Secretarial submission of legislative proposal for amendments to medicaid eligibility provisions and technical and conforming amendments.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The current welfare system is broken and requires replacement.

(2) Work is what works best for American families.

(3) Since State and local governments know the best methods of connecting welfare recipients to work and since each community faces different circumstances, Federal assistance to the States should be flexible.

(4) Government has the responsibility to provide a helping hand to assist individuals but individuals have the responsibility to use the assistance to help themselves.

SEC. 3. PURPOSE.

The purpose of this Act is to create a block grant program to replace the aid to families with dependent children program under title IV of the Social Security Act and a portion of the food stamp program under the Food Stamp Act of 1977 and give the States the flexibility to create innovative welfare to work programs.

SEC. 4. DEFINITION OF STATE.

For purposes of this Act, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

SEC. 5. APPLICATIONS BY STATES.

(a) IN GENERAL.—Each State desiring to receive a grant to operate a State welfare to work program described in section 6 shall annually submit an application to the Secretary of Health and Human Services (hereafter in this Act referred to as the "Secretary") containing the matter described in subsection (b) in such manner as the Secretary may require.

(b) CONTENTS.—

(1) FISCAL YEAR 1995.—An application for a grant to operate a State welfare to work program during fiscal year 1995 shall contain a description of the program in accordance with section 6.

(2) SUBSEQUENT FISCAL YEARS.—

(A) IN GENERAL.—

(i) CONTENTS.—Except as provided in clause (ii), an application for a grant to operate a State welfare to work program during fiscal year 1996 and each subsequent fiscal year shall contain—

(I) a description of the program in accordance with section 6;

(II) the State work percentage (as determined under subparagraph (B)) for each of the 2 preceding fiscal years;

(III) a statement of the number of participants who became ineligible for participation in the program due to increased income for each of the 2 preceding fiscal years; and

(IV) a statement of the amount of non-Federal resources that the State invested in the program in the preceding fiscal year.

(ii) SPECIAL RULE FOR APPLICATIONS SUBMITTED FOR FISCAL YEAR 1996.—An application for a grant to operate a State welfare to work program during fiscal year 1996 shall contain the information described in subclauses (II) and (III) of clause (i) only for the preceding fiscal year in lieu of such information for each of the 2 preceding fiscal years.

(B) STATE WORK PERCENTAGE.—For purposes of subparagraph (A)(ii), the State work percentage (prior to any adjustment under subparagraph (C)) for a fiscal year is equal to—

(i) the number of participants in the State welfare to work program in the fiscal year who were employed in private sector or public sector jobs for at least 20 hours per week for 26 weeks out of the year, divided by

(ii) the total number of participants in the State welfare to work program in the fiscal year.

(C) ADJUSTMENT.—

(i) IN GENERAL.—The State work percentage determined under subparagraph (B) for a fiscal year shall be adjusted by subtracting 1 percentage point from such State work percentage for each 5 percentage points by which the percentage of individuals described in subparagraph (B)(i) who are also described in clause (ii) participating in the program in such fiscal year falls below 75 percent of the number of individuals described in subparagraph (B)(i) in such fiscal year.

(ii) INDIVIDUAL DESCRIBED.—An individual described in this clause is a custodial parent or other individual who is primarily responsible for the care of a child under the age of 18.

(D) MONITORING OF DATA.—The Secretary shall ensure the validity of the data provided by a State under this paragraph.

(c) APPROVAL.—

(1) FISCAL YEARS 1995 AND 1996.—The Secretary shall approve each application for a grant to operate a State welfare to work program—

(A) during fiscal year 1995, if the application contains the information described in subsection (b)(1); and

(B) during fiscal year 1996, if the application contains the information described in subsection (b)(2).

(2) AUTOMATIC APPROVAL IN SUBSEQUENT FISCAL YEARS.—The Secretary shall approve any application for a grant to operate a State welfare to work program during fiscal year 1997 and each succeeding fiscal year if the State's application reports that—

(A) the State work percentage for the preceding fiscal year is greater than the State work percentage for the second preceding fiscal year; or

(B) more participants became ineligible for participation in the State welfare to work program during the preceding fiscal year due to increased income than became ineligible for participation in the program in the second preceding fiscal year as a result of increased income.

(3) SECRETARIAL REVIEW.—

(A) IN GENERAL.—If a State application for a grant under this Act is not automatically approved under paragraph (2), the Secretary shall approve the application upon a finding that the application—

(i) provides an adequate explanation of why the State work percentage or the number of participants who became ineligible for participation in the State welfare to work program due to increased income during the preceding fiscal year did not exceed such State work percentage or the number of participants who became ineligible for participation in the program in the second preceding fiscal year; and

(ii) provides a plan of remedial action which is satisfactory to the Secretary.

(B) ADEQUATE EXPLANATIONS.—An adequate explanation under subparagraph (A) may include an explanation of economic conditions in the State, failed program innovations, or other relevant circumstances.

(4) RESUBMISSION.—A State may resubmit an application for a grant under this Act until the Secretary finds that the application meets the requirements of paragraph (3)(A).

SEC. 6. STATE WELFARE TO WORK PROGRAM DESCRIBED.

(a) IN GENERAL.—A State welfare to work program described in this section shall provide that—

(1) during fiscal year 1995, the State shall designate individuals who are eligible for participation in the program and such individuals shall include at least those individuals who received benefits under the State plan approved under part A of title IV of the Social Security Act during fiscal year 1994;

(2) during fiscal year 1996 and each subsequent fiscal year, the State shall designate individuals who are eligible for participation in the program (as determined by the State), with priority given to those individuals most in need of such services; and

(3) the program shall be designed to move individuals from welfare to self-sufficiency and may include—

(A) job placement and training;

(B) supplementation of earned income;

(C) nutrition assistance and education;

(D) education;

(E) vouchers to be used for rental of privately owned housing;

(F) child care;

(G) State tax credits;

(H) health care;

(I) supportive services;

(J) community service employment; or

(K) any other assistance designed to move such individuals from welfare to self-sufficiency.

(b) NO ENTITLEMENT.—Notwithstanding any criteria a State may establish for participation in a State welfare to work program, no individual shall be considered to be entitled to participate in the program.

SEC. 7. STATE GRANTS.

(a) IN GENERAL.—The Secretary shall annually award to each State with an application approved under section 5(c) an amount equal to—

(1) in fiscal year 1995, 100 percent of the State's base amount;

(2) in fiscal year 1996, the sum of 80 percent of the State's base amount, 20 percent of the State's share of the national grant amount, and any applicable bonus payment;

(3) in fiscal year 1997, the sum of 60 percent of the State's base amount, 40 percent of the State's share of the national grant amount, and any applicable bonus payment;

(4) in fiscal year 1998, the sum of 40 percent of the State's base amount, 60 percent of the State's share of the national grant amount, and any applicable bonus payment;

(5) in fiscal year 1999, the sum of 20 percent of the State's base amount, 80 percent of the State's share of the national grant amount, and any applicable bonus payment; and

(6) in fiscal year 2000 and each subsequent fiscal year, the sum of 100 percent of the

State's share of the national grant amount and any applicable bonus payment.

(b) STATE BASE AMOUNT.—

(1) IN GENERAL.—For purposes of subsection (a), a State's base amount is equal to—

(A) for fiscal year 1995, 100 percent of the amount determined under paragraph (2); and

(B) for fiscal year 1996 and succeeding fiscal years, 99.6 percent of the amount determined under paragraph (2).

(2) AMOUNT DETERMINED.—The amount determined under this paragraph for a State is an amount equal to the sum of—

(A) the amount of Federal financial participation received by the State under section 403 of the Social Security Act during fiscal year 1994; and

(B) an amount equal to the sum of—

(i) the benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), during fiscal year 1994 other than benefits provided to elderly or disabled individuals in the State (as determined under section 3(r)) of such Act (7 U.S.C. 2012); and

(ii) the amount paid to the State under section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) during fiscal year 1994 for administrative expenses for providing benefits to non elderly and non disabled individuals.

(c) STATE SHARE OF THE NATIONAL GRANT AMOUNT.—

(1) IN GENERAL.—For purposes of subsection (a), the State's share of the national grant amount for a fiscal year is equal to the sum of the amounts determined under paragraph (2) (relating to economic need) and paragraph (3) (relating to State effort) for the State.

(2) ECONOMIC NEED.—The amount determined under this paragraph is equal to the sum of the amounts determined under subparagraphs (A) and (B) for the State.

(A) STATE PER CAPITA INCOME MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the product of—

(i) the population of the State; and

(ii) the allotment percentage of the State (as determined under paragraph (4)),

bears to the sum of the corresponding products for all States.

(B) STATE UNEMPLOYMENT MEASURE.—The amount determined under this subparagraph is an amount which bears the same ratio to one-quarter of the national grant amount as the number of individuals in the State who are estimated as being unemployed according to the Department of Labor's annual estimates bears to the number of individuals who are estimated as being unemployed according to the Department of Labor's annual estimates in all States.

(3) STATE EFFORT.—The amount determined under this paragraph is the amount which bears the same ratio to one-half of the national grant amount as the product of—

(A) the dollar amount the State invested in the State welfare to work program in the previous fiscal year, as reported in section 5(b)(2)(A)(iv); and

(B) the allotment percentage of the State (as determined under paragraph (4)),

bears to the sum of the corresponding products for all States.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the allotment percentage for any State shall be 100 percent, less the State percentage.

(B) STATE PERCENTAGE.—The State percentage shall be the percentage which bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of all States.

(C) EXCEPTION.—The allotment percentage shall be 70 percent in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(5) DETERMINATION OF GRANT AMOUNTS.—Each State's share of the national grant amount shall be determined under this subsection on the basis of the average per capita income of each State and all States for the most recent fiscal year for which satisfactory data are available from the Department of Commerce and the Department of Labor.

(6) NATIONAL GRANT AMOUNT.—The term "national grant amount" means an amount equal to 99.6 percent of sum of the amounts determined under subsection (b)(2) for all States.

(d) BONUS PAYMENT.—Beginning with fiscal year 1996, the Secretary may use 0.4 percent of the sum of the amounts determined under subsection (b)(2) for all States to award additional bonus payments under this section to those States which have the highest or most improved State work percentage as determined under section 5(b)(2)(B). The Secretary shall designate one State as the leading job placement State and such State shall receive the highest bonus payment under the preceding sentence and the President is authorized and requested to acknowledge such State with a special Presidential award.

(e) USE OF FUNDS FOR ADMINISTRATIVE PURPOSES.—A State shall not use more than 10 percent of the amount it receives under this section for the administration of the State welfare to work program.

(f) CAPPED ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide the payments described in subsection (a) (in an amount not to exceed the sum of the amounts determined under subsection (b)(2) for all States).

SEC. 8. STATE MAINTENANCE OF EFFORT.

Any funds available for the activities covered by a State welfare to work program conducted under this Act shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

SEC. 9. TERMINATION OF CERTAIN FEDERAL WELFARE PROGRAMS.

(a) TERMINATION OF AFDC AND JOBS PROGRAMS.—

(1) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"TERMINATION OF AUTHORITY

"SEC. 418. The authority provided by this part shall terminate on October 1, 1994.".

(2) JOBS.—Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.) is amended by adding at the end the following new section:

"TERMINATION OF AUTHORITY

"SEC. 488. The authority provided by this part shall terminate on October 1, 1994.".

(b) FOOD STAMP PROGRAM TO SERVE ONLY ELDERLY AND DISABLED INDIVIDUALS.—

(1) DEFINITIONS.—Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended—

(A) in subsection (g)—

(i) in paragraph (4), by striking "(and their spouses)";

(ii) in paragraph (5)—

(I) by striking "in the case of" and inserting "in the case of elderly or disabled"; and

(II) by inserting "disabled" before "children"; and

(iii) in paragraph (8), by inserting "elderly or disabled" before "women and children temporarily";

(B) in subsection (i)—

(i) in the first sentence—

(I) in paragraph (1), by inserting "elderly or disabled" before "individual"; and

(II) in paragraph (2), by inserting ", each of whom is elderly or disabled," after "individuals";

(ii) in the second sentence, by inserting before the period at the end the following: ", if each of the individuals is elderly or disabled";

(iii) in the third sentence—

(I) by striking ", together" and all that follows through "of such individual,"; and

(II) by striking ", excluding the spouse,"; and

(iv) in the fifth sentence—

(I) by striking "coupons, and" and inserting "coupons, and elderly or disabled"; and

(II) by inserting "disabled" after "together with their"; and

(C) in subsection (r), by striking "Elderly" and all that follows through "who" and inserting the following: "Elderly or disabled', with respect to a member of a household or other individual, means a member or other individual who".

(2) CONFORMING AMENDMENTS.—

(A) ELIGIBILITY.—Section 5 of such Act (7 U.S.C. 2014) is amended—

(i) in the first sentence of subsection (c)—

(I) by striking "program if—" and all that follows through "household's income" and inserting "program if the income of the household";

(II) by striking "respectively; and" and inserting "respectively."; and

(III) by striking paragraph (2); and

(ii) in subsection (e)—

(I) in the first sentence, by striking "containing an elderly or disabled member and determining benefit levels only for all other households";

(II) in the fifteenth sentence—

(aa) by striking "containing an elderly or disabled member"; and

(bb) in subparagraph (A), by striking "elderly or disabled members" and inserting "the members";

(III) in the seventeenth sentence, by striking "elderly and disabled"; and

(IV) by striking the fourth through fourteenth sentences.

(B) PERIODIC REPORTING.—Section 6(c)(1)(A)(iv) of such Act (7 U.S.C. 2015(c)(1)(A)(iv)) is amended by striking "and in which all adult members are elderly or disabled".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on and after October 1, 1994.

(c) REFERENCES IN OTHER LAWS.—

(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to any provision that has been terminated by reason of the amendments made in subsection (a) shall, unless the context otherwise requires, be considered to be a reference to such provision, as in effect immediately before the date of the enactment of this Act.

(2) STATE PLANS.—Any reference in any law, regulation, document, paper, or other record of the United States to a State plan that has been terminated by reason of the amendments made in subsection (a), shall, unless the context otherwise requires, be considered to be a reference to such plan as in effect immediately before the date of the enactment of this Act.

SEC. 10. ELIGIBILITY FOR WIC PROGRAM.

(a) IN GENERAL.—Section 17(d)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(1)) is amended by adding at the end the following new sentence: "For purposes of participation in the program under this section, a child shall be considered to be at nutritional risk if such child is in the care of a custodial parent or other individual primarily responsible for the care of such child who is a participant in a State welfare to work program which receives Federal funds under the Welfare to Work Act of 1994.".

(b) CONFORMING AMENDMENTS.—Section 17(d)(2)(A)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)) is amended—

(1) by striking "(ii)(I)" and inserting "(ii)"; and

(2) by striking subclause (II).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after October 1, 1994.

SEC. 11. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR AMENDMENTS TO MEDICAID ELIGIBILITY CRITERIA AND TECHNICAL AND CONFORMING AMENDMENTS.

The Secretary shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress, a legislative proposal providing eligibility criteria for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in lieu of the eligibility criteria under section 1902(a)(10)(A)(i) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)) relating to the receipt of aid to families with dependent children under a State plan under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and such technical and conforming amendments in the law as are required by the provisions of this Act.

SUMMARY—WELFARE-TO-WORK ACT

OVERVIEW

The "Welfare-To-Work Act" will take Federal welfare money and replace it with a flexible, community-based program that connects people to work and makes work pay. Aid to Families with Dependent Children (AFDC) and part of Food Stamps will be replaced with a new Federal Block Grant, which would allow states and local communities to design work-based systems to help low-income Americans get jobs that enable them to support their families. Food Stamps would remain in place for the disabled and elderly and the USDA feeding programs for children and for the elderly would also be maintained. The Supplemental Feeding Program for Women, Infants, and Children (WIC) program would be expanded so that needy children can get food.

MAJOR PROVISIONS

Bill replaces welfare (AFDC and most of Food Stamps) with state block grant for implementing "welfare to work" programs.

Block grant gives states almost complete flexibility in designing program—as long as it WORKS to move people from welfare to work. Each year a state gets more participants working, it continues to get the block grant with no other federal constraints.

Bill modifies WIC eligibility to ensure children of participants in this program are eligible for WIC food assistance.

COSTS

Bill caps amount spent on block grant at current welfare spending levels, ensuring money will always be there for states by creating a capped entitlement. The block grant amount is approximately $37 billion.

Block grant is allocated to states based on: (1) *economic need* (defined by unemployment rates and per capita income) and; (2) *state effort* (measured by how much the state invests in this program).

HOW PROGRAM WORKS

States would use the block grant money to design their own work-connection systems that fit local economic circumstances rather than being forced to just hand out federally-regulated welfare checks.

Bill uses a simple outcome measure—whether states get participants to work—as the only major Federal requirement for getting their block grant cash.

Bill ensures accountability by requiring states which do NOT get more people working to explain why their system did not succeed and to submit new plans to the Department of Health and Human Services.

Bill ensures former beneficiaries have access to new system by requiring states to serve such people in the first year.

Bill recognizes successful state innovations through awarding bonus payments & Presidential awards to states with particularly good work-connection systems.

Bill requires states to ensure they spend at least as much on their welfare-to-work system as they currently do on welfare.

States could work with their counties and cities to use whatever mix of job training and placement, earnings supplementation, nutrition assistance and education, housing vouchers, community service employment, child care, tax credits, support payment, and health care that will get, and keep people in, jobs.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague, Senator KOHL, in his effort to dramatically and unalterably change the welfare system as we know it. This proposal is reinventing Government at its best. It moves the decisionmaking process closer to the people. The most relevant place to start when discussing standards for reinventing Government is with President Clinton's own words. On March 3, 1993, in the White House Rose Garden, the President said:

> Our goal is to make the entire Federal Government both less expensive and more efficient. * * *. We intend to redesign, to reinvent, to reinvigorate the entire national Government.

The President went on to say:

> We'll challenge the basic assumptions of every program, asking does it work; does it provide quality service; does it encourage innovation and reward hard work? If the answer is no, or if there's a better way to do it or if there's something that the Federal Government is doing it should simply stop doing, we'll try to make the changes needed.

When we ask the President's question concerning the current welfare system, it comes up pretty short.

First, does it work? While Democrats and Republicans may not agree on many things, there is one issue about which there is complete agreement: The current welfare program is a dismal failure.

President Clinton acknowledges that the war on poverty has failed. He ran his Presidential campaign on the promise to "end welfare as we know it." That promise rang true with the American people, who believe the current system is in need of dramatic reform.

President Clinton is not alone in his appraisal. In a recent interview, Finance Committee Chairman MOYNIHAN joined in the call for welfare reform when he said that there was not a health care crisis but a welfare crisis. He called for the President to move welfare reform this year or risk the administration's health care proposal.

David Ellwood, Assistant Secretary for Planning and Evaluation at the Department of Health and Human Services and Co-chairman of the President's Task Force on Welfare Reform acknowledged that there "is near universal agreement that the welfare system is broken."

The second question is also important. Does it provide quality service? Senator BREAUX, chairman of the Subcommittee on Social Security and Family Policy stated in a recent subcommittee hearing that "our welfare system does not serve well the people who are on it, nor does it serve well the people who are paying for it."

The current system encourages the breakdown of the family, destroys independence and self reliance, and discourages work. I have to agree with Senator BREAUX that these things do not serve the needs of recipients or those taxpayers who are funding the program.

The third question which must be considered is: Does it encourage innovation and reward hard work? Under the current system, States which desire to try innovative approaches to the problem of helping low-income people move toward independence must pass a State law with the new ideas, apply to the Federal Government for a waiver, gain approval of their ideas and receive the waiver, and finally, implement their plan. The process is time-consuming and expensive.

The current system also discourages hard work. The welfare mother receives her check on two conditions: She must not marry an employed male and she must not work. If she works, she risks losing much of her welfare and health care benefits.

During that March 3, Rose Garden ceremony, the President said in response to these three questions that "if the answer is no, or if there's a better way to do it if there's something that the Federal Government is doing it should simply stop doing, we'll try to make the changes needed."

Mr. President, that is what the Kohl-Grassley proposal is all about. This proposal starts with a basic assumption: The welfare program is a dismal failure and all efforts to reform it at a national level have failed. That is because the incentives are not properly structured so that success is required, not just desired.

Under the proposal we are introducing today, the entire Federal Aid to Families With Dependent Children Program, the JOBS Program, and the Food

Stamp Program as it applies to AFDC recipients are simply repealed. They are ended. The role of the Federal Government is unalterably changed.

This is important because this is a reform effort first, not a budget exercise. The resulting budget and deficit reductions are important but secondary. They must be viewed as an enforcement mechanism for the reforms—the teeth, if you will.

The focus must be on reform. Because, if we're not careful and view this as a budget cutting exercise only, these programs may be trimmed now, but the structural deficiencies that brought them about will grow right back again as soon as we look away. We need to perform corrective surgery so that what we have now will not come back again.

This proposal is that corrective surgery but there are also clear budget implications in this bill. It establishes a cap for Federal spending on assistance programs for low-income Americans at 1994 levels and block grants the money to the States to serve the same population.

States are then free to experiment with new ideas for dramatic change. They are also responsible to make the changes work because their funding is capped at 1994 levels and the incentive is there to get people off of welfare and into work. This is the way it should be. The program should have performance standards that reward work and change the culture of welfare.

The only affirmative requirement in the law is that States must have more people working in each year than the previous year. Apart from that requirement, States are completely free to create a plan that will work in their own State and meet the needs of their own citizens.

This is the essence of reinventing Government. If the Federal Government has failed at a given operation, under the President's own analysis, it is time for us to find new ways to achieve our goals.

This is what the Kohl/Grassley proposal would do.

By Mr. NUNN (for himself and Mr. THURMOND) (by request):

S. 2058. A bill to authorize certain construction at military installations for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1995

• Mr. NUNN. Mr. President, by request, for myself and the senior Senator from South Carolina [Mr. THURMOND] I introduce, for appropriate reference, a bill to authorize certain construction at military installations for fiscal year 1995, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD.

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

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, April 20, 1994.

Hon. ALBERT J. GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To authorize certain construction at military installations for Fiscal Year 1995, and for other purposes." This legislative proposal is needed to carry out the President's Fiscal Year 1995 budget plan. The Office of Management and Budget advises that the enactment of this proposal is in accord with the program of the President.

The proposal would authorize appropriations in Fiscal Year 1995 for new construction and family housing support for the Active Forces, Defense Agencies, NATO Infrastructure Program, and Guard and Reserve Forces. The proposal establishes the effective dates for the program. The Fiscal Year 1995 Military Construction Authorization Bill includes construction projects resulting from base realignment and closure actions. Additionally, the Fiscal Year 1995 draft legislation does not include General Provisions.

Sincerely,

STEPHEN W. PRESTON,
Acting General Counsel.•

By Mr. NUNN (for himself and Mr. THURMOND) (by request):

S. 2059. A bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

• Mr. NUNN. Mr. President, by request, for myself and the senior Senator from South Carolina [Mr. THURMOND] I introduce, for appropriate reference, a bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1995, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD.

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

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, April 22, 1994.

Hon. ALBERT J. GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes."

This proposal is part of the Department of Defense legislative program for the 103d Congress. The Office of Management and Budget advises that the proposed authorizations are in accord with the program of the President and that there is no objection from the standpoint of the President's program to the general provisions of the bill.

Title I of the bill provides procurement authorization for the Military Departments and for the Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal year 1995. Title II provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and the Defense Agencies in amounts equal to the President's budget for fiscal year 1995. Title III provides for authorization of the operation and maintenance accounts of the Military Departments and Defense Agencies and Title IV prescribes the personnel strengths for the active forces and the Selected Reserve of each reserve component of the Armed Forces in the amounts and numbers, respectively, provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal year 1995.

The general provisions of the bill are an omnibus proposal that will aid in the management and operation of the Department of Defense.

Enactment of this proposal is of great importance to the Department of Defense and the Department urges its favorable consideration.

Sincerely,

STEPHEN W. PRESTON,
Acting General Counsel.

DEPARTMENT OF DEFENSE LEGISLATIVE PROGRAM FOR THE SECOND SESSION OF THE 103D CONGRESS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army

Section 101 authorizes the appropriation of funds for procurement for the Army.

Sec. 102. Navy and Marine Corps

Section 102 authorizes the appropriation of funds for procurement for the Navy and Marine Corps.

Sec. 103. Air Force

Section 103 authorizes the appropriation of funds for procurement for the Air Force.

Sec. 104. Defense-wide procurement

Section 104 authorizes the appropriation of funds for Defense-wide procurement.

Sec. 105. Defense Inspector General

Section 105 authorizes the appropriation of funds for procurement for the Defense Inspector General.

Sec. 106. Defense health program

Section 106 authorizes the appropriation of funds for procurement for the Defense health program.

Sec. 107. Chemical demilitarization program

Section 107 authorizes the appropriation of funds for the demilitarization and destruction of lethal chemical weapons in the chemical stockpile as specified in section 1412 of the Department of Defense Authorization Act, 1986, and for the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

Subtitle B—Other Matters

Sec. 111. Repeal of requirement for separate budget request for procurement of Reserve equipment

Section 111 repeals the requirement contained in section 114(e) of title 10, United States Code, that amounts requested for procurement for the Reserve forces be set forth separately from other amounts requested for procurement for the Armed Forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Sec. 201. Authorization of Appropriations

Section 201 authorizes the appropriation of funds for the Armed Forces for research, development, test, and evaluation.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding

Section 301 authorizes the appropriation of funds for the Armed Forces for operation and maintenance.

Sec. 302. Working capital funds

Section 302 authorizes the appropriation of funds for working capital.

Sec. 303. Repeal of limitations on operation of activities included in Defense Business Operations Fund

Section 303 repeals the limitations on the implementation of the Defense Business Operations Fund which are contained in section 316 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. Section 316 was enacted at the time that the Defense Business Operations Fund was first established. At the time it was established some temporary evaluation period for the Fund and the activities operating under it may have been appropriate. Now that the Fund has been operating for some time, however, a "probationary period" for the Fund and temporary extensions and limitations on the operation of the Fund should not be needed.

Sec. 304. Repeal of provisions relating to charges for goods and services provided through the Defense Business Operations Fund

Section 304 repeals limitations on the operation and management of the Defense Business Management Fund which were contained in section 316(a) and (b) of the National Defense Authorization Act for Fiscal Year 1994. These changes reflect the plans for operation of the Fund which were contained in the Defense Business Operations Fund that was submitted to the Congress in September 1993.

Sec. 305. Disposition of proceeds from operation of Naval Academy laundry

Section 305 amends the provisions of section 6971 of title 10, United States Code, relating to disposition of proceeds from certain activities at the United States Naval Academy. Currently, section 6971 consists of two subsections. Current subsection (a) provides that funds collected from the operation of the midshipmen's store, including the barber shop, the cobbler shop, and the tailor shop, and the dairy at the Academy are deposited to the Treasury and are available for operating expenses of these activities and such other expenditures as the Superintendent of the Naval Academy considers to be necessary for the health, comfort, and education of the midshipmen. Current subsection (b) provides that funds collected from the operation of the Naval Academy laundry shall be accounted for as public funds and that they are available for necessary laundry service for Academy activities and personnel. Section 305 combines the two separate, but essentially similar, provisions contained in subsections (a) and (b) into a single provision.

Subtitle B—Other Matters

Sec. 311. Revision of date for submission of future years mission budget

Section 311 changes the required date for the submission of the Department's future years mission budget from the same time that the President's budget is submitted to a time not later than 60 days after the date of the submission of the President's budget. Under the current law, the President's budget, the Future Years Defense Program (FYDP), and the Future Years Mission Budget (FYMB) must all be submitted at or about the same time. As a practical matter each is independent, with the FYDP based on the President's Budget and the FYMB based on the FYDP. Under section 221 of title 10, the FYDP is required to be submitted "at or about the same time that the President's budget is submitted to Congress." Under section 222 of title 10, the FYMB is required to be submitted "at the same time that the President's budget is submitted to the Congress." About 30 days are required between the time each report is prepared in order to ensure consistency and to prepare the reports in an orderly manner. To reflect this fact, this section would change the submission date for the FYMB to not later than 60 days after date that the President's budget is submitted to the Congress.

Sec. 312. Live-fire survivability testing of F-22 Aircraft.

Section 312 requires the Secretary of Defense to submit a report explaining how the Secretary plans to evaluate the survivability of the F-22 system and assessing various alternatives to realistic survivability testing. The provision also requires the Secretary to ensure that major components and subsystems that could significantly affect the survivability of the F-22 be made available for live-fire testing.

Section 2366 of title 10, United States Code, requires realistic survivability and lethality testing of covered systems and munitions programs prior to full-rate production. The requirement is that the covered system must be tested for vulnerability in combat by firing munitions, likely to be encountered in combat, at the system configured for combat.

Section 2366 of title 10 allows the Secretary of Defense to waive the requirement if, before the system enters full-scale engineering development, the Secretary certifies to Congress that live fire testing of the system would be unreasonably expensive and impractical. Because of the cost of an F-22 aircraft, such testing is both unreasonably expensive and impractical. Since the F-22 has already entered full-scale engineering development, legislation is needed to allow the Secretary of Defense to grant a waiver.

In order for the Secretary of Defense to evaluate the survivability of the F-22 aircraft, the Air Force developed the revised live fire test program that is summarized in an enclosure to this letter. This plan includes detailed analyses, review of historical test data, and incremental build-up testing that includes material characterization tests and live fire testing of selected components and subassemblies. Information from the results of these tests will be taken into account in the F-22's design. In this way, we plant to achieve fully the objective of section 2366 in as realistic a manner as is consistent with cost effectiveness and practicality.

The proposal will authorize the Secretary of Defense to grant a waiver to the survivability testing requirements in section 2366 as they apply to the F-22 system. The enactment of this legislative proposal shall not cause any increase in appropriated funding for the Department of Defense or have any budgetary impact.

Sec. 313. Ballistic Missile Defense mission

The purpose of the section 313 is to amend the statutory requirement for an Annual Report on Strategic Defense Initiative (SDI) programs to reflect the current Ballistic Missile Defense mission.

The Annual Report to congress provides congressional committees with an assessment of the progress of BMDO in fielding a ballistic missile defense and a road map that BMDO intends to follow for the future. The statutory provision which prescribes an Annual Report, requires BMDO to report on actions that are no longer pertinent to the direction of the BMDO program and the current world situation. This proposed legislation would amend those requirements to reflect the current mission of BMDO.

Sections 224(b)(3) and 224(b)(4) require that the Annual Report to congress detail objectives for the planned deployment phases and the relationships of the programs and projects to the deployment phases. The deployment phases were germane when the SDI was developing a system to be fielded in phases, with each phase (after phase 1), designed to offset expected Soviet countermeasures and add to U.S. ballistic missile defensive capabilities. The current focus of the BMD program is to field improved theater missile defense systems and maintain a technology readiness program for contingency fielding of a national missile defense. The concept of phased additions to offset Soviet countermeasures and provide large incremental improvements to U.S. ballistic missile defense capabilities no longer exists.

Section 224(b)(7) requires an assessment of the possible Soviet countermeasures to the SDI programs. With the demise of the Soviet-Union and the shift in focus of the BMD program to fielding theater missile defense systems, this requirement is no longer applicable and should be amended to reflect the current threat.

Sections 224(b)(9) and 224(b)(10) require details on the applicability of SDI technologies to other military missions. The missions addressed have largely become the primary focus of BMDO and reporting how SDI technologies could be applied to other military missions is no longer relevant. These two subparagraphs should be repealed, as they are redundant with reporting the status of today's BMD.

Enactment of the proposed legislation will not result in any increase in budgetary requirements. Our analysis of the costs incurred and the benefits derived is that this legislation is budget neutral.

Sec. 314. Repeal of requirement for the Secretary of Defense to provide advance review and approval of proposed developmental tests of limited defense system program projects and to provide independent monitoring of the tests

The purpose of section 314 is to remove the current requirement for the Secretary of Defense to provide advance review and approval of proposed developmental tests of Limited Defense System (LDS) program projects and to provide independent monitoring of the tests.

The requirement for Secretary of Defense review and approval of proposed LDS program projects developmental tests prior to conducting the test and for the Secretary to provide an independent monitoring of the implementation of tests is an unnecessary requirement. Any additional review, approval, or monitoring requirements above those already established for LDS testing would be redundant and bring little value to the current test and evaluation process that is aggressively enforced.

Currently the LDS developmental testing program is monitored by a senior level steer-

ing group composed of the Under Secretary of Defense (Acquisition) Director of Test and Evaluation, the Deputy Under Secretary of the Army (Operations and Research), the Director of Operational Test and Evaluation and senior Test and Evaluation officials from each of the Services. To impose a requirement for additional monitoring of LDS development testing above the current level of expertise and responsibility would not be prudent and only serve to generate a redundant and costly layer of reviews.

Enactment of the proposed legislation will not result in any increase in budgetary requirements. Our analysis of the costs incurred and the benefits derived is that this legislation is budget neutral.

Sec. 315. Expansion of the methods of test and evaluation used to demonstrate theater missile defense interceptor performance prior to the interceptor program proceeding into low-rate initial production acquisition phase

The purpose of section 315 is to expand the methodology used to demonstrate TMD interceptor performance before the interceptor program proceeds into the Low-Rate Initial Production (Milestone IIIA) acquisition phase. The legislation would allow using validated modeling and simulation to augment live-fire testing to demonstrate that interceptors have achieved weapons system performance goals established in the system baseline document pursuant to section 235(a)(1)(A) of title 10, United States Code, before the program entered engineering and manufacturing systems development.

The requirement for demonstrating interceptor performance to achieve multiple shot engagements involving multiple interceptors and multiple targets is traditionally conducted during Initial Operational Testing and Evaluation (IOT&E). The IOT&E is conducted at the end of engineering manufacturing and development (EMD) acquisition phase prior to entering the production and deployment phase at Milestone III. The rationale for conducting multiple shot engagements during the IOT&E is that it provides time for system maturing during the EMD acquisition phase to obtain a level of performance capability necessary to conduct multiple shot engagements. The level of performance needed to achieve multiple shot engagements can only be obtained from interceptors that are production representative and available only during the latter part of EMD.

Requiring interceptor performance to be demonstrated solely through the use of live-fire testing will be expensive and likely increase the acquisition time needed to get interceptor programs into production and fielded. Augmenting live-fire testing with modeling and simulation can provide a less expensive and more timely method for predicting interceptor performance. Validated models and simulations can augment flight tests to provide accurate projections of interceptor performance, under varying operational environments and threats, reducing the number of costly flight tests that must be conducted several times to establish confidence in the data.

The Ballistic Missile Defense Organization (BMDO) has developed an intense and comprehensive test and evaluation policy to ensure TMD interceptors meet performance requirements prior to expending funding for their production. This policy uses a Continuous Comprehensive Evaluation process that maximizes the use of technical testing data and supplements flight test with models and simulations. The policy includes the procedure for verifying and validating all models and simulations used to predict interceptor performance. The models and simulations are based on actual data collected and analyzed from live-fire interceptor testing to ensure realistic and accurate predictions.

TMD interceptor performance will be reported to Congress prior to entering production (Milestone III) under section 2399 of title 10, United States Code. The Director of operational Test and Evaluation, Office of the Secretary of Defense, prepares and submits a Beyond Low-Rate Initial Production Report to the Secretary of Defense, Under Secretary of Defense (Acquisition), and congressional defense committees. This report will confirm that adequate testing has been conducted in an operational environment consistent with what the interceptor will be expected to operate in when fielded to evaluate system performance prior to committing to a production decision.

Enactment of the proposed legislation could result in a cost avoidance of approximately $249 million for FY95–99 and beyond by delaying or reducing the required quantity of multiple simultaneous engagements for TMD interceptor programs. More accurate cost estimates will be available as the TMD programs mature and actual testing costs are available.

[In millions of dollars]

Fiscal year					
1995	1996	1997	1998	1999	Beyond
143	3	50	2	2	50

A more detailed cost analysis follows:

This proposal will result in a reduction of the costs necessary for compliance with the current statutory language in Section 237a., Testing of Theater Missile Defense Interceptors.

These cost are estimates based on evolving Service testing programs. They reflect the cost savings that can be reasonable expected to result from the proposed language change. However, many of the programs that make up Theater Missile Defense have not reached a level of maturity that enable them to predict actual testing costs. In some cases, the selection process for test sites and instrumentation systems has not been completed. Test article and target costs, and testing quantities for validation and demonstration have not been determined. Therefore, for those cases, costs are estimated to represent probable courses of action.

The matrix below represent estimated cost savings that could result from adopting the proposed language, by delaying or reducing the required quantity of multiple simultaneous engagements.

SAVINGS BY YEAR

[In millions of dollars]

Program	Fiscal year—					Out
	1995	1996	1997	1998	1999	
PAC–3	*72 (9I+9T)	(–)				
THAAD			72 (9I+9T)		(–)	
Corps SAM						72 (9I+9T)
Navy L Tier	72 (9I+9T)		(–)			
Instrument	45					
O&M	10	10	10	10	10	10
Total	199	10	82	10	10	82

I—=Interceptors required.
T—=Targets required.
*—=First opportunity for funding; may be insuffiecint lead time to avoid program slip and additional costs.
–—=LRIP IPR.

Assumptions used in the Savings by Year matrix.

1. One test (multiple simultaneous engagement) requires 3 interceptors and three targets.

2. Programs listed above have generally budgeted for a single interceptor/target flight test rather than multiple simultaneous engagements. Therefore, the above costs reflect the cost of the other two interceptors and targets.

3. Estimated cost for an interceptor is $5M.

4. Estimated cost for a target is $3M.

5. No ranges are currently equipped to safely conduct MS? Required instrumentation and safety equipment will cost an estimated $54M.

6. LRIP IPRs are tentatively scheduled as follow:

Program	LRIP IPR	Source of date
PAC–3	MM 2Q96	Patriot TEMP, Oct 93.
	ER 3Q96	Patriot TEMP, Oct 93.
THAAD	2Q99	THAAD TEMP, Aug 93.
CORPS SAM	FY 02	CORPS SAM TEMP, 17 Mar 93.
Navy Lower Tier	Late FY 97	TMD Briefing Chart, back up for TMDI Review, "Sea Based TBMD Proposed Schedule".

Sec. 316. Disaster relief

Section 316 provides authority for the President to provide disaster relief assistance in response to civil or foreign manmade or natural disasters.

The fiscal year 1993 Appropriations Act provided authority for $50 million in Operation and Maintenance, Defense-wide fund-

ing, to be used for the global disaster relief activities of the Department of Defense. Under this authority, the Department provided initial support for disaster relief activities in response to the famine in Somalia, relief for the Chinese migrants under Operation Provide Refuge; Meals Ready to Eat and Humanitarian Daily Rations for use in the Former Yugoslavia; and support of the transportation costs of the Bosnia Airlift and Airdrop.

In fiscal year 1994, the Appropriations Conference Committee deleted funding requested specifically for global Disaster Relief, but directed that the Department use existing cash balances in the Defense Emergency Response Fund for natural and other disasters. The Defense Emergency Response Fund, enacted by Public Law 101–165, the Department of Defense Appropriations Act of 1990, was initially established to serve as a revolving contingency fund in anticipation of reimbursements from State, Federal and local government agencies for Department of Defense costs incurred in responding to civil disasters. In amending this language, Congress expanded authority to use the Defense Emergency Response Fund to fund any natural or manmade disasters, civil or foreign, without requiring reimbursement.

The proposed fiscal year 1995 legislation provides clear authorization within the Defense Authorization Act for funding these activities. Delegation of this authority by the President to the Secretary of Defense would be provided by Executive order. With this language, the Disaster Relief program would continue to provide the flexibility necessary to respond to urgent, unanticipated requirements due to civil or foreign manmade or natural disaster.

Enactment of this proposal will support the Administration's fiscal year 1995 Budget Request to appropriate $46 million to support the Disaster Relief Activities of the Department of Defense. The Department of Defense considers this proposal to be an important component of its fiscal year 1995 national security program.

Sec. 317. Amendment to the emergency and extraordinary expense authority for the Inspector General of the Department of Defense

Section 317 would remove the statutory ceiling on the Inspector General, Department of Defense, for emergency and extraordinary expenses authority provided in section 361 of the National Defense Authorization Act of Fiscal year 1994 (Public Law 103–160). The removal of this ceiling is consistent with the emergency and extraordinary expense authority of the Secretary of Defense and the Secretaries of the military departments. The ceiling could jeopardize ongoing Inspector General investigatory operations. In that funds made available are contained within the overall Operation and Maintenance Appropriations available to the Inspector General, there would remain in effect a ceiling but at a higher subdivision, thereby providing the Inspector General with greater flexibility. Since the overall ceiling would remain in effect, there is no impact on the budget.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces

Section 401 authorizes the end strengths (the end of the fiscal year—September 30, 1995) for active duty personnel of the Armed Forces.

Subtitle B—Reserve forces

Sec. 411. End strengths for Selected Reserve

Section 411 authorizes the end strengths (the end of the fiscal year—September 30, 1995) for Selected Reserve personnel of the reserve components.

Sec. 412. End strengths for Reserves on active duty in support of the Reserves

Section 412 authorizes the end strengths (the end of the fiscal year—September 30, 1995) for the Reserves serving on full-time active duty in support of the Reserves as contemplated in section 678 of title 10, United States Code.

Sec. 413. Increase in number of members in certain grades authorized to be on active duty in support of the Reserves

Section 413 increases the number of members in the grades of E–9, E–8, Major or Lieutenant Commander, Lieutenant Colonel or Commander, and Colonel or Navy Captain authorized to be on active duty in support of the Reserves. The provision amends the table in section 517 of title 10, United States Code.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads

Section 421 authorizes the average training student loads for the components of the active and Reserve Armed Forces.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Authority of Secretary of Military Department to approve officers serving on certain successive selection boards

Section 501 amends section 612(b) of title 10, United States Code, to authorize the Secretary of the military department concerned to approve officers to serve as members on successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade if the second board does not consider the same officer or officers as the first board.

Section 612(b) of title 10, United States Code, provides that board members may not be a member of two successive promotion selection boards convened under section 611(a) of title 10, United States Code, for the consideration of officers of the same competitive category and grade. Section 628 of title 10, United States Code, provides that the membership for special selection boards will be composed in accordance with section 612.

This legislation proposal provides, under approval of the Secretary of the military department concerned, that officers may serve as board members on successive selection boards convened under section 611(a) of title 10, United States Code, for the consideration of officers of the same competitive category and grade if the second board does not consider the same officer or officers from the first board. There would be no budget impact if this proposal is enacted.

Sec. 502. Technical changes to sections codified by the Warrant Officer Management Act

The purpose of section 502 is to amend chapter 33A of title 10, concerning the personnel management of warrant officers, to make certain sections in the chapter consistent with parallel provisions applicable to commissioned officers other than warrant officers. The proposal would also remove inconsistent language in certain sections and would make the provisions in chapter 33A applicable to retired warrant officers who are recalled to active duty.

Currently, regular warrant officers must execute a new oath of office under section 3331 of title 5 upon appointment to a higher grade. This oath serves as evidence of the acceptance of the appointment. Section 626 of title 10, concerning commissioned officers above the grade of chief warrant officer, W–5, provides that an officer appointed to a higher grade is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment. Section 626 also provides that an officer who has served continuously since the officer subscribed to the oath required by section 3331 is not required to take a new oath upon appointment to a higher grade. This proposal would add virtually identical provisions to section 578 of title 10 concerning promotions of warrant officers on the warrant officer active-duty list.

Section 573(a)(2) requires that a warrant officer, W–1, serve not less than 18 months on active duty in that grade before promotion to chief warrant officer, W–2. Similarly, section 574(e) provides that a chief warrant officer may not be considered for promotion to the next higher grade under chapter 33A of title 10 until the officer has completed three years on active duty in the grade in which the officer is serving. Section 619 of title 10, concerning the promotion of commissioned officers above the grade of chief warrant officer, W–5, does not provide that the minimum periods of service required prior to promotion to a higher grade be service on active duty. This proposal would amend sections 573(a)(2) and 574(e) to make their service requirements consistent with those imposed on commissioned officers above the grade of chief warrant officer, W–5.

Section 575(d) of title 10 provides that each time a selection board is convened to consider warrant officers on the active duty list for promotion, each warrant officer in the promotion zone and each warrant officer above the zone shall be considered for promotion. Section 577, however, provides that the Secretary concerned may, by regulation, preclude from consideration by a selection board a warrant officer who has an established separation date that is within 90 days after the date on which the board is convened. This proposal would amend section 575(d) to recognize explicitly that warrant officers who have an established separation date within 90 days after the board convened would not have to be considered for promotion.

Section 576(e) of title 10 provides that a report of a selection board must be submitted to the Secretary concerned for approval or disapproval. Section 576(f)(1) indicates that after the Secretary's review, unless the Secretary returns the report for corrective action, the Secretary must submit the report as required by section 576(e), i.e., to the Secretary of the military department concerned. Read literally, the last sentence in section 576(f)(1) requires the Secretary to submit a report to himself. This proposal would strike that sentence.

Under section 580 of title 10, a warrant officer who has twice failed of selection for promotion to the next higher regular warrant officer grade shall be retired if retirement eligible or separated from active duty. Currently under section 580(a)(3), a warrant officer who has at least 18 but not more than 20 years of creditable active service on "(A) the date on which the Secretary approves the report of the board under section 576(e) of [title 10], or (B) the date on which his name was removed from the recommended list under section 579 of [title 10], whichever applies" may remain on active duty until the officer is re-

tirement eligible. The date of retirement of such an officer is not later than the first day of the seventh calendar month beginning after the date upon which the officer completes 20 years of active service. These provisions parallel those applicable to commissioned officers above the grade of chief warrant officer, W-5, with one exception. To remain on active duty after having twice failed of selection, a warrant officer must have at least 18 years but not more than 20 years active service at the time the Secretary approves the selection board report. A commissioned officer above the grade of chief warrant officer, W-5, may remain on active duty if on the date on which the officer is to be separated the officer is within two years of qualifying for retirement, i.e., not later than the first day of the seventh calendar month beginning after the month the report is approved. This proposal would amend section 580 to permit a warrant officer to remain on active duty if the officer is within two years of qualifying for retirement at the time the officer would otherwise be separated, rather than at the time the Secretary approves the selection board report.

Section 582(2) indicates that retired warrant officers on active duty are not subject to chapter 33A of title 10. This has resulted in an inequity due to a warrant officer personnel policy of the past. Section 1305 of title 10 provides that a regular warrant officer below the grade of chief warrant officer, W-5, who completes 24 years of active service as a warrant officer shall be retired and that a chief warrant officer, W-5, who completes 30 years of active service as a warrant officer shall be retired. Subsection (c) of section 1305 authorizes the Secretary concerned to defer retirement for length of service, but not later than 60 days after the warrant officer becomes 62 years of age. Currently, members whose retirement dates are deferred remain on active duty and are subject to chapter 33A of title 10 and can compete for promotion. In the past, however, rather than defer retirement, warrant officers were retired and then recalled to active duty. Because of section 582(2), these warrant officers are not subject to chapter 33A. This proposal would make retired warrant officers who were recalled to active duty without a break in service prior to the effective date of the Warrant Officer Management Act (February 1, 1992) subject to chapter 33A. If enacted, this legislative proposal would not increase the budgetary requirements of the Department of Defense.

Sec. 503. Authority for facilitated promotions when all officers on a confirmation list are not confirmed at one time

Section 503(a) of the bill amends section 624 of title 10, United States Code, to authorize the Secretary concerned, in a case where the Senate has given its advice and consent to the promotion of some, but not all officers on a promotion list, to appoint those confirmed officers junior to the nonconfirmed officers on the list in the order and at the time they would otherwise have been appointed. Should the Senate later confirm an additional officer on the same promotion list, the Secretary concerned may, upon his appointment, give him the same date of rank, effective date for pay and allowances in the higher grade, and the same position on the active-duty list he would have had if the delay had not occurred or make such other adjustments as the Secretary concerned considers appropriate. Section 503(b) of the bill makes a conforming amendment.

The Department of Defense is required by section 624(c) of title 10, United States Code, to submit promotion lists for most officers on the active duty list to the Senate for its advice and consent. From time to time, the Senate withholds its advice and consent to some officers on a promotion list for further inquiry into matters affecting their fitness for promotions. Under section 624(a)(2) promotions must be made in the order in which they appear on the promotion list and only after officers previously selected for promotion in that competitive category have been promoted. No confirmed officer on a list who is junior to a nonconfirmed officer is promoted until the Senate either confirms the senior officer or finally rejects the officer under section 629(b). Pending that Senate resolution, proposed section 624(e)(1) would remove any statutory impediment to the promotion of such junior officers and thereby "facilitate their orderly promotion in accordance with the needs of the service."

Proposed section 624(e)(2) would grant the Service secretaries the same power to make an officer whole in the cases of delayed Senate confirmation, as they currently possess in cases of formal promotion delay. Under proposed section 624(e)(2), the Secretary concerned, upon the officer's confirmation, could adjust the date of rank, effective date for pay and allowances in the higher grade, and position on the active duty list as though the officer had been confirmed with the other officers on the same list, or grant intermediate relief if the Secretary deems it appropriate. This authority would be used in cases where the allegations which gave rise to the original delay in confirmation were found to be unsubstantiated, and the officer would suffer an injustice if such an adjustment was not made. Proposed section 624(e)(2) would empower the Secretary concerned to afford the officer meaningful relief by an expeditious administrative process without the need to petition a board for the correction of military records for such redress under section 1552 of title 10, United States Code.

This proposal would result in no increase in cost to the Department of Defense.

Sec. 504. Retirement or enlistment of certain limited duty officers of the Navy and Marine Corps

Section 504 applies to limited duty officers in the Naval service who have twice failed selection for promotion to the next higher grade. The purpose of the legislation is twofold: first, it would establish a similar right to achieve retirement eligibility for limited duty officers of the Navy and Marine Corps as now exists for those officers who are not designated for limited duty and for warrant officers; second, it would provide clear authority for enlistment in a grade determined by the Secretary if a limited duty officer, having twice failed selection, was not within two years of achieving retirement eligibility and it would terminate the current option of reversion to warrant officer grade now provided in section 6383 of title 10, United States Code.

Section 632 of title 10, United State Code, provides that officers of the Navy serving in grades of lieutenant commander and lieutenant and officers of the Marine Corps serving in grades of major and captain, who are not designated for limited duty, shall be retained on active duty until qualified for retirement in their present grades if they will qualify for such retirement within two years of the date on which they would be involuntarily separated following the second failure of selection. Section 580 of title 10 establishes similar authority for warrant officers. However, under section 6383 of title 10, the limited duty officer in the same grade as an officer not designated for limited duty is not retained automatically in his current grade until eligible for retirement under the same circumstances. Rather, the options provided are discharged, possible continuation on active duty in his current grade if selected by a board by the Secretary of the Navy under authority of section 611(b) of title 10, or reversion to a warrant officer grade.

There is no compelling reason to discharge the limited duty officer who is within two years of retirement eligibility when non-limited duty officers are retained until retirement under the same circumstances. While authority to continue the officers in question by board action does exist under section 6383(i) of title 10, it is considered inefficient and unnecessary to hold a board for limited duty officers when officers when officers not designated for limited duty in the same grades are automatically retained until eligible for retirement. This proposal would thus promote efficiency in the management of limited duty officers of the Navy and Marine Corps.

Some limited duty officers may twice fail of selection for lieutenant or lieutenant commander, captain or major, before reaching the point of being within two years of qualifying for retirement. Others may be considered not qualified for promotion to lieutenant (junior grade) or first lieutenant. Officers in this category will not have been commissioned from the warrant ranks, but from the middle enlisted grades. Some recognition should be given the effort and time that those officers will have invested in a military career and it is considered unduly harsh to terminate their military careers at that point. The enlistment option is considered to be the best way of permitting such an individual to continue his or her career when retirement as an officer is not available and is preferred to the current practice of appointment in a warrant officer grade. Reversion to the warrant officer grades creates significant manpower planning and integration difficulties in those ranks and therefore is not a desired option. The possibility of continuation in the grade then serving would be preserved through Board action for officers with the rank of Lieutenant Commander (Major) or Lieutenant (Captain) if, in the opinion of the Secretary, the needs of the Navy so require.

This proposal would result in no increase in cost to the Department of Defense.

Sec. 505. Authority for temporary promotions of certain Navy lieutenants

This section would make permanent section 5721 of title 10, United States Code, by repealing its sunset provision thereby authorizing on a permanent basis the temporary promotions of certain Navy lieutenants.

Subtitle B—Reserve component matters

Sec. 511. Reserve Forces Policy Board amendments

Section 511 amends section 175 of title 10, United States Code, establishing the membership of the Board to include a regular flag/general officer assigned to the joint staff and a general officer of the Regular Marine Corps.

The rationale for this proposal is that the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 increased the role of the Chairman of the Joint Chiefs of Staff and established a new channel of communication between the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands. As a result of the fundamental changes occur-

ring in budgets, roles and missions, and national strategy, more and more Reserve component issues are emerging which require the attention of the Board. The addition of a member of the Joint Staff would provide an essential communication link on Reserve component matters between the Board, the Joint Staff, and the combatant commanders, providing a channel for the war fighting CINC's to bring Reserve component issues to the Board.

Similarly, Board membership should be expanded to include an Active component representative of both the Navy and the Marine Corps, providing representation from the active military side of both elements of the Department of the Navy. In addition, this would also be an opportune time to amend the law to affirm the long-standing practice of filling Board positions with flag and general officers.

Sec. 512. Authorization of Limited Selected Reserve call up authority and expansion of 90-day call up period

Section 512 would amend section 673b of title 10, United States Code. It would permit the activation of Selected Reserve units and members of the Selected Reserve not assigned to units organized to serve as units for an initial period of service of 180 days, with extension of an additional 180 days. Such an amendment would assure the availability of Selected Reserve units and individuals and would increase the flexibility of the Total Force in responding to a crisis. It would authorize the President to designate the Secretary of Defense and the Secretary of Transportation to order up to 25,000 members of the Selected Reserve to active duty to support the early phases (up to 90 days) of an operational mission; e.g., to put in place the infrastructure for movement; to open the seaports; to provide air crews and maintenance; to establish enroute support; to set up and operate crisis action teams; to deploy civil affairs teams; to deploy special operations forces; to establish mobilization stations; and to surge logistics and medical support.

Sec. 513. Repeal of obsolete provisions pertaining to transfer to the retired Reserve

Section 513 would repeal the requirement that Regular enlisted members who retire after completion of at least 20 but less than 30 years of active service becomes a member of the Army Reserve or the Air Force Reserve and be subject to such active duty as may be prescribed until his total service, including such Reserve service reaches 30 years. The provisions of section 3914 and 8914 which would be repealed date to 1946. Since 1983, section 688 of title 10, United States Code, has provided that a retired member of the Regular Army or the Regular Air Force who has completed at least 20 years of active service may be ordered to active duty by the Secretary concerned at any time, thus rendering the subject provisions of sections 3914 and 8914 obsolete. Repeal of these obsolete provisions would also reduce the requirement for administrative actions which unnecessarily complicate the Reserve structures of the Army and the Air Force.

Sec. 514. Guard and Reserve transition initiatives

Section 514 would modify the program of Guard and Reserve Transition Initiatives to ensure the effective operation of these initiatives through the life of the program. Section 561(f) of the National Defense Authorization Act for Fiscal Year 1994 extended these initiatives for an additional four years and they are now effective through October 1, 1999.

Section 514 would modify the special transition program of annual payments for Reservists authorized by section 4416 of the National Defense Authorization Act for Fiscal Year 1993 as amended. Since the period of this authority has been extended by four years, additional flexibility in the program is needed to ensure its most cost-effective utilization to meet the needs of the armed forces consistent with congressional intent.

Section 514(1) would revise the current provision for five annual payments to authorize from one to five such payments. Section 514(2) would correct what appears to be an unintended anomaly of existing law. Under the current law, a member entitled to an annual payment which is due just prior to the member's 60th birthday would receive the full amount of the annual payment, even though the member would be entitled to retired pay beginning at age 60. The recommended change would provide for a prorated payment in such cases. Section 514(3) would conform the annual payment with other separation pays by requiring that the full amount of any annual payment received be repaid by reduction from the member's retired pay, travel, transportation, and relocation expenses of employees transferred from the Department of Defense to the Postal Service.

Subtitle C—Other Matters

Sec. 521. Use of exchanges and Morale, Welfare and Recreation facilities by certain retirees

Section 521 amends section 1065 of title 10, United States Code, to align the entitlement of retired members of the Selected Reserve to use Department of Defense exchanges and other revenue-generating morale, welfare, and recreation facilities with those of other Armed Force retirees.

The purpose of the proposal is to modify the current entitlement of members of the Selected Reserve in good standing (as determined by the Secretary concerned) who would be eligible for retired pay under chapter 67 of title 10, United States Code, but for the fact that the members are under 60 years of age ("gray area" retirees), and the dependents of such members, to use Department of Defense exchanges and other morale, welfare, and recreation revenue generating facilities.

Section 321(c) of Public Law 101-510 extended members of the Selected Reserve in good standing (as determined by the Secretary concerned), and their dependents, and these "gray area" retirees, and their dependents, eligibility to use Defense exchanges and revenue generating facilities. The section further provided that their use "shall be permitted on the same basis as members on active duty".

Consistent with long-standing guidance from the Armed Services Committees of the Senate and the House of Representatives, Department of Defense policy has provided that its exchanges and other morale, welfare, and recreation facilities are operated primarily for active duty personnel and their dependents. This policy has also provided that individuals who retired from military careers with pay (and their dependents) are eligible to use these exchanges and other facilities, but their use entitlement has been subordinate to that of active duty military members and their dependents. The effect of Section 321(c) as it applies to "gray area" retirees and their dependents is that it provides them a use entitlement equal to that of Armed Forces personnel on active duty and their dependents, and a higher use-entitlement than that available to individuals who retired from active duty military careers and retired with pay and their dependents.

The proposal will not affect the entitlement of members of the Selected Reserve in good standing (as determined by the Secretary concerned) and their dependents to use these exchange and other facilities on the same basis as members on active duty. It will, however, specifically realign the entitlement of the "gray area" retirees and their dependents to use these facilities with those of individuals who retired from active duty military careers and retired with pay and their dependents.

If enacted, this section would not result in an increase in the budgetary requirements of the Department of Defense.

Sec. 522. Overseas military end strengths

Section 522 repeals Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) mandating a 40 percent reduction in U.S. overseas troop strength by the end of fiscal year 1996.

Section 1302 of the FY 1993 Authorization Act directed a ceiling on military permanently stationed ashore outside the United States after September 30, 1996 to no more than 60% of those so stationed on September 30, 1992. Our initial estimates show that this ceiling will not allow the Department of Defense to execute the forward positioning determined in the Bottom Up Review and directed in the Defense Program Guidance. Specifically, if the troop strength ceiling of 100,000 is maintained in Europe, the projected Pacific troop strength will require a significant troop reduction to meet the Congressional overseas troop strength ceiling. Exacerbating the problem in Korea is that the planned Nunn-Warner phase II drawdown has been postponed due to the North Korean threat. The option of reducing troops in Japan is also counterproductive since that country is a major burden sharing contributor.

The overseas troop ceiling imposed by Public Law 102-484 does not allow effective implementation of the East Asia Strategic Initiative and inhibits the ability to further national interests through the strategy of cooperative engagement in the Asia-Pacific region. The legislation also runs counter to President Clinton's commitment during his visit in July 1993 that there would be no reduction in force structure in the region.

No cost and budget data is available at this time.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and allowances

Sec. 601. Military pay raise for fiscal year 1995

Section 601(a) waives any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995.

Section 601(b) increases the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services by 1.6 percent, effective January 1, 1995.

Sec. 602. Calculation of retired pay of a commissioned officer of the Armed Forces when the Secretary concerned determines the officer did not serve satisfactorily in the grade held at retirement

The purpose of section 602 is to correct the unintended effect of section 1401a(f) of title 10, United States Code, which permits certain commissioned officers of the armed forces to receive retired pay in a grade higher than the grade in which they were retired.

Section 1401a authorizes an increase in military retired or retainer pay to reflect increases in the Consumer Price Index. Subsection (f) of the statute provides that the monthly retired pay of a member who initially became entitled to that pay on or after January 1, 1971, may not be less than the monthly amount to which the member would be entitled if the member had retired at an earlier date. The purpose of this subsection was to correct the "retired pay inversion problem." For several years prior to the enactment of the provision, upward adjustments of retired pay under section 1401a occurred in greater amounts and at greater frequency than did increases in active duty basic pay. This caused many members who remained on active duty after becoming eligible for retirement to lose substantial retired pay relative to those who retired earlier with fewer years of service and, in some instances, at a lower grade.

Although the section was successful in remedying the inversion problem, it also had an unexpected result. It protected the retired pay of members who were reduced in grade after becoming retirement eligible. Congress partially corrected this problem in 1988 by exempting soldiers reduced in grade by court-martial from the protection of section 1401a(f). Section 622, National Defense Authorization Act, Fiscal Year 1989 (Pub. L. 100-456). However, a commissioned officer who is retired in a grade lower than that which the officer held at the time of retirement, due to a Secretarial determination that the officer did not serve satisfactorily in the highest grade, is still covered by section 1401a(f) and receives retired pay at the higher grade.

Section 1370 of title 10, provides that a commissioned officer is retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary concerned, for not less than six months. Section 1371 and 1374 authorize the Secretary concerned to make a similar determination for warrant officers and reserve commissioned officers. There is no similar provision for enlisted members. The authority to retire an officer at a grade lower than that which the officer holds at the time of retirement is exercised judiciously in cases involving officers who have clearly not performed satisfactorily in the higher grade. Most grade determinations involve misconduct which precipitates the officer's retirement. Although section 1370 requires the Secretary concerned to make a determination of satisfactory service in these cases, that determination is rendered ineffective, for retired pay purposes, by section 1401a(f). This permits an officer who commits misconduct, or fails to perform up to standard once the officer becomes retirement eligible, to avoid the requirement to perform satisfactorily in order to retire in the highest grade held.

This proposal amends section 1401a(f) to exempt grade determinations under 1370, 1371, and 1374 from the protection afforded by section 1401a(f). If enacted, this proposal will not increase the budgetary requirements of the Department of Defense.

Sec. 603. Expiring authorities

Sections 603(a) through 603(e) amend sections 308b(f), 308c(e), 308h(g) and 308i(i) of title 37, United States Code, to extend the authority to pay bonuses for (1) enlistment, reenlistment or affiliation with the Selected Reserve, (2) enlistment, reenlistment or extension of an enlistment in the Ready Reserve other than the Selected Reserve, and (3) enlistment in the Selected Reserve of individuals with prior service. These authorities currently expire on September 30, 1995. Termination of these Reserve bonus programs would adversely impact the readiness of Reserve component units by limiting the ability to recruit individuals possessing critical skills or qualified to train for critical skills and to ensure necessary manning levels in specific critical units.

Section 603(f) amends section 301b(a) of title 37, United States Code, to extend the authority to pay a retirement bonus to aviation career officers extending their period of active duty for at least one year. This authority currently expires on September 30, 1994. This extended authority is necessary to counter a decade-long problem in aviator retention that has not been solved, and will not be solved by the time the current authority expires in September 1994. This bonus represents a vital component of aviation readiness since it keeps seasoned aviators in the military, assuring a higher level of performance and safety. Moreover, the cost of this bonus represents a fraction of the costs associated with training new aviators to overcome retention deficits that would worsen, if this authority were allowed to lapse. Annual cost is $12.8 million for the Navy, $1.8 million for the Marine Corps, and $46.4 million for the Air Force. This money has been budgeted by the Services for FY 1995.

Section 603(g) amends section 308(g) of title 37, United States Code, to extend the authority to pay reenlistment bonus to active duty service members who reenlist or who extend their enlistment in a regular component of the service concerned for at least three years. This authority currently expires on September 30, 1995.

Section 603(h) amends section 308a(c) of title 37, United States Code, to extend the authority to pay enlistment bonus to a person who enlists in an armed force for at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least four years in a skill designated as critical. This authority currently expires on September 30, 1995.

Section 603(i) amends section 308d(c) of title 37, United States Code, to extend the authority which permits the payment of additional compensation to enlisted members of the Selected Reserve assigned to high priority units, so designated by the Secretary concerned because that unit has experienced or reasonably might be expected to experience, critical personnel shortages. This authority currently expires on September 30, 1995.

Section 603(j) amends section 2172(d) of title 10, United States Code, to extend the authority which permits the repayment by the Secretary concerned of educational loans of health professionals who serve in the Selected Reserve and who possess professional qualifications in a health profession that the Secretary of Defense has determined to be needed critically in order to meet identified wartime combat medical skill shortages. This authority currently expires on October 1, 1995. Termination of Reserve health professional incentive programs would limit the ability of the Reserve components to fill shortages in the designated health professions.

Section 603(k) amends section 613(d) of the National Defense Authorization Act for Fiscal Year 1989 (37 U.S.C. 302 note) to extend the authority which permits payment of special pay to a health care professional who is qualified in a specialty designated by regulation as a critically short wartime specialty and who agrees to serve in the Selected Reserve for at least one year. This authority currently expires on September 30, 1995. Extension of this authority will allow the Department of Defense to conclude a test program of a reserve medical bonus.

Sections 603(l) through 603(n) amend sections 312(e), 312b(c), and 312c(d) of title 37, United States Code, to extend the authority to pay certain bonuses to attract and retain top quality nuclear career officers. These authorities currently expire on September 30, 1995 or October 1, 1995. Extension of these authorities is essential in mitigating historical shortages and to ensure continued safe reactor operations. Current nuclear officer retention is at a ten-year low. Failure to renew the authority for these pays will further exacerbate the situation.

Subtitle B—Retired Pay and Survivor Benefits

Sec. 611. Authority for survivors of uniformed service members to receive, upon death of member, payment for all leave accrued, regardless of sixty-day limitation

Section 611 amends Section 501(d) of title 37, United States Code, to authorize survivors of members of the uniformed services to receive a payment upon death of a member for all leave accrued.

The purpose of this legislation is to allow the beneficiary of a member who dies on active duty with accrued leave to receive payment for all accrued leave, regardless of the sixty day career limitation. The amendment would prevent the deceased member from losing credit for accrued leave for which the beneficiary does not receive payment due to the sixty day limitation and which the member obviously can no longer use.

The current law sets a career limit of sixty days on the number of accrued leave days for which a member may receive payment. The survivor of a member who dies on active duty with an accrued leave balance may only receive payment for a total of sixty days, less any amount previously sold back by the member. This denies survivors the benefit of payment for all leave which the member actually earned, but cannot use only because death intervened. The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 waived the sixty day limit for leave accrued during fiscal years 90 and 91 for survivors of members who die on active duty as a result of injury or illness incurred during the Gulf Conflict. The National Defense Authorization Act for Fiscal Year 1992 waived the sixty day limit for future members who die in the course of real-world contingency operations, but limits the waiver of the sixty day sellback cap to those leave days accrued during the contingency or conflict. We need a permanent waiver of the sixty day leave sellback cap for all members who die on active duty, whether associated with contingency operations or not. In addition, we should pay for all accrued leave, not just that which is earned during a contingency operation.

The estimated costs are unknown but expected to be minimal in comparison to the economic suffering which may otherwise exist.

Sec. 612. Disability coverage for officer candidates granted excess leave

Section 612 amends section 1201 of title 10, United States Code, by including certain members not entitled to basic pay among those who receive physical disability coverage. Section 312 entitles Service Members on active duty for 30 days or more to disability benefits under those sections of law only

if disabled while entitled to basic pay. Except as provided in section 502(a) of Title 37, an individual who is granted excess leave by the Secretary of the military department concerned under section 502(b) of that title is not entitled to basic pay as long as the member is in that status. If such an individual were to incur any disability while on excess leave, he or she would not be entitled to any of the benefits provided under the provisions of sections 1201, 1202, and 1203 of title 10.

Sec. 613. Forfeiture of annuity or retired pay of members convicted of espionage

Section 613 corrects an apparent oversight in the original legislation creating Article 106(a), U.C.M.J. Article 106(a) U.C.M.J., added 8 November 1985, is based on Section 794 of Title 18, United States Code, which already included in the list of offenses contained in section 8312 of title 5, United States Code. When article 106(a), U.C.M.J., was created, it should have been added to the list of offenses contained in section 8312, title 5, United States Code.

Specifically, section 613 prohibits an individual, or his or her survivor or beneficiary, from being paid an annuity to retired pay on the basis of the service of the individual creditable toward the annuity or retired pay if the individual was convicted of violating article 106(a) (Espionage) of the Uniform Code of Military Justice.

Sec. 614. Crediting of reserve service for computation of retired pay

Section 614 would provide equitable treatment, in comparison to officers, for enlisted members retiring after 20 or more years (or during the force drawdown transition period, 15 or more years) by providing for the crediting of inactive duty performed while a member of a reserve component. The current inequity appears to be the result of legislative oversight.

TITLE VIII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Management

Sec. 701. Improving coordination of benefits information by sharing health insurance information from the Medicare and Medicaid coverage data bank

Section 701 will improve the ability of the Department to identify and collect from third party payers for health care services provided in facilities of the Uniformed Services and under the Civilian Health And Medical Program of the Uniformed Services (CHAMPUS).

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) was amended by the First Session of the 103rd Congress establishing a Medicare and Medicaid Coverage Data Bank to be operated by Health and Human Services. Annually, employers are required to submit to the Data Bank health care insurance coverage data on individuals electing coverage under the employers' group health plans.

Both the Medicare and Medicaid programs are, by law, second payers to commercial insurers in situations where Medicare or Medicaid beneficiaries also have group health coverage through their own or their spouse's employment. The Data Bank will substantially improve the ability of Medicare and Medicaid in identification of, and collection from, third parties responsible for payment for health care items and services furnished to their beneficiaries.

The Department of Defense likewise has a legislative mandate to identify and collect from responsible third parties the cost of medical care items and services furnished its beneficiaries within Uniformed Services medical facilities and under CHAMPUS. However, the current language in Part A of title XI (42 U.S.C. 1301 et seq.) restricts access to the insurance coverage information in the Medicare and Medicaid Coverage Data Bank to those two entities.

The proposed provision would amend the language in Part A of title XI extending access to information in the Data Bank to the Department of Defense. This information will enhance the effectiveness of the Department of Defense third party collection program. Section 701 would also extend access regarding this information to the Secretary of the department in which the Coast Guard is operating when the Coast Guard is not operating as a service of the Navy.

An accurate estimate of cost savings that would accrue to the Department as a result of having access to the Medicare and Medicaid Data Bank cannot be calculated. At present, the Department has no way to determine what percentage of beneficiaries have other coverage through employment. However, an estimate of $34 million in annual savings can be made based on (a) the current experience of uniformed services medical facilities and CHAMPUS in identifying and collecting from third party payers, and (b) private sector estimates of the percentage of medical claims submitted which have other coverage.

Sec. 702. Expanded use of partnership and resource sharing programs for improved cost-effectiveness

Section 102 would notify the Military-Civilian Health Services Partnership Program under section 1096 of title 10, United States Code. This program allows the sharing of health care resources between military medical treatment facilities and CHAMPUS-funded civilian facilities when cost-effective. Section 702 provides authority to the Department to pay for state licenses for Department of Defense providers when it is in the government's best interests to do so, in order to fulfill requirements for such providers to obtain a state license specifically so that they will be allowed to practice in civilian facilities under the Department of Defense External Partnership Program. The amount of any reimbursement may not exceed $500.

Sec. 703. Improvement of uniformed services treatment facilities program

The purpose of section 703 is to provide a sound basis for integrating Uniformed Services Treatment Facilities into the Department's management health care program, rather than continuing to treat them in isolation from the rest of the military health services system.

The special status of the former Public Health Service Hospitals as deemed military medical treatment facilities was granted in the early 1980s. Since 1982, the projected termination date for this special status has been extended repeatedly. Most recently, the National Defense Authorization Act for Fiscal year 1994, section 717, moved the first date at which termination could be authorized from December 31, 1993 to December 31, 1996. That means that what was intended as a short-term program to assist former Federal facilities in their transition to operation in the private sector will have extended for more than 15 years.

At the same time that Uniformed Services Treatment Facilities have been receiving ongoing, special noncompetitive agreements with the Department of Defense (as current law requires), dramatic changes have been taking place in the remainder of the military health services system. Large-scale tests of managed care approaches, integration of military and civilian health care delivery, and important provider reimbursement reforms have changed the landscape of military health care, while the Uniformed Services Treatment Facilities remain in isolation—a nearly $300 million program "island" within the several-billion-dollar military health services system. Now, as dramatic reforms of the nation's health care system are being considered by Congress, is the appropriate time to integrate Uniformed Services Treatment Facilities into the larger managed care approach which has been developed for military health care and, under legislative mandate, is being robustly implemented.

This proposed revision will provide for the potential incorporation of Uniformed Services Treatment Facilities into Department of Defense's health programs, eliminating redundancy while accommodating the Uniformed Services Treatment Facilities special status with Department of Defense beneficiaries. It enactment will provide needed integration of a small, isolated component of the military health services system, eliminate existing redundancy, provide needed economies, and maximize our ability to focus on the vital task of bringing the military health services system into harmony with national health care reform.

Precise cost avoidance figures are difficult to estimate, but the rate of funding growth in the Uniformed Services Treatment Facilities program over the past five years has been approximately 15 percent per year, while the military health services system as a whole has grown at about 5 percent per year. Integration of the Uniformed Services Treatment Facilities can be expected to reduce their growth rate to that of the system as a whole, which would save about $15.4 million in fiscal year 1995.

Sec. 704. Authority to conduct health care surveys of families of retired members

Section 704 would allow the Department to consider all persons receiving health care under chapter 55 of title 10, United States Code, as employees of the United States to determine the availability of health care services to such persons, their familiarity with facilities and services provided, their health and their level of satisfaction. Currently, the Department has authority to survey active duty members, their families and retired members regarding their health care. This provision would remove the present impediment to including the family members of retirees within the research sample. It would allow the Department to more readily and accurately determine the availability of health care services, health status and level of satisfaction, thereby enhancing the resource allocation process and the Department's health care reform initiatives. In addition, section 724 of the National Defense Authorization Act for Fiscal Year 1993 Act requires that Department of Defense conduct an annual beneficiary survey.

The provision will not increase the budgetary requirements of the Department of Defense.

Sec. 705. Effective date

Section 705 establishes an effective date for this subtitle.

Subtitle B—Personnel Matters

Sec. 711. Increase in incentive special pay for certified registered nurse anesthetists

The purpose of section 711 is to provide the Department with authority to increase annual Incentive Special Pay for military Certified Registered Nurse Anesthetists to a

maximum of $15,000. The original legislation, which authorizes a maximum Incentive Special Pay of $6,000, was effective November 29, 1989 as part of the National Defense Authorization Act for Fiscal Year 1990. This valuable program has been successful in helping maintain the number of Certified Registered Nurse Anesthetists on active duty in the Military services, however, the current Incentive Special Pay amount has not proven adequate to enable the Department to increase the number of active duty Certified Registered Nurse Anesthetists to meet staffing requirements. Shortages of Certified Registered Nurse Anesthetists nationwide continue to make it difficult for Department of Defense to attract and retain sufficient numbers of these nurses. Competition with the private sector for this highly-skilled specialty is intense, and recruitment and retention of Certified Registered Nurse Anesthetists continues to be an area of major concern for the Military Departments. The proposed change to the Incentive Special Pay maximum amount is needed so that the Department can effectively compete for this critical professional resource. At present, civilian earning potential far exceeds military compensation for Certified Registered Nurse Anesthetists, and the compensation gap continues to increase.

This provision would increase the Department's budget requirements for Incentive Special Pay for Certified Registered Nurse Anesthetists as follows:

[In millions of dollars]

DOD totals:	
Fiscal year:	
1995	+2.4
1996	+2.9
1997	+3.4
1998	+3.9
1999	+4.4

Sec. 712. Authority for nurse accession bonuses, incentive special pay for nurse anesthetists, and nurse officer candidate accession bonus

The purpose of section 712 is to provide the Department with continued authority to pay (a) a nurse accession bonus, (b) Incentive Special Pay to military Certified Registered Nurse Anesthetists, and (c) a nurse officer candidate accession bonus. The original legislation was effective November 29, 1989 as part of the National Defense Authorization Act for Fiscal Year 1990. Under current legislation, the authority for these programs will expire on September 30, 1995. Each of these valuable programs has been successful in helping the Military Departments obtain needed numbers of professional nurses on active duty. Shortages of nurses nationwide continue to make recruiting of nurses difficult in light of intense competition with the private sector. The Department believes that the effectiveness of these programs would be enhanced by their continuation. Section 712 would extend these authorities to September 30, 1998.

Resource Requirements

[In millions of dollars]

DOD totals for fiscal year:	
Nurse accession bonus:	
1994	8.0
1995	8.0
1996	8.0
1997	8.0
1998	8.0
Incentive special pay for certified registered nurse anesthetists:	
1994	4.0
1995	4.0
1996	4.0
1997	4.0
1998	4.0
Nurse candidate accession bonus:	
1994	1.0
1995	4.0
1996	4.0
1997	4.0
1998	4.0

Sec. 713. Reduction in the maximum number of years for a military member to be maintained on the temporary disability retired list

The purpose of section 713 is to reduce from five to three the maximum number of years a military member may remain on the temporary disability retired list before a final determination is made. The Department's disability evaluation system maintains a fit and vital force by separating or retiring eligible military members determined to be unfit to perform their duties because of disease or injury incurred while entitled to basic pay. When a disabling condition is unstable and the permanence of the degree of disability cannot yet be determined, the member is placed on the temporary disability retired list.

This proposed revision would reduce the number of individuals retained on the temporary disability retired list by more than 2,400, resulting in a smaller, more easily-managed list. Required temporary disability retired list re-evaluations would also be reduced by this same number, resulting in a net cost savings to the government and releasing essential medical resources to provide patient care.

The proposed revision should have no negative effect on the benefit provided to the disabled member, rather, it would shorten the period of uncertainty by providing a final determination at an earlier point in time. Very few disability ratings, even a determination for cancer, are changed after the three-year re-evaluation. This fact leads to the conclusion that three years is sufficient time to determine the permanence of a disabling condition. The proposed revision was mutually agreed upon by the Assistant Secretary of Defense (Health Affairs) and the Department of Defense Inspector General, as a result of a recent audit of the disability evaluation system.

The proposed revision should result in a net cost avoidance to the government estimated at $2.1 million yearly.

Subtitle C—Other Matter

Sec. 721. Revision of definition of dependents for purposes of health benefits

Section 721 modifies the newly enacted revision of the definition of dependents for purposes of Department of Defense health benefits found in section 702 of the National Defense Authorization Act for Fiscal Year 1994. It would authorize for the purposes of coverage in the military health care system individuals placed in the home of a member or former member by a placement agency for the purposes of adoption and make the new category of "dependents" eligible for CHAMPUS as well as military treatment facility care. The projected health care cost submitted to the Congress with the revised definition of dependent was $9.7 million. This was based on an estimate of 7,940 potential beneficiaries, with an annual cost of $1,227 per person. This proposed legislative change would be a negligible part of the original cost projection.

Sec. 722. Repeal of the statutory restriction on use of funds for abortions

Section 722 repeals section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The provision being repealed is sometimes referred to as the "Hyde Amendment".

Sec. 723. Authorization for medical and dental care of abused dependents of certain members of the uniformed services

The purpose of section 723 is to include authorization for medical and dental care of abused dependents of members of the uniformed services who are administratively discharged from a uniformed service due to a conviction under military or civil law relating to the abuse of the dependent. Members of the uniformed services who are convicted in a civilian court of an offense related to the abuse of a dependent are administratively discharged from a uniformed service. Under present law, only those abused dependents of service members who have been discharged as a result of a court-martial for the related abuse are provided access to medical and dental care for treatment of injuries or illness resulting from the abuse. Our objective is to provide equal access to care for abused dependents of members who are administratively discharged from a uniformed service as a result of a civilian conviction for abuse or who are not convicted but are discharged due to the underlying abuse. In order to eliminate this disparity, it is recommended that this proposal be enacted by the Congress.

In the Navy, over 3,000 substantiated cases of child abuse and 6,000 substantiated cases of spouse abuse have been reported for each of the past two years; similar results are expected at the end of 1992. Access to medical care for abused dependents should be based on their need for treatment as a result of the abusive behavior and should not be contingent upon the method by which the member is discharged.

The estimated cost incurred by the Department of Defense for enactment of this proposal would be negligible. Approximately $35,000 a year, based on five cases a year at $7,000 a case. This estimate is based on the costs of an actual Secretary of the Navy case.

TITLE VIII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense

Sec. 801. Order of succession in military departments

The purpose of this section 801 is to include the General Counsels of the military departments in order of succession of officers to act as the Secretary of their departments. The current orders of succession in sections 3017, 5017, and 8017 of title 10, United States Code, were established in 1986, when the General Counsels were ranked at level V of the Executive Schedule, one grade below the Assistant Secretaries for their departments. In 1991, title 10 was amended to raise the General Counsels to level IV of the Executive Schedule, equal in rank to the Assistant Secretaries. Like the Assistant Secretaries, the General Counsel's appointment is subject to confirmation by the Senate.

On December 31, 1991, an Executive Order was issued concerning the order of succession of officers to act as Secretary of Defense. The Executive Order included the General Counsels in the same rank of succession as the Assistant Secretaries. Consequently, the General Counsels of the military departments are currently included within the order of succession of officers to act as the Secretary of Defense, while they are not in-

cluded within the order of succession to act as the Secretary of their departments.

Section 801 would also establish by statute the order of succession among the Assistant Secretaries and the General Counsel of a military department. Succession would be in the order fixed by their length of service as permanent appointees in such positions. Currently, the order of succession must be prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense.

Sec. 802. Authority to prepare the official table of distances

The purpose of section 802 is to transfer responsibility for maintaining the Official Table of Distances from the Secretary of the Army to the Secretary of Defense. Current law (37 U.S.C. 404(d)(1)(A)) requires the Official Table of Distances to be prepared under the direction of the Secretary of the Army. Because this table is used to reimburse members of all the services for travel and all service finance centers have been consolidated under the Defense Finance and Accounting Service (DFAS), it is clear that the Secretary of Defense is the appropriate officer to maintain the official Table of Distances. This legislation will allow the Secretary of Defense to delegate this authority to the Director of the Per Diem, Travel, and Transportation Allowance Committee. Enactment of this legislation will not increase the budgetary requirements of the Department of Defense.

Sec. 803. Authority to conduct a program to commemorate World War II

Section 378 of the National Defense Authorization Act for Fiscal Year 1993 permits the Secretary of Defense to conduct a program to commemorate the 50th anniversary of World War II during fiscal years 1993 through 1995. Section 803 extends that authorization through fiscal year 1996.

The anniversary committee planning the 50th anniversary program proposes to end the three year celebration with a week of nation-wide events, such as displays, educational programs, ceremonies, displays, shows, and parades, culminating on Veterans Day, November 11, 1995. Because this day commemorates the 50th anniversary of the first Armistice Day after the end of World War II, it is a particularly appropriate day to mark the end of the celebration and to focus the attention of the Nation not only on our achievements during World War II but during other conflicts as well.

The extension of the program into fiscal year 1996 will also permit the final weeks of celebration to coincide with the 50th anniversary of the United Nations, tentatively set for October 24, 1995. The anniversary committee hopes to schedule a joint session of Congress immediately before or after the United Nations anniversary. This would allow many of our allies and former adversaries attending the United Nations anniversary to be present for the joint session of Congress.

This legislative proposal will not increase the budgetary requirements of the Department of Defense. Instead, the increased activities of the last week of celebration should greatly expand the opportunity for the anniversary committee to receive revenues from licensing agreements involving the use of its logo. The anniversary committee anticipates that revenue will continue to be generated throughout fiscal year 1996.

Sec. 804. Authority for the Department of Defense to share equitably the costs of claims under international armaments cooperation programs

Liability claims under cooperative agreements are very rare; however, the issue of claims sharing is often a sticking point in negotiating cooperative project agreements with nations that insist on such claims sharing. The current authority to share claims equitably has greatly facilitated the negotiation of cooperative project agreements with other nations, and has not proven to pose a financial burden on the United States.

Sec. 805. Change of title of Deputy Under Secretary of Defense for Acquisition and Technology to Principal Deputy Under Secretary of Defense for Acquisition and Technology

Section 805 is necessary to distinguish the individual responsible for exercising the powers of the Under Secretary of Defense for Acquisition and Technology from the four other Deputy Under Secretaries of Defense for Acquisition and Technology when the Under Secretary is absent or disabled. Adoption of this amendment will result in no direct expenditures by the Federal Government.

Sec. 806. Change of title of Deputy Under Secretary of Defense for Policy to Principal Deputy Under Secretary of Defense for Policy

Section 806 distinguishes the individual responsible for exercising the powers of the Under Secretary of Defense for Policy, when the Under Secretary is absent or disabled, from other Deputy Under Secretaries that are currently in the Office of the Under Secretary of Defense for Policy, or may be established in the future. Enactment of this proposal will not result in an increase in budgetary requirements for the Department of Defense.

Sec. 807. Chief Financial Officer of the Department of Defense

Section 807 amends the provisions of section 135 of title 10, United States Code, relating to the duties of the Comptroller of the Department of Defense by deleting the provisions providing that he performs the additional duty of the Chief Financial Officer of the Department of Defense. Its purpose is to revise the structure of the Office of the Comptroller to permit the assignment of the duties and responsibilities of the Department of Defense Chief Financial Officer to a position other than the Comptroller. In addition to improving the structure for compliance with the Chief Financial Officers Act, this proposal would permit the Department to more effectively focus its resources on the required actions to improve financial management in the Department. It would also provide for a more consistent alignment of the Chief Financial Officer organization within the Department to that of other Federal Agencies. Consistent with this amendment, the section amends section 5315 of title 5, United States Code to place the Chief Financial Officer at level IV of the Executive Schedule. This is the level of all other Chief Financial Officers.

Sec. 808. Change of title of Comptroller of the Department of Defense to Under Secretary of Defense (Comptroller)

Title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160:107 Stat. 1547) made the Comptroller of the Department of Defense the equivalent of an Under Secretary of Defense by elevating that official to Level III of the Executive Salary Schedule and placing the Comptroller between the Under Secretary of Defense for Policy and the Under Secretary of Defense for Personnel and Readiness in the order of precedence. However, that legislation did not formally designate the Comptroller as an Under Secretary of Defense. By redesignating the Comptroller of the Department of Defense as the Under Secretary of Defense (Comptroller), this provision establishes consistency in titles among senior Department of Defense officials and removes all doubt concerning the Comptroller's stature within the Department of Defense. Enactment of this provision will not result in an increase in budgetary requirements for the Department of Defense.

Subtitle B—Professional Military Education

Sec. 811. Authority to hire civilian faculty members for the Information Resources Management College, National Defense University

The purpose of section 811 is to add the Information Resources Management College to the list of National Defense University components eligible to employ civilian professors, instructors, and lecturers under the authority of section 1595(a) of title 10, United States Code. Because of the unique structure of the National Defense University, the wording of the current law failed to include all component parts. This proposal would remedy current law by adding the only missing component, the Information Resources Management College.

The Information Resources Management College is an integral component of the National Defense University. Public Law 101-189, enacted in 1989 and codified at 10 U.S.C. 1595, gave the National Defense University the authority to hire faculty in order to permit the colleges to recruit highly qualified faculty that might not otherwise be recruited under the General Schedule in title 5. The law defined the National Defense University as the National War College, the Industrial College of the Armed Forces, and the Armed Forces Staff College. The Information Resources Management College became the fourth college of the National Defense University in March 1990. The Institute for National Strategic Studies was added to the definition of the National Defense University in 1991 by Public Law 102-190. Thus, the Information Resources Management College is the only component now missing from the statutory definition of the National Defense University.

Nationally recognized faculty are fundamental to the intellectual development and mission of the Information Resources Management College, as well as to maintain the National Defense University's preeminence in educational excellence. Thus, the flexibility and incentives associated with title 10 are needed to attract nationally recognized faculty.

Enactment of this proposal will not result in an increase in the budgetary requirements of the Department of Defense.

Subtitle C—Education Matters

Sec. 821. Defense Department Overseas Teachers Pay and Personnel Practices Act Amendments

Section 821 would amend the Overseas Teachers Pay and Personnel Practices Act (Public Law 86-91, 20 U.S.C. 901-907) to authorize the Secretary of Defense to bring the pay of certain educator personnel employed by the Department of Defense Dependents Schools into parity with their counterparts in U.S. public schools and eliminate a pay inequity between these employees and their

classroom teacher colleagues, and would make certain technical and conforming amendments.

Section 521(1) and (2) would modify 20 U.S.C. §901 and §903 to afford discretion to the Secretary of Defense to redesignate certain General Schedule (GS) educational program management positions as "teaching positions" (TPs) administered under the TP pay provisions of the Overseas Teachers Pay and Personnel Practices Act. Currently the TP pay system applies only to positions "performed on a school year basis principally in a school" (i.e., teaching positions with a 10-month work year). Under the Overseas Teachers Pay and Personnel Practices Act, the Secretary determines base pay of TP employees by reference to an annual wage survey of urban public school jurisdictions serving populations of 100,000 or more. Consequently, base pay for TPs under the TP pay system have risen faster than pay for educational program manager personnel employed in the GS (including educational coordinators and other educational specialist holding positions generally classified at the GS-11 or GS-12 level). The GS educational program management employees work a 12-month work year and perform work that is critical to the school level teacher, but their work is not conducted "principally in school." Section 521, if enacted will eliminate the pay inequity that currently has certain GS educational program management employees earning a lower daily rate of pay (because of their longer work year) than the classroom teacher they are required to coordinate. This section of the bill would permit the Secretary to prescribe which educational program manager personnel should be classified as "teaching positions" and paid on the basis of comparability with the salaries and personnel practices of surveyed urban school jurisdictions. This section will bring the pay of any redesignated educational program management position overseas into parity with their counterparts in surveyed urban school jurisdictions in the United States of 100,000 or more population. The redesignation if selected overseas educator positions will facilitate the movement of school level teachers into critical educational program management positions.

Section 521(3)(A) would permit the Secretary of Defense to prescribe regulations by which to increase leave from 10 days for teachers who work the standard 190-day teacher work year to 13 days of leave for educational program manager personnel who would be converted by this bill to "teaching positions" under the Overseas Teachers Pay and Personnel Practices Act and who would be employed for a longer work year. Personnel who move from the GS to the TP pay system would be moving from a system that authorizes up to 30 days of annual leave, to a system that currently authorizes only 10 days, predicated upon a standard 190-day teacher work year. The positions that are converted to the TP system will typically require more than 190 work days. This provision creates leave equity between personnel on the TP pay system who would work longer work years.

Sections 521(2) and (3)(B) conform the provisions of the Overseas Teachers Pay and Personnel Practices Act to the language of the subsequently enacted Public Law 95-561 (20 U.S.C. §921-932). These sections place pay and personnel practices under the control of the Secretary of Defense, consistent with the requirements of Public Law 95-561 (specifically 20 U.S.C. §222) which removes those duties from the Military Department secretaries.

Sec. 822. Adjustment of pay of certain overseas educators

Section 822 amends Section 5334 of title 5, United States Code, to permit a flexible, rather than a fixed, adjustment of pay when an overseas educator employed on a school-year basis under the provisions of the Defense Department Overseas Teachers Pay and Personnel Practices Act moves to an educator position established on a calendar-year basis under the General Schedule (GS). Current law recognizes an increase of approximately one-fifth in the work year of an educator required to move from a 190 duty day Overseas Teachers Pay and Personnel Practices Act position (about 180 actual work days after adjustments for leave and holidays) to a 260-day calendar year position (about 217 actual work days after adjustments for accrued leave and paid holidays) by authorizing the fixing of GS pay at a rate equal to the Overseas Teachers Pay and Personnel Practices Act rate plus a fixed 20 percent. The inflexibility of the current law requires the same 20 percent increase when an educator, such as a principal, with a 222 day work-year is appointed to a 260-day GS position. This section would bring flexibility to the current law by permitting the Secretary to issue regulations by which to equitably adjust pay for personnel moving from the Overseas Teachers Pay and Personnel Practices Act to the GS pay schedule by an amount not to exceed 20 percent.

Sec. 823. Reauthorization of United States Department of Defense elementary and secondary schools for dependents

Section 823 would provide title 10 authority for the Secretary of Defense in a similar manner as such authority currently is resident in Section 6 of Public Law 81-874, as amended (20 U.S.C. 241), and Section 505(c) of Public Law 97-35 (20 U.S.C. 241 note). Public Law 81-874 and Public Law 97-35 authorize establishment of Section 6 arrangements for the purpose of providing public education for eligible federally-connected children. The Department of Education has proposed legislation, the "Impact Aid Amendments of 1993" that would reauthorize the Impact Aid program while at the same time repealing section 6 of Public Law 81-874 and 505(c) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). The proposed section would continue the authority that otherwise would be terminated by the enactment of the Impact Aid Amendments of 1993.

The proposed section 823 substantially is the same as that currently resident in the law. It contains one additional authority—the authority to the Secretary of Defense to fix the compensation of employees. Subsection (e)(3) of the proposed section 2163 of title 10 would authorize the Secretary of Defense to fix such compensation but only after considering compensation for comparable employees at educational institutions in the capitol of the state where the school is located, the school district for the governmental agency that provides public education to students who live next door to the military installation involved, and the average compensation for similar positions in up to three other school districts in the State where the installation is located.

Subtitle D—Other Matters

Sec. 831. Clarification and expansion of authority of the Department of Defense to receive voluntary services

Section 831 amends section 1588 of title 10, United States Code, to expand the areas in which volunteers can provide services in military communities. Under the amendment, volunteers are considered government employees for the purposes of compensation for work related injuries, tort liability, access to records, and conflict of interest restrictions.

The section expands the current authority of the military departments to receive voluntary services and permits volunteers in medical treatment facilities, child development centers, recreational facilities, schools, and other programs and facilities where volunteers routinely provide services in the civilian communities. The section provides the military departments valuable services, while ensuring that the volunteers are properly trained and supervised and are protected from suit under the provisions of the Federal Tort Claims Act and other applicable claims statutes.

Sec. 832. Repeal of prohibition of contracting for firefighting and security guard functions at military facilities

The purpose of section 832 is to repeal section 2465 of title 10, United States Code, to authorize the Department of Defense to enter into contracts for firefighting and security guard functions at military installations and facilities.

The Department of Defense has been prohibited from contracting for security guards and firefighters since 1983. This broad prohibition has three limited exceptions:

a. when the contract is to be performed overseas;

b. when the contract is to be performed on Government-owned but privately operated installations; and

c. when the contract (or a renewal of the contract) is for the performance of a function under contract on September 24, 1983.

Prior to 1983, firefighting and security guard functions were successfully contracted out. The reason for the current statutory restriction is unclear.

The prohibition against contracting for firefighting and security guard functions prevents the Department of Defense from realizing savings in circumstances where private firms or state or local governments might provide the services at a lower cost. It also prohibits commanders from obtaining contract services for temporary requirements at remote locations or at leased facilities outside military installations.

The importance of repealing section 2465 is underscored by the imminent closure or realignment of many installations. The Department of Defense must maintain firefighting and security guard functions at many installations which are substantially closed. A study of the costs associated with providing firefighters and security guards at Fort Wingate Depot Activity (FWDA), New Mexico, provides an example of the problem that section 2465 presents.

In 1993, FWDA will move into a "caretaker" status. Prior to the disposition of the property, there will be a requirement for firefighters and security guards. Surveys indicate a number of firms are available to provide firefighting and security guard protection for an estimated $110,000 annually. The United States Army Materiel Command estimates that contracting for these functions would save $474,000 annually.

The repeal of section 2465 will not automatically result in the elimination of civilian firefighters or security guards from the Government work force. Reductions in force may occur as a result of commercial activities cost competitions performed under chapter 146 of title 10 and OMB Circular A-76. In accordance with existing procedures, the Department of the Army provides Congres-

sional notification of the intent to study specific functions, and will continue to provide the results of cost comparisons. Separations from Federal Service may result from the development of the most efficient in-house organization, an agreement to receive services from another government instrumentality, or a contract with the private sector when the costs are lower than that estimated for in-house performance. The policy of requiring contractors to offer displaced Government employees the right of first refusal for comparable employment with the contractor will continue to be enforced.

OMB Circular A-76 specifically recognizes that firefighting and security functions are Government functions that can be the subject of a cost comparison study and contracted out if a contractor can provide services effectively and at a lower cost than an in-house organization. Firefighting and security functions with the Department of Defense are no different than other similar functions in the Department and other federal agencies. The Department of Defense is unaware of any rationale for excluding firefighting and security functions from the Government-wide process of determining the least expensive method for performing Government work.

While exact savings across services are difficult to assess, contracting for the estimated 6,500 civilian firefighters and security guards within the Department of the Army alone could potentially save an estimated $50 million annually.

Sec. 833. Statute of limitations for claims under the Fair Labor Standards Act

Section 833 specifies the statute of limitations period as 2-years in order to comply with the Fair Labor Standards Act 2-year limitation. This will end the conflict over the general statute of limitations (6 years) versus the Fair Labor Standards Act statute of limitation (2 years) and assist us in limiting retroactive back pay claims to the 2-year period.

TITLE IX—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 901. Exemption of certain routine adjustments of pay from due process provisions

The Debt Collection Act of 1982 (Public Law Number 97-365; 96 Stat. 1749) provides for due process safeguards prior to salary offset under section 5514 of title 5 of the United States Code. These rights include (1) a minimum of 30 days' written notice, (2) the opportunity to inspect and copy Government records relating to the debt, (3) the opportunity to enter into a written repayment agreement, and (4) the right to a hearing. The proposed language amending section 5514 exempts from these procedures those routine intra-agency adjustments of pay that are attributable to administrative or clerical errors or delays in the processing of pay documents that have accrued within the four pay periods preceding the adjustment and to any adjustment that amounts to 50 dollars or less. Substituted therefor is the requirement that, at the time of the adjustment or as soon thereafter as practical, the individual be provided written notice of the nature and the amount of the adjustment and a point of contact for questioning or contesting such adjustment.

The Department's employees are paid a wide number of complex payroll benefits. The nature of these benefits and entitlements is such that complex interpretations are sometimes involved with the accurate and timely pay of the work force. Examples of these types of transactions include overtime pay conditions, environmental entitlements, leave accruals and base pay changes under various changing circumstances. Because of the rather complex rules, the large numbers of employees involved, and a work force that is located worldwide, the need for clerical or administrative adjustments each time a payroll is prepared is inevitable. As a result even a very small percentage of these types of adjustments could generate a significant workload subject to the Debt Collection Act.

The Department is working towards the implementation of modern business systems that will further minimize these type of adjustments. However, since human nature is involved with determining entitlements and calculating benefits, adjustments of this type will probably always exist to some extent. Although the amounts are every minimal, the application of full due-process protection could impose a substantial workload at a time when the Department is attempting to scale back on its work force. The intent of the Debt Collection Act is to provide safeguards for employees where significant amounts are owed. Applying the provisions of the Act to minimal amounts due as described above could work to subvert the Administration's efforts in streamlining government operations. This is not to say that the Department of Defense advocates the elimination of all due process safeguards when making such routine adjustments. It should be noted that in its proposed amendment to 5 U.S.C., section 5514, the Department of Defense has provided for written notice of the nature and amount of the adjustment and a point of contact for questioning or contesting such adjustments.

In summary, although the legislative history of the Debt Collection Act of 1982 indicates that its primary purpose was to enhance the capability of federal agencies to collect money or property owed to them, it also provides a number of new procedures and safeguards designed to assure that alleged debtors will be provided appropriate due process protections. Applying the full panoply of such safeguards to routine adjustments in pay, however, will actually frustrate the Act's primary purpose because other costs of collecting such overpayments will exceed recovery.

The enactment of this proposal will cause no apparent increase and should, in fact, decrease the budgetary requirements of the Department of Defense.

Sec. 902. Contract Disputes Act amendment relating to payment of interest on contractor claims

Section 902 amends section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) by striking out the first sentence, which provides that interest found due on a contractor's claim shall be paid from the date the contracting officer receives the claim, and inserting in lieu thereof a new sentence providing that such time shall run from the date the contracting officer receives the claim or the date payment otherwise would be due, if that date is later, until the date of payment.

Section 902 would overrule the case of *Servidone Construction Corp.* v. *United States*, 931 F.2d 860 (Fed. Cir. 1991) and avoid the windfall created when interest on a claim is charged for costs not yet incurred and thus not the subject of a payment request to the Government. It would also make the interest provision of the Contract Disputes Act of 1978 (P.L. 95-563) consistent with Federal Acquisition Regulation (FAR) 33.208 and the general concept of prejudgment interest, as articulated by the Supreme Court.

Section 12 of the Contract Disputes Act provides that interest found due on a contractor's claim shall be paid from the date the contracting officer receives the claim. In the case mentioned above the Court of Appeals for the Federal Circuit recently interpreted this provision to require the Government to pay interest on claimed costs from the date the contracting officer received the claim, even though the contractor had not yet incurred the costs at the time he submitted the claim.

The current provision allows contractors to receive a windfall payment of interest on claimed costs not yet incurred. Apparently, this windfall was based on the desire to have a "single date" for calculating interest on all amounts due by a court decision without regard to when the contractor actually incurred the costs.

If enacted, this proposal would not increase the budgetary requirements of the Department of Defense.

Subtitle B—Civilian Employee Pay Matters

Sec. 911. Expiring authorities

Section 911 extends certain civilian personnel drawdown authorities (special RIF notification rules, separation pay, and continued health benefits) for two years in the outyears. This would parallel the extension to certain military drawdown authorities that was enacted in the FY 1994 Authorization Act. In addition, under current law, employees at bases which close between October 1, 1992 and December 31, 1997 may carry over unlimited annual leave from one year to the next. Some installations designated for closure by the 1993 Base Realignment and Closure Commission (BRAC) will not close until 1998. This section extends the annual leave carry-over provisions to employees at any installation closed through the BRAC process.

The extension of RIF notification and leave restoration will result in no cost. Congress appropriated $70 million in FY 1993 and $100 million in FY 1994 for civilian separation pay. We should be able to absorb the cost of extending separation pay by avoiding the cost of severance pay, health insurance, and unemployment compensation. Our estimate of the cost of continued health benefits is $12 million per year.

Sec. 912. Travel, transportation, and relocation expenses of employees transferred from the Department of Defense to the Postal Service

Under title 5, Federal agencies may pay the cost of travel, transportation and location for employees scheduled for separation when the employee is selected for a position with another Federal agency. The Postal Service is not considered a Federal agency for this purpose. We have had several instances where employees who were facing involuntary separation because of reduction in force or base closure were selected for positions with the Postal Service in a different geographic location. Because we have no authority to pay travel related expenses, and because the employees could not afford the move, they were separated. As a result, the Department incurred the cost of severance pay, unemployment compensation, and continued health insurance. Allowing these payments will offset the costs.

Sec. 913. Limitation of Severance Pay for Certain Civilian Employees who are employed by Nonappropriated Funds

Section 913 is needed to prevent appropriated fund employees from immediately re-

ceiving severance pay upon movement to nonappropriated fund positions under the pay and benefits protections of the Portability of Benefits for Nonappropriated Fund Employees Act of 1990. These employees continue to be employed with little or no loss in benefits. Employees who are vested in a civil service retirement plan are given the option to remain in that plan with a goal of receiving a civil service retirement annuity. Under these circumstances, immediate entitlement to severance pay is not warranted and represents an unjust enrichment.

Under the proposed legislation, entitlement to appropriated fund severance pay would be suspended until the employee is involuntarily separated from nonappropriated fund employment. If the employee involuntarily is separated from nonappropriated fund employment, the original appropriated fund severance pay entitlement would resume. Under the proposed new section, eligibility for appropriated fund severance pay would not resume if the employee is eligible for an immediate annuity from a nonappropriated fund civil service or military retirement system at the time of the separation from nonappropriated fund employment. The legislation also prevents an employee from receiving appropriated fund and nonappropriated fund severance pay for the same period of appropriated fund service, in the same amounts. Regulations will be written by the Department of Defense in consultation with the Department of Transportation to implement the legislation upon enactment.

Subtitle C—Other Matters

Sec. 921. National Guard youth programs

The purpose of section 921 is to authorize the National Guard to provide limited assistance to certain youth and other organizations in conjunction with training. This initiative would enhance the involvement of the National Guard with youth in the local communities while contributing to social needs for constructive activities for America's young people.

This section would authorize members or units of the National Guard to provide certain assistance to specified youth and other organizations in conjunction with training if the provision of such services does not degrade the quality of the training or otherwise interfere with the ability of any unit to perform its military functions; the services provided are not commercially available or commercial entities affected have agreed in writing not to object; and the assistance does not materially increase the cost of the training activities services which could be provided would include ground transportation; limited air transportation in support of the Special Olympics; administrative support; technical training; emergency medical assistance; communications; and security support.

This section will not result in an increase in the budgetary outlays of the Department of Defense. The activities authorized would be carried out within funding appropriated for the public affairs and youth program activities of the National Guard.

Sec. 922. Protection from unauthorized use of the name "Defense Mapping Agency"

As part of its mandated charter, the Defense Mapping Agency provides accurate and inexpensive aids for navigators (10 U.S.C. 2791). Further, it prepares maps, charts and nautical books (10 U.S.C. 2792). The authenticity of this material must be protected.

Certain DMA mapping, charting and geodesy (MC&G) nautical and aeronautical products are needed and used by the general public. DMA accommodates this need through an extensive public sale program. It is crucial that end users rely on the most current and accurate products available to assure safety of navigation. This currency and accuracy of various publicly available products is increasingly difficult in the digital data era since DMA's paper, or "hard copy" products can be obtained and easily transformed into digital products or copied onto video or laser disks for distribution, modification or alteration.

The section is modeled after section 202 of title 10, United States Code, which provides similar protection for the Defense Intelligence Agency, the initials "DIA" and the official seal and emblem. No judicial, executive or Administrative provisions would be overturned or affected by this change.

Sec. 923. Limitation of liability for any navigational aid prepared or disseminated by the Defense Mapping Agency

Section 923 amends chapter 147 of title 10, United States Code, by adding a new section to grant the Defense Mapping Agency an express exemption from liability associated with the preparation or dissemination of its products, in whatever form. This language would make clear that the activities of the Defense Mapping Agency in the preparation and production of maps, charts, aids to navigation, publications, products and information are expressly exempt from any claim or action.

DMA is a combat support agency of the Department of Defense. Its mission is to produce topographic, aeronautical and nautical maps, charts and other publications in hardcopy and softcopy versions to support United States warfighters. However, many of its products are used by mariners navigating vessels around the world.

DMA relies heavily upon nautical and aeronautical products and information of other countries. A tremendous quantity of information is processed in preparing and distributing thousands of maps and charts and related information. DMA exercises great care to ensure the accuracy of all its products. Since DMA cannot independently verify all the information supplied by foreign sources it is unreasonable to subject the United States to unlimited liability in the production and distribution of these many products.

For example, in the case of *Hyundai Merchant Marine Co., Ltd. at. al. v. United States*, the HYUNDAI NEW WORLD, a 200,000 deadweight ton bulk cargo carrier, stranded in the Bay of Sao Marcos, Brazil, on 31 March 1987, resulting in a total loss of ship and cargo. The ship owner, cargo owners and underwriters of same, sued the United States for negligence alleging that the navigators of HYUNDAI NEW WORLD were using DMA chart 2471 (A DMA facsimile of a Brazilian chart) containing errors and omissions which were the cause of the stranding. The potential damages to date are estimated at $60 million.

This proposed statutory language would make it clear that the activities of the Defense Mapping Agency in the preparation and production of maps, charts, aids to navigation, publications, products and information, in whatever form, primarily for use of U.S. warfighters, are expressly exempt from any claim or cause of action.

Sec. 924. Reorganization of the Air Force liaison with the Civil Air Patrol

Section 924 amends section 9441 of title 10, United States Code, to reorganize the Air Force liaison with the Civil Air Patrol. The section adds a new paragraph (b)(12), which authorizes the Secretary of the Air Force to reimburse the Civil Air Patrol the cost of maintaining the staff at the Civil Air Patrol National Headquarters. The section also adds a new subsection (d), which authorizes the Secretary of the Air Force to detail retired members as liaison or administrators to the Civil Air Patrol and provides that these retired members will receive as compensation not more than the difference between their retired pay and the active duty pay and allowances they would receive if ordered to active duty in the grade and rank in which they retired. It further provides that duty with the Civil Air Patrol by such retired members is not to be considered active duty or inactive duty training for any purpose.

Sec. 925. Informed consent of persons participating in human medical research

Section 925 amends section 980 of title 10, United States Code, concerning the use of humans in experimental research. Currently, the subject must provide informed consent. In the case of an incompetent person, a legal representative may provide consent if the research is intended to be beneficial to the subject. Section 925 permits an incompetent person's representative to consent to research that is not specifically intended to be beneficial to the subject, but which would be of minimal or no risk and could be beneficial to the subject or to others.

Sec. 926. Military-to-military contacts and comparable activities

This section amends Chapter 6 of title 10, United States Code, by adding a new section providing permanent statutory authority for the Secretary of Defense to conduct Military-to-Military Contacts and Comparable Activities. The section extends language in the Department of Defense FY 1994 Authorization Act which applies only to FY 1994. Currently, Defense and Military Contacts also are authorized under the Cooperative Threat Reduction (Nunn-Lugar) legislation solely for States of the Former Soviet Union.

Funds appropriated under this new section may be provided to a CINC on request, an officer designated by the Chairman of the Joint Chiefs of Staff, or to a Department of Defense component implementing Military-to-Military Contact activities. The new section identifies activities to be supported in order to promote the democratic orientation of the civilian defense establishments and military forces of other countries. These activities are fully coordinated with other US agencies and undertaken with the full support of State Department representatives in host countries. The legislation provides that activities may not be conducted with any foreign country unless the Secretary of State approves such activities. The legislation also provides for funds appropriated for these activities to reimburse pay and allowance accounts to fund National Guard and Reserve personnel participating in regional and bilateral exchange familiarization programs, such as the National Guard's "Partnership State" program. The program links the National Guards of selected U.S. States to appropriate military organizations within selected emerging democracies in Central and Eastern Europe.

In FY 1994, Congress authorized and appropriated $10 million for Military-to-Military Contacts and Comparable Activities. The Conferees, however, recognized that these funds would only serve as a "bridge until Congress can take up the broader issue of the permanent level and scope of such contacts".

The proposed legislation for FY 1995 is required to continue this program annually.

This program recognizes that the Department of Defense has unique skills to assist foreign defense establishments in consolidating civilian control of their militaries, and developing respect for and adherence to democratic principles and practice. U.S. defense personnel dispatched to a host nation can encourage these goals through working closely with their counterparts in areas such as defense planning, programming and budgeting, defense personnel and resource management, civil-military relations, military justice and legal systems, military medicine, and other related defense issues. These activities generally will be undertaken through Military Liaison Teams (MLT) stationed in the host countries, supplemented by Traveling Contract Teams whose visits are coordinated by the MLT. This approach was initiated in Central and Eastern Europe in FY 1991–92 and is expected to continue in this area through FY 1996. Thereafter, the functions of these teams are expected to be absorbed into the regular, ongoing activities of the Defense Attache Officers and Security Assistance Officers.

A critical component of the Military-to-Military Contact program in Central and Eastern Europe is the U.S. National Guard and Reserve. These personnel bring essential skills from both the military and civilian sectors to the tasks of democratizing foreign defense establishments and their militaries. Through Reserve contact programs, such as the "Partnership State" program, and other regional and bilateral exchange and familiarization programs, these citizen-soldiers link the military and civilian personnel of the defense establishments of democratizing nations to grass roots America at the State level in institutional and people-to-people relationships. For FY 1994, no funds were authorized to provide pay and allowances for Guard and Reserve personnel in this program. In FY 1995, this proposal will allow reimbursement from Military-to-Military Contact program funds to military appropriations accounts for pay and allowances for U.S. National Guard and Reserve participants.

Enactment of this proposal will support the Administration's FY 1995 request for $46.3 million to support Military-to-Military Contacts and Comparable Activities. These funds will be managed by the Joint Staff with policy direction and oversight by the Secretary of Defense through the Under Secretary of Defense for Policy.

Sec. 927. Purchase of vessels for the Ready Reserve Force

The Ready Reserve Force (RRF) provided a vital strategic sealift capability in the Persian Gulf War. Failure to fully fund the RRF in FY 1995 could lead to loss of critical strategic mobility capability required for future overseas military interventions. It is essential to assure a high degree of strategic mobility readiness, for the critical force deployment requirements identified in the Bottom-Up Review and the Mobility Requirements Study, by acquiring additional shipping. The forthcoming update to the Mobility Requirements Study will further substantiate the requirements for these essential strategic mobility forces. The proposed legislation is required to ensure that funding allocated for RRF enhancement in FY 1995 can be obligated for purposes in which it was intended.

Sec. 928. Technical Amendment to Authorize Implementation of Junior Reserve Officers' Training Corps Program Expansion

This amendment is a technical amendment to permit the Department of Defense to meet the Congressional intent of section 533 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484, October 23, 1992; 106 Stat. 2315 at 2411). That section instituted a Junior Reserve Officers' Training Corps which with funding authorizations in Fiscal Years 1993 and 1994 necessitated increases substantially in excess of the statutorily mandated provisions of section 2031(a)(1) of title 10, United States Code. Section 928 required an increase in the number of JROTC units from 1,600 to 3,500. The 200 annual limitation on additional units in section 2031 precludes the Department of Defense from meeting the Congressional guidelines recently imposed. This technical correction will enable the Department of Defense to meet the congressional mandates in this area.

TITLE X—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Sec. 1001. Extension of authority to acquire logistic support for forces deployed outside the United States to authority to acquire from the United Nations or regional organizations of which the United States is a member

This section extends the authority to acquire logistical support from the United Nations or any regional organization of which the United States is a member in support of humanitarian or peacekeeping operations such as the United Nations sanctioned operation in Somalia. Experience during the U.S. led operation in Somalia, the blockade of Haiti and the sea blockade of the former Yugoslavia has shown that the U.S. needs more flexibility in obtaining support from the United Nations and regional organizations. This authority is not as critical in United Nations assessed operations where all support is provided through the United Nations but is critical to participation in voluntary operations in which logistic support is a national responsibility. An example of this requirement would have been the capability to obtain support for various common support items such as water from the United Nations during the initial stages of the U.S. led operation in Somalia (UNITAF).

Sec. 1002. Extension of authority to enter into cross servicing agreements to authority to enter into agreements with the United Nations organization or any regional organizations of which the United States is a member

This section is similar to Section 1001 except that it allows the United States to provide support on a reciprocal basis to the United Nations and other regional organizations. This authority allows for the United Nations to designate lead logistics support nations for various support commodities, thereby reducing the requirement for each nation to maintain duplicative force structure and reducing overall costs through economies of scale.

Sec. 1003. Method of payment for acquisitions and transfers

This section requires modification to incorporate the United Nations or regional international organizations of which the United States as organizations to which the present legal basis for the method of payment for acquisitions and transfers applies. Technical change to incorporate extension of acquisition and cross-servicing authority to those organizations.

Sec. 1004. Limitation on amounts that may be obligated or accrued

This section has a dual purpose. The first reason is to include the United Nations and other regional organizations under the legal ceilings for obligations and accruals. The second, and most important, purpose of this section is to change the manner in which dollar ceilings are applied during contingency operations. The current language states that dollar limitations remain in place until the determination of active hostilities. Application of these limitations to extended military activities short of a state of declared hostilities could prevent use of these authorities when they are most needed. Therefore, it is proposed that the dollar limitations be waived during contingency operations (as defined in section 101(a)(13), chapter 1 of title 10, United States Code). United States Armed Forces participating in multinational operations, like Operation Desert Shield/Storm and Operation Restore Hope, could benefit from this proposal by taking advantage of available coalition resources during activities conducted leading up to or that fall short of active hostilities.

Sec. 1005. Definitions

This section permits deployed United States armed forces to loan or borrow general purpose vehicles and other items of military equipment which would not affect readiness. The authority to temporarily exchange logistic support of this nature with designated countries and international organizations would facilitate greater cooperation during an exercise or military operation. An example would be loaning general purpose vehicles to a designated nation during a joint exercise conducted at a U.S. military base. The section also clarifies several points concerning the basic legislation to include the provision of airlift services in those cases where a Cooperative Airlift Agreement does not exist and defines calibration services as an allowed logistic support service.

Sec. 1006. Effective date

This section specifies the effective date for which any acquisitions or transfers of logistic support, supplies and services undertaken under the authority of this subchapter shall be effective.

TITLE XI—PEACEKEEPING AND RELATED MATTERS

Sec. 1101. Assistance to international peacekeeping and peace enforcement activities

Section 1101 authorizes the President to provide assistance including, but not limited to, personnel, supplies, services, and equipment, in support of international peacekeeping and peace enforcement activities. The section further authorizes the President to pay assessments on behalf of the United States to the United Nations.

This authority is parallel to the peacekeeping authority in the Foreign assistance Act and is the foundation for the Department of Defense's responsibilities under "shared responsibility." under the "shared responsibility" model as it is expected to be implemented by executive order, State would have lead responsibility for managing and funding traditional non-combat Chapter VI peacekeeping activities that do not involve U.S. combat units. The Department of Defense would have lead responsibility for managing and funding all Chapter VII peace enforcement operations and those traditional non-combat Chapter VI peacekeeping operations with U.S. combat units. (In order for the Department of Defense to have lead responsibility for managing and funding these operations, the legislation proposes a DOD CIPA account, as described below.)

Section 1101 provides that the President shall require reimbursement to the United

States for the agreed costs of any peacekeeping assistance provided pursuant to this authority. The legislation would, however, allow the exception that the President may waive, in whole or in part, reimbursement in exceptional circumstances and when it is in the national interest. The legislation would provide further, that reimbursements from the United Nations may be credited against the United States Government's share of any assessment due and owing after the Department of Defense has been reimbursed for its incremental costs (subject to section (c)(1)).

Section (c)(1) of the legislation outlines the order in which agencies of the United States Government are to be reimbursed for assistance provided to international peacekeeping and peace enforcement activities. Any reimbursement received shall first be used to reimburse the appropriate department of the Department of Defense for any incremental costs. At the option of the appropriate department of the Department of Defense, the reimbursement shall be credited either to the appropriation, fund, or account from which the obligation was incurred or to a currently available like account.

The legislation would create in the Treasury of the United States an account, Contributions for International Peacekeeping and Peace Enforcement Activities Fund, parallel to the State CIPA account, which can be used only for purpose of paying assessments on behalf of the United States for United Nations operations made under this section. Reimbursements in excess of the incremental costs may be credited to this account. The legislation makes clear that funds appropriated or deposited into this account shall remain available until expended.

The legislation would require the President to submit to Congress an annual report on international peacekeeping and peace enforcement activities supported under the authority of this section during the previous fiscal year. The report would be due no later than 1 February of each year and would include descriptions of each international peacekeeping and peace enforcement activity supported under the authority of this section, the type of assistance provided under the authority of this section, and the dollar value, by activity supported, of all assistance provided, reimbursements received, reimbursements waived, credits taken, and obligations incurred in the Contributions for International Peacekeeping and Peace Enforcement Activities Fund under the authority of this section.

Finally, this legislation authorizes the appropriation of funds to the Department of Defense to pay assessments as authorized under this section with the limitation that such payments may be provided from the Contributions for International Peacekeeping and Peace Enforcement Activities Fund only for those activities for which the Secretary of Defense has primary responsibility.

TITLE XIII—COUNTERPROLIFERATION

Sec. 1201. Extension and amendment of counterproliferation authorities

Section 1201(a) would permanently extend the International Nonproliferation Initiative contained in Section 1505 of the "Weapons of Mass Destruction of 1992 as amended." In addition, it would broaden the Department's authority to work with international organizations to ensure more effective safeguards against proliferation and more aggressive verification of compliance with international agreements on nonproliferation. It would also authorize the Department to participate in technical projects and information sharing programs related to biological, chemical, and missile proliferation. Current law permits participation in such programs in the area of nuclear proliferation.

This section would also authorize the Department to provide assistance and support in the destruction and elimination of weapons of mass destruction. Activities of this nature demonstrate United States willingness to assist other nations to dismantle weapons of mass destruction. As new arms control or assistance agreements come into effect, such efforts could increase, especially in the chemical, biological, and ballistic missile weapons arena.

Section 1201(b) would permanently extend authority contained in title XVI of the fiscal year 1994 National Defense Authorization Act for the Department to initiate Counterproliferation Policy research and proliferation analysis programs to support the Department's Counterproliferation activities.

Section 1201(c) would authorize in addition to funds otherwise available, funding of $30,159,000 for fiscal year 1995 for the purposes of conducting Counterproliferation activities.

TITLE XIII—ACQUISITION REFORM

Sec. 1301. Amendment to research authorities

This proposed language amends Section 2358 of title 10, as amended by Section 827 of the National Defense Authorization Act for Fiscal Year 1994, essentially to delete "other transactions" as a type of instrument that may be unqualifiedly used for all research and development. The Department believes that the unique authority to enter into "other transactions," granted by Congress under 10 U.S.C. §2371, was intended to provide a specialized authority primarily for advanced research purposes. This authority should not, at this time, be broadened to apply to Department-wide development projects.

Other, clarifying language changes are also proposed. For example, the authority of section 2371 would be extended to apply to the Secretaries of the military departments and such other elements of the Department of Defense as the Secretary of Defense may designate. However, the authority of subsection (d) to establish separate accounts on the Treasury books has been deleted because, under the broadened statute, it could lead to a proliferation of such accounts. Instead, proposed subsection (b)(2) would provide authority to credit such reimbursements to applicable appropriations.

This proposed language also makes a corresponding amendment to section 2371 of title 10, United States Code, to reinstate "other transactions" and "cooperative agreements" as the sole types of instruments that may be used to implement the authority of section 2371, including its unique authority to merge funds.

Sec. 1302. Amendment of acquisition laws relating to industrial mobilization

Section 1302 amends a newly-created statue, section 2373 of title 10, United States Code, relating to procurement for experimental purposes. The newly-created statute had consolidated and modernized previously existing Army and Air Force unique authorities at sections 4504 and 9504 of title 10. Under those prior statutory sections, these services had authority to procure limited items on a experimental basis, with or without competitive bidding when not purchased in quantity. When enacted in the National Defense Authorization Act for Fiscal Year 1994, however, this competition exception was deleted. To ensure that the new, consolidated statute remains coextensive with these prior, service-specific authorities that were the basis for the new statute, the proposed amendment reinstates the competition exception.

Section 2538 of title 19, United States Code, authorizes the President, through the Secretary of Defense, to order the production of necessary products or materials and to take possession of plants required for the production of arms, ammunition, or necessary supplies for the armed forces during time of war or when war is imminent. Section 1302(b) would amend a newly enacted authority to sell to add "rent" as a method of disposition and to provide that the government shall negotiate for the appropriate disposition of resultant data when it makes available the use of test facilities to private entities. Section 1302(d) would amend sections 2538 (a) and (c) to expand the President's authority to act through the head of any department, including civilian agencies.

Sec. 1303. Disposition of naval vessels

Current statutory provisions at 10 U.S.C. 7304, 7305, 7307, 7308, and 7309 provide authority for the disposition of naval vessels. Specifically, under current law:

Section 7304 provides that the Secretary of the Navy shall designate boards of naval officers to examine naval vessels at least every three years, and recommend which, if any, shall be found unfit for service and stricken from the Naval Vessel Register.

Section 7305 provides that the Secretary of the Navy shall appraise stricken vessels. When in the national interest, the Secretary is directed to offer the vessel for sale. A detailed advertisement and bid procedure is to be utilized when offering such vessels for sale. That procedure requires a three month advertisement period, a 10% of bid deposit, other manner or for less than the appraised value unless the President directs in writing. These provisions do not apply to vessels whose disposition is authority by the federal Property and Administrative Services Act.

Section 7306 provides that the Secretary of the Navy, with presidential approval, may use any stricken vessel for experimental purposes when in the best interests of the U.S. The Secretary must carry out such stripping of the vessel as is practicable before use for experimental purposes, with stripping proceeds credited to applicable appropriations.

Section 7307 provides that notwithstanding any other provision of law, no battleship, aircraft carrier, cruiser, destroyer or submarine may be sold, transferred, or otherwise disposed of unless the chief of Naval Operations certifies that it is not essential to the national defense. It further provides that, after August 5, 1974, no vessel in excess of 3,000 tons or less than 20 years of age may be sold or otherwise disposed of to another nation unless such disposition has been approved by law. It also provides that, after August 5, 1974, any other type of naval vessel may be sold or otherwise disposed of to a foreign nation only after notification to the Senate and House Armed Services Committees and after expiration of 30 days continuous session of the Congress.

Section 7308 provides that, subject to certain provision in the Federal Property and Administrative Services Act of 1949, the Secretary of the Navy may transfer by gift or under such terms as the Secretary prescribes, any obsolete, condemned or captured naval vessel to any State, Territory, Commonwealth or U.S. possession, any municipal corporation or political subdivision thereof, the District of Columbia or any non-profit or

not for profit entity. Each transfer agreement must provide that the transfer shall be without cost to the government and that the vessel will be maintained in a condition satisfactory to the Navy. The section also contains a 60 day congressional notice requirement.

Section 1303 consolidates these previously existing authorities relating to disposition of naval vessels. With the exception of a redundant congressional notification period in 10 U.S.C. 7307 (the same notification is obtained by numerous other statutes), the proposal retains the substance of the prior authorities in their entirety. It also adds an indemnification requirement.

Sec. 1304. Contract for fuel storage and management

This section makes a technical language change to an authority to contract for the storage or management of liquid fuels or natural gas. By making the authority disjunctive, the agency may contract for either item separately.●

By Mr. BUMPERS (by request):

S. 2060. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. BUMPERS (for himself and Mr. HATFIELD) (by request):

S. 2061. A bill to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies; to the Committee on Small Business.

SMALL BUSINESS LEGISLATION

● Mr. BUMPERS. Mr. President, today I am introducing two administration bills concerning Small Business Administration programs. The first reauthorizes and significantly increases several SBA lending programs and makes other changes to the Small Business Act to implement the President's fiscal year 1995 budget request.

The second bill would permit borrowers who have been funded with the proceeds of debentures guaranteed under section 503 of the Small Business Investment Act to prepay principal and interest with a reduced prepayment penalty. The section 503 program provides long term capital for plant and equipment investments. The President's fiscal year 1995 budget contains $30 million for the purpose of relieving the prepayment penalties of 503 borrowers.

I applaud the administration's efforts to strengthen SBA's programs, and to relieve the onerous prepayment penalties on 503 borrowers. However, the bills contain some provisions which warrant close examination by the Committee on Small Business. One such example is the proposal to return the funding of the 504 program to the Federal Financing Bank. This proposal contradicts a policy which has been in place legislatively since 1986 and which was enacted as a significant cost-savings measure.

These bills provide an important step in the reauthorization process of SBA's major programs, which provide financial, procurement and business development assistance to the Nation's small businesses. The committee has already held several hearings on some of SBA's key programs. Later this month, the committee plans to hold a hearing on the 504 program and the issue of 503 prepayment penalties.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD.

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

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Administration Amendments of 1994."

TITLE I

SECTION 101. Section 7(m)(1)(B) of the Small Business Act is amended by adding the words ", a lender or alliance of lenders" after the word "Administration", and by adding after the word "intermediaries" in clause (i) thereof the following phrase "provided however, that the Administration may make in its sole discretion up to 100 percent deferred participation loans to ten intermediaries which will be located in urban areas and ten intermediaries which will be located in rural areas.".

SEC. 102. Section 7(m)(7) of the Small Business Act is amended by deleting the number "50" from subparagraph (B) thereof, and replacing it with the number "140", and by deleting the period at the end thereof and adding the phrase: "provided that no more than 200 total microloan programs may be funded", and by deleting subparagraph (C) thereof and inserting in lieu thereof: "(C) In no case shall a State receive more than $5 million to fund all microloan programs conducted in the State."

SEC. 103. Section 7(m)(3)(C) of the Small Business Act is amended by replacing the number "$1,250,000" with the number "$1,750,000".

SEC. 104. Section 7(m)(3)(F) of the Small Business Act is amended by adding after the phrase "10 years" in clause (i) the following: "with the first five years of any deferred participation loan being a revolving line of credit on which only monthly payments of interest will be required and the balance amortized over the second five year period, with equal monthly payments of principal and interest"; and by revising clause (ii) to read as follows: "(ii) APPLICABLE INTEREST RATES—Exception as provided in clause (iii), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to the rate of interest on comparable five year obligations of the United States Treasury.

TITLE II

SEC. 201. Section 7(a)(2)(B)(iv) of the Small Business Act is amended to read as follows: ". . . (iv) not more than 90 percent of the financing outstanding at the time of disbursement if such financing is an extension or a revolving line of credit made under paragraph (14) and not less than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16)."

SEC. 202. Section 7(a)(14) of the Small Business Act is amended to read as follows:

"(14) (A) The Administration under this subsection may provide extensions, specifically including guarantees of standby letters of credit and revolving lines of credit for export purposes, and financings to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish such rate of interest on extensions, revolving lines of credit and financings made under this paragraph as may be legal and reasonable."

SEC. 203. Section 7(a)(3)(B) of the Small Business Act is amended to read as follows: ". . . if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the Business Guaranteed Loan Financing Account established by this Act would exceed $1,000,000 such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of $750,000; Provided, however that in no event my be aggregate amount outstanding and committed by the Administration under this subsection exceed $1,250,000 . . ."

TITLE III

SEC. 301. Section 8(b) (2), (3) and (4) of the Small Business Act are amended by inserting the words "and other" after the word "small" wherever it appears.

TITLE IV

SEC. 401. Section 28[2](g) of the Small Business Act is deleted and in its place the following is substituted:

"(g) There is established within the Administration an Office of Women's Business Ownership which shall be responsible for the administration under the supervision by the Administration of all authority conferred by this section. Such Office shall be headed by a director who shall be appointed by the Administrator."

TITLE V

SEC. 501. Section 8(b)(1)(A) of the Small Business Act is amended by adding at the end thereof the following sentence: "Notwithstanding any other provision of law, the authority provided by this subparagraph shall remain available until expressly repealed."

SEC. 502. Section 411(a)(3) of the Small Business Investment Act of 1958 is amended by adding the following sentence at the end thereof: "Notwithstanding any other provision of law, the authority granted by this paragraph shall remain available until expressly repealed."

SEC. 503. Section 5(b)(8) of the Small Business Act is amended by deleting the words "not in excess of six months".

SEC. 504. The second sentence of Section 732 of Public Law 100—656 is repealed.

SEC. 505. Section 4(c) of the Small Business Act is amended to read as follows:

"(c)(1) There is hereby established in the Treasury one Loan Liquidation Fund. All repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to Sections 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(l), 7(m), and 8(a) of this Act, and Titles III, IV, and V of the Small Business Investment Act of 1958, prior to October 1, 1991, shall be paid into such Loan Fund Liquidating Account. Balances existing in those revolving funds, as in effect immediately prior to the effective date of this paragraph, shall be transferred into such Loan Liquidation Fund. This Loan Liquidation Fund shall have available, without fiscal year limitation, such funds as are necessary to finance its operational needs.

(2) The Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives, as soon as possible after the beginning of each fiscal year, a full and complete report on the status of the Loan Liquidation Fund established pursuant to paragraph (1)."

SEC. 506. Section 4(c)(5)(B)(ii) of the Small Business Act is amended to read as follows:

"(ii) The Administration shall pay into the miscellaneous receipts of the Treasury following the close of each fiscal year, the actual interest it collects during that fiscal year on all financings made under the authority of this Act."

SEC. 507. Section 3(a)(2) of the Small Business Act is amended to read as follows:

". . . (2) In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards for example, by number of employees or dollar volume of business, by which a business concern is to be recognized as a small business concern for the purposes of this Act or any other Act. Unless specifically authorized by statute, the Secretary of a department or the head of a Federal agency, other than the Administrator of the Small Business Administration, may not prescribe for the use of such department or agency a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

(A) is being proposed after an opportunity for public notice and comment;

(B) provides for determining, over a period of not less than 3 years—

(i) the size of a manufacturing concern as measured by its average employment based upon employment during each of the concern's pay periods for the preceding completed twelve calendar months; or

(ii) the size of a concern providing services on basis of the annual average gross receipts of the concern over a period of not less than three years; and

(C) is approved by the Administrator.

(3) When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall consider variations in economic activity from industry to industry unless the Administrator determines that size standards should not vary in order to meet program needs."

SEC. 508. Section 5(b) of the Small Business Act is amended by deleting the word "and" at the end of paragraph (10) thereof, by removing the "." at the end of paragraph (11) thereof and replacing it with ", and" and (b) adding a new paragraph (12) which reads as follows: ". . . (12) to impose reasonable fees to be charged in connection with applications for assistance, and the provision of assistance under this Act and the Small Business Investment Act of 1958 and to retain such fees to offset the costs of administration of such assistance."

SEC. 509. Section 8(b) of the Small Business Act is amended by deleting the word "and" at the end of paragraph (15), by striking the period at the end of paragraph 8(b)(16) and replacing it with "; and", and by adding a new paragraph 8(b)(17) which reads as follows:

". . . (17) to charge and collect such fees as may be necessary to cover all costs associated with the production and dissemination of information of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958, and to retain such fees and utilize such fees to offset the costs of production and dissemination of such compilations of information."

TITLE VI

SEC. 601. Sections 20(k) through 20(p) of the Small Business Act are repealed and the following is substituted in their place:

"(k) The following program levels are authorized for fiscal year 1995:

(1) For the programs authorized by this Act, the Administration is authorized to make $13,910,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $11,500,000,000 in general business loans as provided in section 7(a), $110,000,000 in loans as provided in section 7(m), and $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

(2) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred stock, $275,000,000 in guarantees of debentures of which $65,000,000 is authorized for guarantees of debentures of companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

(3) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000.

(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

(m) The following program levels are authorized for fiscal year 1996:

(1) For the programs authorized by this Act, the Administration is authorized to make $17,475,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $13,500,000,000 in general business loans as provided in section 7(a), $175,000,000 in loans as provided in section 7(m), and $3,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

(2) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred stock, $320,000,000 in guarantees of debentures of which $70,000,000 is authorized for guarantees of debentures of companies operating pursuant to section 301(d) of such Act, and $1,100,000,000 in guarantees of participating securities.

(3) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000.

(n) There are authorized to be appropriated to the Administration for fiscal year 1996, such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

(o) The following program levels are authorized for fiscal year 1997:

(1) For the programs authorized by this Act, the Administration is authorized to make $21,450,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $15,500,000,000 in general business loans as provided in section 7(a), $250,000,000 in loans as provided in section 7(m), and $5,700,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

(2) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of deferred stock, $385,000,000 in guarantees of debentures of which $75,500,000 is authorized for guarantees of debentures of companies operating pursuant to section 301(d) of such Act, and $1,700,000,000 in guarantees of participating securities.

(3) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000.

(p) There are authorized to be appropriated to the Administration for fiscal year 1997, such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration."

S. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Prepayment of Development Company Debentures.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695, et seq.), is amended by adding at the end the following new section:

"SEC. 507. Prepayment of Development Company Debentures.

"(a) IN GENERAL.—(1) If the requirements of subsection (b) are met and subject to the availability of appropriations, the issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture by paying to the Federal Financing Bank, the amount that is equal to the sum of the unpaid principal balance due on the debenture on the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in paragraph (2)(A). The Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the issuer of the debenture under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(2)(A) The amount of the repurchase premium described in this paragraph is the product of—

(i) the unpaid principal balance due on the debenture on the date of prepayment;

(ii) the interest rate of the debenture; and

(iii) the factor 'P', as determined under subparagraph (B).

(B) For purposes of subparagraph (A) (iii), the factor 'P' means the applicable percent determined in accordance with the following table:

Year in which prepayment of debenture is made (from date of original issuance)	Applicable percent			
	10-year term loan	15-year term loan	20-year term loan	25-year term loan
1	1.00	1.00	1.00	1.00
2	.80	.85	.90	.92
3	.60	.70	.80	.84
4	.40	.55	.70	.76
5	.20	.40	.60	.68
6	0	.25	.50	.60
7	0	.10	.40	.52
8	0	0	.30	.44
9	0	0	.20	.36
10	0	0	.10	.28
11	0	0	0	.20
12	0	0	0	.12
13	0	0	0	.04
14 through 25	0	0	0	0

"(b) REQUIREMENTS.—The requirements of this subsection are met if—

(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date the prepayment is made;

(2) state or personal funds, which may include refinancing under the programs authorized by sections 504 and 505 of this Act are used to prepay the debenture; and

(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

(c) No fees or penalties other than those specified in this section may be imposed as a condition of such prepayment against the issuer or the borrower, or the Administration or any fund or account administered by the Administration, except as provided in this Act.

(d) The refinancing of debentures authorized by paragraph (b)(2) of this section under section 504 of this Act shall be limited to only such amounts as are needed to prepay existing debentures and shall be subject to all of the other provisions of sections 504 and 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including, but not limited to, rules and regulations government payment of authorized expenses and commissions, fees and discounts to brokers and dealers in trust certificates issued pursuant to section 505; provided, however, that no applicant for refinancing under section 504 of this Act need demonstrate that a requisite number of jobs will be created with the proceeds of such refinancing."

SEC. 2. (a) The provisions of this Act are exercisable at the option of the borrower.

(b) Any new credit or spending authority provided for in this act is subject to amounts provided in advance in appropriations Acts.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(d) Within 30 days of the effective date of this Act, the Administration shall promulgate such regulations as are necessary, including establishing an order of priority to accomplish the provisions of this Act.

(e) Subsection 504(b) of this Act is hereby repealed, and subsection 504(a) is renumbered as section 504, and paragraphs (1) through (3) of subsection 504(a) are renumbered as subsections 504(a) through (c).•

Mr. HATFIELD. Mr. President, I am pleased to join with the chairman of the Small Business Committee, Senator BUMPERS, in cosponsoring important legislation that he is introducing today at the request of the administration. Last year at this time, I introduced very similar legislation, S. 737, to assist several thousand small businesses that are unable to refinance high interest loans under the Small Business Administration [SBA] Section 503 Loan Program because of the enormously high prepayment penalties attached to these loans. I would like to commend this administration for focusing on this issue and for offering to work with those of us who have been pushing for a solution for the past several years.

Because I have concerns about certain provisions of the bill we are introducing today, my cosponsorship should not be construed as a total endorsement of this proposal. However, I have confidence that these issues will be closely examined both during a hearing that Chairman BUMPERS will hold in the Small Business Committee, and separately during debate in the Appropriations Committee when we consider the President's budget request for $30 million to begin fixing this problem.

The vast majority of new job creation in the United States occurs in our small businesses. The prepayment penalties of the 503 Program have had the effect of blocking the ability of many companies to add to much needed economic expansion in our country. These are businesses that are already operating and ready to grow. We should take advantage of this opportunity to allow them to grow by continuing to work in a bipartisan manner to see this problem finally put to rest.

By Mr. INOUYE:

S. 2062. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat, meat food products, and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MEAT AND POULTRY PRODUCTS INSPECTION AMENDMENTS OF 1994

• Mr. INOUYE. Mr. President, today I am introducing a bill to resolve an issue of fairness which has existed since 1967 and made more egregious by passage of the North American Free-Trade Agreement.

In 1967, the Meat Inspection Act of 1906 was amended by the Wholesale Meat Act and renamed the Federal Meat Inspection Act. In addition to other changes, the State—Federal Cooperative Inspection Program was established, which required State inspection programs to be at least equal to the Federal Inspection Program, and that products receiving State inspection are solely for distribution within such State. The 1968 Wholesome Poultry Product Act which amended the Poultry Products Inspection Act, extended the same provisions to poultry inspection.

The acts, while stressing the need for cooperation between Federal and State authorities, give the United States Department of Agriculture [USDA] clear responsibility for setting a national standard for meat and poultry inspection. USDA is required to monitor State programs and to assume direct responsibility at State plants when a State fails to develop or effectively enforce inspection requirements at least equal to those under the acts.

USDA's Food Safety and Inspection Service [FSIS] certifies that each State inspection program is equal to Federal inspection requirements. This is accomplished by FSIS review of State performance plans, feedback from inspection operations field supervisors, and documents submitted with annual reports. The annual State performance plan is evaluated for equal to status and is very comprehensive. The plan includes a review of State laws, State regulations, funding, and financial accountability, resource management—staffing, training, program operations—facilities and equipment, labels and standards, in-plant reviews/enforcement, specialty programs, and laboratories.

FSIS has been conducting the equal to review since passage of the acts in 1967 and 1968. Since that time, the agency has never found that a State inspection program should be discontinued due to inadequacies in its inspection program. In those instances where States have chosen to discontinue their State inspection programs, they have cited budgetary reasons rather than public health and safety reasons.

The mission of State meat and poultry programs is to provide the consumer with a wholesome, unadulterated product that is properly labeled and safe. The programs exist to protect the public's health. That is why State inspection programs currently inspect nonamenable products which are not regulated by the Federal inspection program. Nonamenable products—such as deer, buffalo, squad, and pheasant—that are inspected by a State-inspected facility are allowed to be transported across State lines. These shipments have been allowed for quite some time with little or no evidence of any risk to the consuming public.

Food safety is clearly the major issue to be considered in any discussion of an inspection system. Experience with interstate shipment of State-inspected nonamenable products provides support for my view that permitting interstate shipment of State-inspected meat and poultry can be consistent with a high level of public health and food safety.

While the acts require all State meat and poultry inspection programs to be at least equal to Federal standards, they prohibit the sale of the product in interstate commerce. This prohibition is a matter of fairness with domestic and foreign dimensions. First, most of the State-inspected plants are small businesses who suffer the economic consequences of prohibitions which provide an unfair marketing advantage to larger firms with federally inspected plants. Consumers often lose in these instances since the products inspected in State-inspected facilities often are low-volume specialty products not economically viable for larger operations.

Second, when Congress passed the North American Free-Trade Agreement [NAFTA], Mexican-inspected meat and poultry products were permitted to be shipped into the United States and move interstate as long as the Mexican inspection program is equal to United States Federal standards. It is only fair

that the Congress now provide small businessowners in the United States the same opportunity the Congress afforded to firms from Mexico.

The prohibition of interstate shipment of State-inspected meat and poultry is the only such prohibition of any State-inspected food product. This prohibition disrupts that free flow of trade and precludes the ability of American small businesses to compete with larger domestic firms and Mexican exporters.

Mr. President, this legislation is supported by a number of organizations including the American Farm Bureau Federation, the American Association of Meat Processors, the Food Marketing Institute, the National Association of State Departments of Agriculture, the National Association of State Meat and Food Inspection Directors, and the National Grange.

I urge my colleagues to join me in correcting a gross inequity in the interstate commerce of meat and poultry products.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

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

S. 2062

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 "Meat and Poultry Products Inspection Amendments of 1994".

SEC. 2. FEDERAL AND STATE COOPERATION UNDER THE FEDERAL MEAT INSPECTION ACT.

(a) REMOVAL OF INTRASTATE DISTRIBUTION LIMITATION.—Section 301(a)(1) of the Federal Meat Inspection Act (21 U.S.C. 661(a)(1)) is amended by striking "solely for distribution within such State".

(b) USE OF STATE INSPECTORS.—Section 301(a) of such Act (21 U.S.C. 661(a)) is amended by adding at the end the following new paragraph:

"(5) In addition to appointing inspectors under section 21, the Secretary may enter into an agreement with a State or the District of Columbia to utilize an officer or employee of the State or the District of Columbia to conduct any examination, investigation, or inspection authorized under this Act, if the Secretary determines that it is practicable for the examination, investigation, or inspection to be so conducted.".

(c) TERMINATION OF DESIGNATION OF STATE AS SUBJECT TO FEDERAL INSPECTION FOR INTRASTATE DISTRIBUTION.—Section 301(c)(3) of such Act (21 U.S.C. 661(c)(3)) is amended by striking ", with respect to the operations and transactions within such State which are regulated under subparagraph (1), he" and inserting "with respect to each establishment within the jurisdiction of the State that does not operate under Federal inspection under title I and at which any cattle, sheep, swine, goat, or equine is slaughtered, or the carcass of the animal, or a part or product of the carcass of the animal, is prepared, for use as human food, and with respect to the distribution of each carcass, part of a carcass, meat, or meat food product of the animal within the State, the Secretary".

(d) EXPANSION OF STATE INSPECTION AUTHORITY.—Section 301 of such Act (21 U.S.C. 661) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in paragraph (2), a carcass, part of a carcass, meat, or meat food product of a cattle, sheep, swine, goat, or equine prepared under State inspection in a State (other than a State designated under subsection (c)) in compliance with the meat inspection law of the State shall be eligible for sale or transportation in interstate commerce, and for entry into and use in the preparation of a product in an establishment at which Federal inspection is maintained under title I, in the same manner and to the same extent as a product prepared at the establishment.

"(2) A State-inspected article described in paragraph (1), and a federally inspected article prepared (in whole or in part) from the State-inspected article—

"(A) shall not be eligible for sale or transportation in foreign commerce; and

"(B) shall be separated at all times from all other federally inspected articles in a federally inspected establishment that engages in the preparation, sale, or transportation of carcasses, parts of carcasses, meat, or meat food products, for foreign commerce.

"(3) Each carcass, part of a carcass, meat, or meat food product that is inspected in a program of inspection in a State (other than a State designated under subsection (c)) pursuant to State law shall be identified as so inspected only by an official mark that identifies the State and is of such design as the State shall prescribe. A federally inspected article prepared (in whole or in part) from the State-inspected article shall be identified as so inspected only by the same official mark as is prescribed by the Secretary for an article slaughtered or prepared under title I.

"(4) Except as provided in paragraph (5), the operator of an establishment operated under Federal or State inspection who wishes to transfer to State or Federal inspection, as the case may be, may do so only as of October 1 of any year. The transfer shall occur only if—

"(A) the operator provides written notice of the intention to transfer to both inspection agencies at least 180 days in advance of the date referred to in the preceding sentence; and

"(B) the Secretary determines that the transfer will effectuate the purposes set forth in section 2 and will not adversely affect the stability of the total State and Federal inspection systems.

"(5) The Secretary may permit the operator of an establishment to transfer from State to Federal inspection at any time if the operator presents clear and convincing evidence to the Secretary that the establishment intends to, and will be able to, engage in foreign commerce to a substantial extent in a manner that would require Federal inspection.

"(6) As used in this subsection, the term 'interstate commerce' means commerce between States or between a State and the District of Columbia.".

(e) PROHIBITION ON ADDITIONAL OR DIFFERENT STATE REQUIREMENTS.—Section 408 of such Act (21 U.S.C. 678) is amended to read as follows:

"SEC. 408. PROHIBITION ON ADDITIONAL OR DIFFERENT STATE REQUIREMENTS.

"(a) REQUIREMENTS RELATING TO ESTABLISHMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State or Territory or the District of Columbia may not impose a requirement within the scope of this Act with respect to the premises, facility, or operation of an establishment at which inspection is provided under title I that is in addition to, or different than, a requirement under this Act.

"(2) RECORDKEEPING REQUIREMENTS.—A State or Territory or the District of Columbia may impose a recordkeeping or other requirement within the scope of section 202, if the requirement is consistent with such section, with respect to an establishment.

"(b) REQUIREMENTS RELATING TO MARKING, LABELING, PACKAGING, AND INGREDIENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State or Territory or the District of Columbia may not impose a marking, labeling, packaging, or ingredient requirement that is in addition to, or different than, a requirement under this Act with respect to an article prepared at an establishment under Federal inspection in accordance with title I or with respect to an article prepared for commerce at a State-inspected establishment in accordance with section 301(d).

"(2) CONCURRENT JURISDICTION.—A State or territory or the District of Columbia may, consistent with this Act, exercise concurrent jurisdiction with the Secretary over an article distributed in commerce or otherwise subject to this Act, for the purpose of preventing the distribution for use as human food of an article that is not in compliance with this Act and is outside of a federally or State-inspected establishment, or in the case of an imported article, that is not at such an establishment, after the entry of the article into the United States.

"(c) EFFECT ON OTHER LAWS.—This Act shall not preclude a State or Territory or the District of Columbia from imposing a requirement or taking any other action, consistent with this Act, with respect to an area regulated under this Act that is not referred to in this section.".

SEC. 3. FEDERAL AND STATE COOPERATION UNDER THE POULTRY PRODUCTS INSPECTION ACT.

(a) REMOVAL OF INTRASTATE DISTRIBUTION LIMITATION.—Section 5(a)(1) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(1)) is amended by striking "solely for distribution within such State".

(b) USE OF STATE INSPECTORS.—Section 5(a) of such Act (21 U.S.C. 454(a)) is amended by adding at the end the following new paragraph:

"(5) The Secretary may enter into an agreement with a State or the District of Columbia to utilize an officer or employee of the State or the District of Columbia to conduct any examination, investigation, or inspection authorized under this Act, if the Secretary determines that it is practicable for the examination, investigation, or inspection to be so conducted.".

(c) TERMINATION OF DESIGNATION OF STATE AS SUBJECT TO FEDERAL INSPECTION FOR INTRASTATE DISTRIBUTION.—Section 5(c)(3) of such Act (21 U.S.C. 454(c)(3)) is amended by striking ", with respect to the operations and transactions within such State which are regulated under subparagraph (1) of this paragraph (c), he" and inserting "with respect to each establishment within the jurisdiction of the State that does not operate under Federal inspection under this Act and at which any poultry is slaughtered, or any poultry product is processed, for use as human food, and with respect to the dis-

tribution of each poultry product within the State, the Secretary".

(d) EXPANSION OF STATE INSPECTION AUTHORITY.—Section 5 of such Act (21 U.S.C. 454) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in paragraph (2), a poultry product processed under State inspection in a State (other than a State designated under subsection (c)) in compliance with the poultry products inspection law of the State shall be eligible for sale or transportation in interstate commerce, and for entry into and use in the preparation of a product in an establishment at which Federal inspection is maintained under this Act, in the same manner and to the same extent as a poultry product processed at the establishment. A poultry product that complies with the poultry product inspection laws of the State (other than a State designated under subsection (c)) in which the product was processed shall be considered to comply with this Act.

"(2) A State-inspected poultry product described in paragraph (1), and a federally inspected poultry product processed (in whole or in part) from the State-inspected poultry product—

"(A) shall not be eligible for sale or transportation in foreign commerce; and

"(B) shall be separated at all times from all other federally inspected poultry products in a federally inspected establishment that engages in the processing, sale, or transportation of poultry products for foreign commerce.

"(3) A poultry product that is inspected in a program of inspection in a State (other than a State designated under subsection (c)) pursuant to State law shall be identified as so inspected only by an official mark that identifies the State and is of such design as the State shall prescribe. A federally inspected poultry product processed (in whole or in part) from a State-inspected poultry product shall be identified as so inspected only by the same official mark as is prescribed by the Secretary for a poultry product processed under this Act (other than this section or section 11).

"(4) Except as provided in paragraph (5), the operator of an establishment operated under Federal or State inspection who wishes to transfer to State or Federal inspection, as the case may be, may do so only as of October 1 of any year. The transfer shall occur only if—

"(A) the operator provides written notice of the intention to transfer to both inspection agencies at least 180 days in advance of the date referred to in the preceding sentence; and

"(B) the Secretary determines that the transfer will effectuate the legislative policy set forth in section 3 and will not adversely affect the stability of the total Federal and State inspection systems.

"(5) The Secretary may permit the operator of an establishment to transfer from State to Federal inspection at any time if the operator presents clear and convincing evidence to the Secretary that the establishment intends to, and will be able to, engage in foreign commerce to a substantial extent in a manner that would require Federal inspection.

"(6) As used in this subsection, the term 'interstate commerce' means commerce between States or between a State and the District of Columbia.".

(e) PROHIBITION ON ADDITIONAL OR DIFFERENT STATE REQUIREMENTS.—Section 23 of such Act (21 U.S.C. 467e) is amended to read as follows:

"SEC. 23. PROHIBITION ON ADDITIONAL OR DIFFERENT STATE REQUIREMENTS.

"(a) REQUIREMENTS RELATING TO ESTABLISHMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State or territory or the District of Columbia may not impose a requirement within the scope of this Act with respect to the premises, facility, or operation of an official establishment, that is in addition to, or different than, a requirement under this Act.

"(2) RECORDKEEPING REQUIREMENTS.—A State or territory or the District of Columbia may impose a recordkeeping or other requirement within the scope of section 11(b), if the requirement is consistent with such section, with respect to an establishment.

"(b) REQUIREMENTS RELATING TO MARKING, LABELING, PACKAGING, AND INGREDIENTS.—

"(1) IN GENERAL.—A State or territory or the District of Columbia may not impose—

"(A) except as provided in paragraph (2), a marking, labeling, packaging, or ingredient requirement that is in addition to, or different than, a requirement under this Act with respect to an article prepared at an establishment under Federal inspection in accordance with this Act or with respect to an article prepared for commerce at a State-inspected establishment in accordance with section 5(d); or

"(B) any other storage or handling requirement found by the Secretary to unduly interfere with the free flow of any poultry product in commerce.

"(2) CONCURRENT JURISDICTION.—A State or territory or the District of Columbia may, consistent with this Act, exercise concurrent jurisdiction with the Secretary over an article distributed in commerce or otherwise subject to this Act, for the purpose of preventing the distribution for use as human food of any article that is not in compliance with this Act and is outside of a federally or State-inspected establishment, or in the case of an imported article, that is not at such an establishment, after the entry of the article into the United States.

"(c) EFFECT ON OTHER LAWS.—This Act shall not preclude a State or territory or the District of Columbia from imposing a requirement or taking any other action, consistent with this Act, with respect to an area regulated under this Act that is not referred to in this section.".

SUMMARY OF S. 2062

SECTION 1

Establishes the short title of the Act as the "Meat and Poultry Products Inspection Amendments of 1994."

SECTION 2

Allows State inspected meat products to be sold or transported in interstate commerce.

Allows State inspected meat products to be used in the preparation of products processed in Federally inspected facilities.

Continues the export prohibition of State inspected meat.

Provides that transferring from Federal or State inspection to the other regulating body can only occur on October 1.

Prohibits different labeling requirements on State inspected meat products which flow in interstate commerce from Federal labeling requirements.

SECTION 3

Allows State inspected poultry products to be sold or transported in interstate commerce.

Allows State inspected poultry products to be used in the preparation of products proceed in Federally inspected facilities.

Continues the export prohibition of State inspected poultry.

Provides that transferring from Federal or State inspection to the other regulating body can only occur on October 1.

Prohibits different labeling requirements on State inspected poultry products which flow in interstate commerce from Federal labeling requirements.•

By Mr. GORTON:

S. 2063. A bill to amend the National Security Act of 1947 to provide for improved coordination of national counterintelligence policy, and for other purposes; to the Select Committee on Intelligence.

NATIONAL COUNTERINTELLIGENCE REFORM ACT

Mr. GORTON. Mr. President, I am introducing legislation today designed to improve significantly the framework for the coordination, integration, and review of the United States effort to counteract a continuing serious problem of espionage by Americans and others. I believe that this legislation complements legislation already introduced by the chairman and vice chairman of the Select Committee on Intelligence, S. 1948, the Counterintelligence and Security Enhancements Act of 1994.

In spite of a reordering of the world's balance of power, espionage against the national security and industrial security interests of the United States continues unabated. This espionage is being committed by current and former hostile nations, by some nations, friendly to the United States and by nongovernment entities operating in concert with their respective governments.

In the past 3 months, the country has been focused on the arrest of CIA employee Aldrich Ames and his wife as an indication that espionage is alive and, unfortunately, well. While I do not intend to dwell on that case, I will note that the damage done by Mr. Ames is serious. In addition, efforts by the CIA and FBI to detect Mr. Ames have been uneven, not as well coordinated as I believe were necessary and have taken too long to bring this case to conclusion. Nine years is unacceptable and reflects serious flaws in our counterintelligence and security policies and capabilities. The Ames case is only one indication of the lack of full and early cooperation and sharing among the agencies most responsible for guarding the country against foreign espionage.

During the 10-year period from 1974 to 1983, there were 23 arrests for espionage against the United States. During the past 10 years, however that number has more than doubled with 51 arrests, 45 of whom were American citizens who volunteered to sell classified information or who provided access to U.S. classified facilities for agents of foreign governments. Nor was the Ames

case the first time a current or former CIA employee was arrested for espionage. In fact, Mr. Ames is the fifth current or former CIA employee arrested in the 10 years.

The cooperation between the CIA and FBI on many of these was excellent. On others, the failure of one agency to provide full and early access to information or on establishing priorities delayed arrest.

The overall increase in espionage arrests may be explained by more aggressive counterespionage actions by the CIA and FBI. but the increase may also identify the ineffectiveness of awareness efforts, earlier detection and deterrence. What is not known is the number of cases in which there was no arrest because of

During counterintelligence hearings before the Select Committee on Intelligence, it became apparent that cooperation among the agencies—especially the FBI and CIA—responsible for countering espionage, was totally inadequate. In their "Dear Colleague" letter requesting cosponsors for S. 1948, Senators DECONCINI and WARNER emphasized that "there has been a problem between the CIA and the FBI in terms of their cooperation on counterintelligence investigations." I would add to that by noting that this inadequate cooperation on counterintelligence matters extends to the Department of Defense as well.

These problems stem in part from the fact that the counterintelligence objectives and responsibilities of these respective agencies differ. The Central Intelligence Agency has responsibility for the development and protection of sources and methods to collect foreign intelligence. The Federal Bureau of Investigation has responsibility for law enforcement and for the investigation of espionage cases for possible prosecution. The Department of Defense Counterintelligence Program has responsibility for protecting DOD installations, material, operations, information and personnel from foreign intelligence and terrorist activities.

The lack of integration of these agencies and their variant objectives and responsibilities into coherent and coordinated national counterintelligence policies and programs is indicative of systemic shortcomings.

On a national policymaking level, the Director of the FBI and the Secretary of Defense report to the Director of Central Intelligence for all counterintelligence matters. This has been traditionally the case because counterintelligence and counterespionage has long been considered an element of intelligence. In my view, we should carefully reassess that notion: counterintelligence is also an important element of law enforcement.

A vivid statistic illustrating the tail waging the dog is in the area of counterintelligence budget. FBI's CI budget is 10 times that of the CIA and DoD's is 3½ times that of the CIA. Yet, CIA has been driving, or attempting to drive; national counterintelligence policy.

On the program level, the CIA runs a counterintelligence center [CIC] to analyze and counteract foreign intelligence efforts against the United States. The FBI has had only one officer located in the center and he recently was removed by the FBI because he was underutilized. This is hardly the reassurance of cooperation and coordination which we expect of these agencies.

NEED FOR REFORM

The counterintelligence and counterespionage apparatus of this country can and must be altered if it is to be effective. This is not only my view, but also apparently the view of the administration. Mr. President, I wish to submit for the RECORD a copy of a front page article in the April 26, 1994 edition of the Washington Post. This article cities a White House official and CIA's Director James Woosley as sources for information that the administration is considering wide-ranging reform of its counterintelligence policy and program structure.

The public and the Congress have not seen the shape of that structure. What we do know is that in the words of one White House official, it bears an amazing resemblance to the legislation I have been working on for several weeks and am now introducing. On major difference is that the administration wants to implement its reform through an Executive order. I am in favor of the force of law.

FEATURES OF REFORM

Mr. President, I shall summarize the principal features of this legislation. It would:

First, create a national policy and program framework to ensure an integrated and coordinated effort to counter espionage against the United States.

Second, establish a senior policy decision board, the National Counterintelligence Review Board [NCIRB] to review and approve United States counterintelligence policies and programs. In addition, the Board would serve as the final review authority for the proper and timely disposition of counterintelligence cases.

Third, the Board would consist of the Attorney General of the United States, who would serve as Chairman, the Secretary of Defense, the Director of Central Intelligence and the Director of the Federal Bureau of Investigation. The NCIRB would report to the President through the National Security Council.

Fourth, establish a National Counterintelligence Program [NCIP] which will be administered by the National Counterintelligence Center [NCC]. The NCC would be responsible for providing a focused and coordinated national program to analyze and counter foreign intelligence efforts against the United States. The NCC would also prepare an integrated list of national counterintelligence threats for approval by the NCIRB.

Fifth, the NCC would consist of personnel from the Central Intelligence Agency, the Federal Bureau of Investigation and the Department of Defense. The Directorship and the Assistant Directorship of the NCC would rotate on a periodic basis between the Central Intelligence Agency and the Federal Bureau of Investigation. The NCC would be located within the Department of Justice. It would also provide staffing support to the NCIRB.

Sixth, the jurisdiction of the NCC would include foreign intelligence threats against the United States both domestically and against U.S. installations, personnel and information abroad.

Seventh, the Director of the NCC would be responsible for developing Government-wide foreign counterintelligence policy and for approving the allocation of resources to deal with the foreign intelligence threat.

Eighth, it would require individual agencies to continue with their counterintelligence responsibilities to protect agency information, equipment, operations and personnel.

Mr. President, I ask unanimous consent that an article from the Washington Post be included in the RECORD.

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

[From the Washington Post, Apr. 26, 1994]

PLAN SHIFTS CIA TASKS TO FBI STAFF, CHANGES INTENDED TO SPEED DETECTION OF FOREIGN SPIES

(By R. Jeffrey Smith and Pierre Thomas)

The White House, mediating a bitter dispute between the FBI and CIA over control of counterintelligence, is considering a plan that would transfer key spy-catching and policy-setting responsibilities from the CIA to senior FBI officials, according to administration officials.

A draft proposal worked out by the National Security Council staff—and described by officials as "broadly agreed" upon by representatives of the CIA, FBI and Justice Department in meetings last week—would institute a series of reforms meant to speed the early and efficient detection of foreign spies who have penetrated the U.S. government.

The proposal also is intended to soothe FBI and congressional anger over what senior U.S. officials have described as the CIA's failure for several years to share vital information with the FBI about the case of alleged spy Aldrich H. Ames and other potential spy cases.

The plan "would significantly alter the way [counterintelligence] policy will be developed, the way priorities would be decided, and establish a new structure for integrating" FBI and CIA operations to ensure that information flows smoothly between them, a White House official said.

The U.S. agencies involved in counterintelligence have been asked to submit their final

comments on the plan this week, after which it will be presented to national security adviser Anthony Lake and President Clinton for their review. Several officials said an agreement in principle has been reached on the proposal but certain details are still being worked out.

The proposal would establish a national "center" headed by an FBI official to set overall policies on counterintelligence operations, including the use of polygraphs, the collection of information overseas and the training of spy-catching experts, the officials said.

No such center now exists, resulting in widely varying counterintelligence procedures at different federal agencies. An advisory group recently concluded in a report to the CIA and the Defense Department that the absence of uniform policies was wasteful and inhibited successful spy-catching operations.

The proposal also would require that the new policy-setting center report through an advisory group of senior government officials to the NSC staff at the White House, rather than to the CIA director.

In addition, the plan would put a senior FBI official in charge of investigating individual spy cases within the CIA's existing counterintelligence center, ensuring early FBI access to raw data—a primary FBI concern.

CIA Director R. James Woolsey said in an interview yesterday that he supports the plan to appoint "one or more" FBI agents to senior supervisory positions at the CIA's center.

"I think it will be the best way to ensure the teamwork that's essential" to finding spies among U.S. government employees, he said. "It will help with the handoff" to law enforcement authorities by CIA personnel charged with conducting an internal investigation of security leaks.

Officials said Woolsey's willingness to support the proposal marked a shift for the CIA, which has generally considered its counterintelligence center—and its case files—off-limits to outsiders. FBI officials have told lawmakers that an FBI agent appointed in 1991 to head the center's Soviet and East European counterintelligence group left in late 1993, before he had planned to, because he was denied access to documents and had little to do.

A senior CIA official and a counterintelligence source denied the allegation. But Woolsey confirmed that only three FBI agents have worked at the center since it was created in 1988 to manage counterintelligence operations throughout the government. Two of these agents worked solely on the Ames case, he said.

By supporting the appointment of FBI officials to high-ranking positions within the CIA center, Woolsey is trying to head off Senate legislation that he saw as ceding virtually all responsibility for counterintelligence enforcement matters to the FBI, officials said.

Under the new plan, the CIA center would remain under Woolsey's overall control. The CIA also would retain responsibility for conducting routine investigations of its own personnel, looking into internal security leaks and developing key counterintelligence leads through its network of officers and foreign agents stationed around the globe. But the center's office in charge of investigating individual spy cases would be run by an FBI agent.

During its month-long policy review, the NSC staff had to sort through sharply conflicting tales by the FBI and the CIA over the handling of past spy cases. One White House official said of the two agencies that "they are acting like two teenagers and raising incidents that go way back into past history."

For example, in the case of Ames, who worked on counterintelligence matters for the CIA, the FBI charged that the CIA improperly withheld information about Ames' difficulties with a 1991 polygraph exam, despite an agreement that year that the agencies would work together in tracking down any suspected mole inside the CIA.

Sen. Dennis DeConcini (D-Ariz.), chairman of the Senate intelligence committee, told reporters last week that "the FBI had the right, the absolute right" to see the polygraph tracings that indicated deception in 1991, but instead did not get access to them until 1993. He said the CIA's culture of "protectiveness and deniability" had interfered with its obligations to pursue the lead.

CIA officials blame the FBI for not asking earlier to see the tracings. They also have defended their cautious approach to counterintelligence cases by citing the need to maintain confidentiality about their sources of information and to avoid unfairly tarring employees with false accusations. FBI officials say that this secrecy can be excessive and runs counter to developing cases for criminal prosecution.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2064. A bill to expand the boundary of the Weir Farm National Historic Site in the State of Connecticut; to the Committee on Energy and Natural Resources.

WEIR FARM EXPANSION

Mr. LIEBERMAN. Mr. President, today I offer a bill to expand the boundary of the Weir Farm National Historic Site in the State of Connecticut. This language will authorize the National Park Service to acquire the last two remaining undeveloped parcels of the historic Weir Farm that remain in private ownership. It will not require additional funding authority or appropriations to do so.

While these parcels were a part of the historic Weir Farm and were identified as such when the State of Connecticut and the Trust for Public Land began acquiring the land that eventually became the Weir Farm National Historic Site, the Federal legislation that designated the site moved more quickly than the negotiations between the owners of the parcels in question, the State and the Trust for Public Land. Not wanting to include land from an owner who was unwilling to be so included within the boundaries of a National Park Site, the sponsors of the enabling legislation removed these parcels from the boundary maps.

The legislation I introduce today was prompted by a recent agreement between the owner of the land, the recent acquisition of the land by the Trust for Public Land, and the expressed interest by the National Park Service of acquiring the land. The funds to do so have already been appropriated, so no new funding authority or appropriations would be required.

Moving forward with this acquisition would preclude development of these last remaining privately owned undeveloped parcels. Because these parcels are directly in view of the most visited part of Weir Farm their undeveloped state is necessary to preserve the aesthetic integrity of the site. This will, in turn, ensure the continued evocation of the landscape as it was in the late 19th and early 20th century when it was painted by those—led by Weir—who became known internationally as the American Impressionists.

The J. Alden Weir National Historic Site is the only site in the National Park System to commemorate an American painter and it is Connecticut's only national park.

I ask unanimous consent that the full text of my bill be printed in the RECORD.

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

S. 2064

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 "Weir Farm National Historic Site Expansion Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to preserve the last remaining undeveloped parcels of the historic Weir Farm that remain in private ownership by including the parcels within the boundary of the Weir Farm National Historic Site.

SEC. 3. BOUNDARY ADJUSTMENT.

(a) ADJUSTMENT.—Section 4(b) of the Weir Farm National Historic Site Establishment Act of 1990 (104 Stat. 1171) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the flush material below paragraph (2); and

(3) by adding at the end the following:

"(3) the approximately 2-acre parcel of land situated in the town of Wilton, Connecticut, designated as lot 18 on a map entitled 'Revised Map of Section I, Thunder Lake at Wilton, Connecticut, Scale 1"=100', October 27, 1978, Ryan and Faulds Land Surveyors, Wilton, Connecticut', that is on file in the office of the town clerk of the town of Wilton, and therein numbered 3673; and

"(4) the approximately 0.6-acre western portion of a parcel of land situated in the town of Wilton, Connecticut, designated as Tall Oaks Road on the map referred to in paragraph (3).".

(b) GENERAL DEPICTION.—Section 4 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

"(c) GENERAL DEPICTION.—The parcels referred to in paragraphs (1) through (4) of subsection (b) are all as generally depicted on a map entitled 'Boundary Map, Weir Farm National Historic Site', dated March 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 2065. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environ-

mental Protection Agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing regulations under the act, and for other purposes; to the Committee on Environment and Public Works.

ANIMAL FAT AND VEGETABLE OILS DIFFERENTIATION

Mr. HARKIN. Mr. President, today I am introducing legislation, along with Senator LUGAR, that will clarify congressional intent regarding the regulation of animal fats and vegetable oils under provisions of the Oil Pollution Act of 1990, which amended the Federal Water Pollution Control Act.

The interpretation of these provisions is of critical importance to agriculture and to the entire food processing, transportation, and distribution system. This legislation is necessary to ensure against burdensome and unnecessary regulatory actions by Federal agencies based on interpreting the Oil Pollution Act to impose on nontoxic and relatively harmless animal fats and vegetable oils rules similar to the stringent requirements applicable to toxic and hazardous petroleum oils and products.

Congress enacted the Oil Pollution Act of 1990 in direct response to several catastrophic petroleum oilspills in order to reduce the risk of oilspills, improve oilspill response capabilities, and minimize the impact of oilspills on the environment. That act requires owners and operators of vessels and facilities handling oil posing a substantial risk of harm to the environment in the event of a spill to prepare and submit response plans to Federal agencies and establishes additional requirements relating to the handling and transportation of oil.

Common sense tells us that the risk posed to the environment by animal fats and vegetable oils—which are essential components of food products we eat every day—is far less than that posed by petroleum oil and products. The available scientific evidence shows that animal fats and vegetable oils are not toxic to the environment, are essential components of human and wildlife diets, are readily biodegradable, and are not persistent in the environment.

Spills of animal fats and vegetable oils are also relatively infrequent and small in quantity. Such spills accounted for less than 1 percent of oilspills in and around U.S. waters between 1986 and 1992, and were generally very small in quantity, with only 13 spills of more than 1,000 gallons in that period.

Moreover, the types of response actions appropriate to a petroleum oilspill might well increase, rather than lessen, the impact of an animal fat or vegetable oilspill on the environment. For example, attempting to remove a typically small quantity of spilled animal fat or vegetable oil from a wetland would likely cause more environmental damage than the presence of the spilled substance in the environment alone.

Nevertheless, last year the Department of Transportation's Research and Special Projects Agency sought to classify animal fats and vegetable oils as hazardous materials in the same manner as petroleum oils. That approach was abandoned only after the affected industries mounted a strong effort and after Members of Congress, including Senator LUGAR and me, wrote to the agency emphasizing that it was never the intent of Congress to subject animal fats and vegetable oils to the same regulations as apply to hazardous materials.

Despite this action in the Department of Transportation, there are still pending before several Federal agencies regulations under the Oil Pollution Act that would treat nontoxic, biodegradable oils, such as corn and soybean oils, beef tallow, and fish oil similarly to highly toxic petroleum oils. If these agencies proceed with regulations imposing requirements on animal fats and vegetable oils similar to those covering petroleum oils, processors, transporters, and users of animal fats and vegetable oils will be forced to comply with costly, burdensome, unnecessary—and indeed often counterproductive—requirements that are appropriate only for toxic oils. Ultimately, farmers, livestock producers, and consumers will bear the cost of such overregulation.

Even if all of the agencies are eventually persuaded not to finalize these pending regulations, a large amount of effort and resources are likely to be expended in successive and duplicative appeals to reason and common sense before each of the several agencies involved.

The legislation we are introducing today would reduce the potential for burdensome and unnecessary regulatory actions by directing Federal agencies to differentiate between animal fats, oils and greases, fish and marine mammal oils, or oils of vegetable origin, and other oils and greases, including petroleum. In differentiating between these classes, agencies would be required to consider differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

The legislation would not exempt animal fats, vegetable oils, or fish oils from appropriate oilspill prevention and response regulations. It would merely require that agencies develop any such regulations on the basis of the particular physical, chemical, biological, and other properties of these substances and their effects on the environment. Again, the problem here is the threat of sweeping, undiscriminating agency actions that would carelessly impose unnecessary regulatory burdens by treating all of these substances in a manner similar to petroleum. This legislation would simply require agencies to undertake a reasonable, commonsense analysis before regulating. That is certainly no more than we should expect of any agency.

I urge my colleagues to support this important legislation. I also 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. 2065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DIFFERENTIATION AMONG FATS, OILS, AND GREASES.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended by adding at the end the following new subsection:

"(t) FATS, OILS, AND GREASES.—

"(1) IN GENERAL.—In issuing or enforcing any regulation, or any interpretation or guideline, relating to a fat, oil, or grease under this Act or any other Federal law, each of the President, the Administrator, and the head of any Federal agency shall differentiate between—

"(A)(i) animal fats and oils and greases, and fish and marine mammal oils, within the meaning of paragraph (2) of section 61(a) of title 13, United States Code; or

"(ii) oils of vegetable origin, including oils from the seeds, nuts, and kernels referred to in paragraph (1)(A) of such section; and

"(B) other oils and greases, including petroleum.

"(2) CONSIDERATIONS.—In differentiating between the class of fats, oils, and greases described in paragraph (1)(A) and the class of oils and greases described in paragraph (1)(B), each of the President, the Administrator, and the head of the Federal agency shall consider differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes.".

Mr. LUGAR. Mr. President, I am pleased to join Senator HARKIN in introducing legislation aimed at encouraging regulatory common sense. I would like to give my colleagues a bit of background so they will understand why it is needed.

In the spring of 1993, the Transportation Department proposed regulations to guard against oilspills, and require response plans if spills did occur. To the amazement of some of us, DOT proposed to treat vegetable oils—that is, salad oils—in the same way as petroleum. Among other things, salad oils would have been officially declared hazardous materials, with all the regulatory requirements and extra costs which that designation entails.

This was so classic an example of regulatory overreaching that it was almost comic. Some of us pointed out that vegetable oil is not the same thing as petroleum: You do not put vegetable oil in your car. We also pointed out that vegetable oil processors thought it entirely appropriate that they under-

take response plans to guard against major spills—the industry was not arguing that they should be exempt from regulation.

The industry was, however, saying that regulators should take into account the obvious differences—in toxicity, biodegradability, environmental persistence, and other factors—between vegetable oils and animal fats on the one hand, and petroleum oils on the other. It made no sense for vegetable oils to be subject to a set of regulations as stringent as those for petroleum oils.

Fortunately, Secretary Peña eventually agreed with us and DOT modified its position. More recently, however, the industry has been working with other agencies which also have a role in regulating oils to prevent spills.

No one is any longer proposing to call salad oil hazardous material. Some agencies are, however, requiring that spill response plans for vegetable oils be quite similar in many respects to those for petroleum.

In one case—that of the U.S. Coast Guard—the industry has been debating an agency that reports to Secretary Peña. Mindful of his role last year, 13 of my colleagues and I wrote the Secretary last month asking him to resolve the situation.

The Secretary does not, however, have jurisdiction over all the several agencies that have some role in regulating oilspills. Therefore, the bill we introduce today will give all executive agencies a common direction from Congress.

This bill does not tell the Coast Guard or any other agency what it must put into regulations. That is not our business or our expertise. The legislation simply says that in rulemaking under the Federal Water Pollution Control Act or the Oil Pollution Act of 1990, these agencies must differentiate between vegetable oils and animal fats on the one hand, and other oils including petroleum on the other.

The bill specifies that the agencies should consider differences in the physical, chemical, biological or other properties, and the environmental effects of these oils. Again, it does not say exactly how the agencies must differentiate among oils, merely that they should do so.

Mr. President, let me say clearly that this bill does not exempt vegetable oils from the Oil Pollution Act of 1990 or any other statute. It is simply a modest effort to encourage common sense in an area of regulation that has not always been marked by that characteristic. I hope my colleagues will join Senator HARKIN and me as cosponsors.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 2066. A bill to expand the Mni Wiconi Rural Water Supply Project, and for other purposes; to the Committee on Energy and Natural Resources.

MNI WICONI RURAL WATER PROJECT LEGISLATION

Mr. DASCHLE. Mr. President, today I am proud to introduce legislation to expand the Mni Wiconi rural water project to include the Rosebud and Lower Brule Sioux Reservations. Water is a basic requirement of life. For too long both Indian and non-Indian people in this region of the State have suffered the public health risks that come from inadequate and contaminated water supplies. It is my hope that, with the construction of the Mni Wiconi rural water project, including those areas that would be added with this legislation, many of the water quality problems of the past can be solved, and the people relying on this project can have their hopes for a better life fulfilled.

The Mni Wiconi project represents an important partnership between Indian and non-Indian communities who share common needs. In authorizing the project in 1988, Congress recognized that "serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mallette, Pennington, and Stanley Counties." Given those water quality problems, Congress further noted in the act that the residents of these counties deserve "the best available, reliable, and safe rural and municipal water supply."

For those counties, the Mni Wiconi project will accomplish that purpose. It will provide a source of safe and clean water that is long overdue in this region of the State.

It has become apparent, however, that all the drinking water needs of this economically challenged region of South Dakota will not be met under the existing project. Many residents of south-central South Dakota will continue to lack safe and clean supplies of drinking water.

The lack of safe drinking water supplies in that part of South Dakota continues to contribute to the transmission of hepatitis A, shigella, impetigo, and other diseases. While the high incidence of these diseases on the Pine Ridge Reservation have been well documented, that reservation is not unique. The 1990 American Journal of Public Health article, "Hepatitis Transmission Among the Sioux Indians of South Dakota," notes similar problems on the Rosebud Reservation and concludes by stating that:

> On Indian reservations, as well as in other parts of the United States, hepatitis A has significant human and economic impact, both in terms of morbidity and occasional mortality and in diverting of public resources from other priorities when outbreaks occur. For the immediate future, outbreaks will probably continue to occur on the South Dakota and other Indian reservations.

To help alleviate these health risks, it is crucial to ensure the access to safe drinking water supplies to those living in this region of South Dakota. The State and all those involved in the project support the inclusion of the Rosebud and Lower Brule Tribes. I hope my colleagues will join me supporting this well-deserved expansion of the Mni Wiconi project.

Mr. PRESSLER. Mr. President, today I am joining my colleague from South Dakota, Senator DASCHLE, in introducing new authorization language for the Mni Wiconi rural water system. The purpose of this legislation is to include the Lower Brule and Rosebud Reservations in the water system and to authorize the funds needed to complete the project.

Last year was a milestone for the Mni Wiconi rural water system. In Wall, SD, there was a groundbreaking ceremony for the Mni Wiconi water system. That event represented yet another step toward achieving safe, clean, drinking water in South Dakota. I commend the South Dakotans working on this project for their hard work and dedication.

The Mni Wiconi water project will greatly improve the lives of more than 40,000 South Dakotans. The Mni Wiconi rural water system is vital to ensure the health and economic viability of those who will be served by the project when it is completed.

I have supported this project since its inception. I will continue working to ensure that Federal funding is made available to complete the Mni Wiconi water project.

For my colleagues who are unaware of the conditions on these reservations, I want to inform them that need is critical. In areas that will be served, much of the drinking water is substandard. In many of these areas there is simply no drinking water. It may be hard to imagine, but thousands of South Dakotans must drive many miles for bottled water and they must have their water transported by truck.

More importantly, several counties that are covered by the Mni Wiconi rural water system are among the poorest counties in the Nation. Shannon County on the Pine Ridge Reservation is the poorest county in the country. Nearly two-thirds of all persons living on the Pine Ridge Reservation have incomes below the poverty level.

Mr. President, the legislation being introduced today will provide the authority needed to see that this system will become a reality. As I stated earlier, it brings into the system another two reservations in South Dakota. I urge my colleagues to support passage of this bill.

By Mr. MCCAIN (for himself, Mr. STEVENS, Mr. COCHRAN, and Mr. CAMPBELL):

S. 2067. A bill to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services.

ASSISTANT SECRETARY FOR INDIAN HEALTH LEGISLATION

Mr. McCAIN. Mr. President, today I am introducing legislation to designate the Director of the Indian Health Service to be an Assistant Secretary for Indian Health at the Department of Health and Human Services. I am pleased that Senators STEVENS, COCHRAN, and CAMPBELL have joined with me as cosponsors of this legislation.

I am also pleased to note that this legislation has the support of the Navajo Nation, the Port Gamble S'Klallam Tribe, the Ely Shoshone Tribe, the Makah Tribal Council, the Ramah Navajo School Board, the Grand Traverse Band of Ottawa and Chippewa Indians, the All Indian Pueblo Council, the Leech Lake Tribal Council, the Colorado River Indian Tribe, the Seattle Indian Health Board, and the National Indian Health Board.

Mr. President, when Louis Merriam issued his report in 1928 publicizing the deplorable living conditions on Indian reservations, he stated that the "promotion of health and the relief of the sick are functions of such extreme importance that they always merit first consideration * * *. But taken as a whole practically every activity undertaken by the national government for the promotion of the health of the Indians is below a reasonable standard of efficiency."

Sadly, those words still haunt Indian people today. Unfortunately, it doesn't seem to matter whether the administration is Democrat or Republican, the attention given to Indian health care needs has been nothing less than a national disgrace.

Like Indian leaders throughout the country, I am appalled at the President's budget request for fiscal year 1995 for the Indian Health Service [IHS]. The President's budget request calls for reducing the IHS budget by $247 million. After the budge gimmicks are eliminated, such as the ridiculous assumption that the IHS will be able to increase third party collections by 463 percent, the budget cuts surpass $300 million. In addition, even though the IHS is already severely understaffed, the president's budget calls for eliminating nearly 2,000 IHS staff positions over the next 2 years. I find it quite ironic that this administration, which has emphasized the need for health care reform and has repeatedly warned the American people that this country is facing a health care crisis, has recommended a budget that would literally devastate the ability of the IHS to address the health care needs of native Americans.

Given the fact that American Indians and Alaska Natives continue to bear an increased burden of illness and premature mortality compared to other U.S. populations, how is it possible that the Public Health Service [PHS], the Department of Health and Human Services [HHS], and the Office of Management and Budget [OMB] could be so insensitive and uncaring? I believe one of the reasons is that the department does not have a senior policymaker who is knowledgeable about Indian health care needs and concerns. As a result, more concern is placed on budget numbers than on equipping IHS to meet the health care needs of Native Americans.

The IHS is currently an agency under PHS within the Department. Under the present organizational structure, the authority of the IHS director is equivalent to that of a midlevel manager. The bureaucratic chain of command requires the IHS director to report directly to the Assistant Secretary for Health. Consequently, much of the director's time and energy is spent fighting through layers of bureaucracy to simply maintain existing levels of health care. Evidence of this is clearly seen in the following budget chart which tracks the history of the fiscal year 1995 budget request:

HISTORY OF FISCAL YEAR 1995 REQUEST—INDIAN HEALTH SERVICE

	Request to PHS	Request to DHHS	Request to OMB	Request to Congress
SERVICES				
Fiscal year 1993 appropriation	1,524,990	1,524,990	1,524,990	1,524,990
Fiscal year 1994 President's budget	1,600,851	1,600,851	0	0
Fiscal year 1994 House allowance	0	0	1,652,394	0
Fiscal year 1994 appropriation	0	0	0	1,646,088
Fiscal year 1994 built-in increases	83,002	68,499	70,851	82,742
Fiscal year 1994 annualization:				
Belcourt, ND, Hospital	1,089	1,089	1,089	1,089
Crow, MT, Hospital	4,326	4,326	4,326	4,326
Tahatchi, NM Hlth Ctr	3,354	3,354	3,354	3,354
Stilwell, OK, Hlth Ctr	2,742	2,742	2,742	2,742
Subtotal—annualization	11,511	11,511	11,511	11,511
Subtotal built-in increases	94,513	80,010	82,362	94,253
FY 1995 program increases staffing new facilities:				
Shiprock, NM Hospital	7,812	7,812	5,956	0
Kotzebue, AK Hospital	4,265	4,265	3,965	0
Subtotal—new facilities	12,077	12,077	10,921	0
Population growth	23,831	14,874	0	0
Women health	10,000	10,000	0	0
Contract support cost shortfall	8,000	8,000	0	0
Contract health care	9,000	9,000	0	0
Loan repayment	5,000	10,000	0	0
Alcohol aftercare	3,000	11,000	0	0
Hard-core substance abuse	0	0	0	10,400
Child abuse	2,500	0	0	0
Emergency medical services	1,500	0	0	0
Additional appeal items				
Population growth	12,335	0	0	0
Contract health care	30,483	0	0	0
Mental health	10,000	0	0	0
Hlth prevention disease prevention	5,000	0	0	0
Public health nursing	10,000	0	0	0
Dental	10,000	0	0	0
Elder health	5,000	0	0	0
Tribal management	4,000	0	0	0
Unmet needs (H&HC)	48,700	0	0	0
Self governance	8,000	0	0	0
Nutrition	6,960	0	0	0
Health education	5,265	0	0	0
Direct operations	6,217	0	0	0
Contract health support costs	26,000	0	0	0
Community health representatives	3,700	0	0	0
Urban	1,300	0	0	0
Diabetes	0	5,000	0	0
National medical expenditure survey	0	4,000	4,000	0
Absorption of built-in increases	0	0	0	(90,094)
Administrative reduction	0	0	(9,319)	(9,319)
Comparative transfer of facilities space (from facilities to H&HC)	0	0	0	5,977
Program transfer to be funded by private insurance	0	0	0	(86,000)

HISTORY OF FISCAL YEAR 1995 REQUEST—INDIAN HEALTH SERVICE—Continued

	Request to PHS	Request to DHHS	Request to OMB	Request to Congress
Total—services request	1,963,232	1,764,812	1,740,358	1,571,305
FACILITIES				
Fiscal year 1994 appropriation	333,640	333,640	333,640	333,640
Fiscal year 1994 President's budget	279,269	279,269	0	0
Fiscal year 1994 House allowance	0	0	296,997	0
Fiscal year 1994 appropriation	0	0	0	296,982
Fiscal year 1994 built-in increases	2,862	3,548	3,807	4,247
Fiscal year 1994 annualization:				
Belcourt, ND, Hospital	131	131	131	131
Subtotal built-in increases	2,993	3,679	3,938	4,378
Fiscal year 1995 program increases:				
Kotzebue quarters	16,400	16,400		
Ft. Belknap/Hays, MT, Clinic	9,000	9,000		
Spokane YRTC	2,780	2,780		
Environmental assessment	5,000	5,000		
Alaska Native Medical Center			17,000	
Maintenance and improvement				0
Population growth	1,169	745		
Injury prevention	1,117	10,000		
Additional appeal items:				
Environmental assessments	3,000			
Ft. Belknap hlth. care fac's.	7,699			
Alcohol rehab. facilities	3,000			
Injury prevention	3,883			
Absorption of built-in increases				(4,378)
Administrative reductions			(1,081)	(1,081)
Deduct hlth. care fac's. constr.	(75,000)	(75,000)	(78,676)	(80,184)
Deduct sanitation facilities				(85,051)
Facilities space transfer to H&C				(5,977)
Total—Facilities request	260,310	251,873	238,178	124,689
Total—Indian Health Service	2,223,542	2,016,685	1,978,536	1,695,994

At a time when Indian leaders are asking that the deplorable health conditions existing on Indian reservations today be recognized and made the basis of policy and action, PHS, HHS, and OMB collectively responded by reducing the budget level proposed by the IHS by over a half billion dollars.

Mr. President, it's time PHS, HHS, and OMB get the message. Indian people should not be treated as second-class citizens. In order to ensure that Indian health care needs and concerns are given the attention they deserve, I believe it has become necessary to designate the IHS director as an Assistant Secretary of Indian Health at HHS. I see four advantages to establishing the position of Assistant Secretary for Indian Health.

First, an Assistant Secretary for Indian Health would provide better representation during the budget process. Currently, the IHS director reports directly to the Assistant Secretary for Health. As seen in the chart above, the concern for Indian health care needs dramatically decreased as the IHS budget was reviewed by the PHS, HHS, and OMB.

Second, an Assistant Secretary for Indian Health would eliminate unnecessary bureaucracy and permit quicker decisionmaking on Indian health care issues. In addition, the Assistant Secretary would have the stature to communicate directly with the other operating divisions within the department in requesting their expertise and assistance on Indian health issues such as alcohol and substance abuse, HIV/AIDS, and child abuse. Currently, the IHS director must forward such requests through the Assistant Secretary for Health.

Third, an Assistant Secretary for Indian Health would have the ability to call on private sector organizations that have not traditionally focused on Indian health care needs and concerns, but who have the expertise and resources that can enhance IHS' ability to deliver the highest quality of health care, or to provide technical assistance to Indian tribes who choose to operate their own health care programs.

Fourth, an Assistant Secretary for Indian Health would reaffirm the special relationship between Indian tribes and the United States. At a time when the Nation is focused on health care reform, it is imperative that we not lose focus on the health care needs and concerns of the Indian people.

I also want to call attention to section 2 of the bill which provides for the organizational independence of the IHS within HHS. This section is necessary because the IHS is currently an agency of PHS which is headed by the Assistant Secretary for Health. Creating an Assistant Secretary for Indian Health will require relocating the IHS to the same organizational level as the PHS.

Section 2 also makes it clear that this bill is not intended to diminish the ability of the IHS to utilize the services of the U.S. Public Health Service Commissioned Corps. While I do not believe HHS would actually prohibit the IHS from continuing to utilize Commissioned Corps personnel in the delivery of health care to the Indian people, however in light of the serious budget and staff reductions recommended by the administration I feel compelled to insert bill language clearly stating the intent of Congress on this particular matter.

Mr. President, I ask unanimous consent that a copy of a letter from Navajo Nation President Peterson Zah and the bill be printed in the RECORD.

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

S. 2067

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health.

(b) ASSISTANT SECRETARY OF INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate.

(c) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer the Assistant Secretary for Indian Health.

(d) RATE OF PAY.—(1) Section 5315 of title 5, United States Code, is amended by striking the following:

"Assistant Secretaries of Health and Human Services (5).";

and inserting the following:

"Assistant Secretaries of Health and Human Services (6).".

(2) Section 5316 of such title is amended by striking the following:

"Director, Indian Health Service, Department of Health and Human Services.".

(e) CONFORMING AMENDMENTS.—(1) Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended—

(A) in the second sentence of subsection (a), by striking "a Director," and inserting "the Assistant Secretary for Indian Health,";

(B) in the fourth sentence of subsection (a), by striking "the Director" and inserting the Assistant Secretary for Indian Health";

(C) by striking out the fifth sentence of subsection (a); and

(D) by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(2) The following provisions are amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health":

(A) Section 816(c)(1) of the Indian Health Care Improvement Act (25 U.S.C. 1680f(c)(1)).

(B) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)).

(C) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377(b), (e)).

(D) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)).

SEC. 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ORGANIZATION.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661), as amended by section 1(e)(1), is further amended—

(1) by striking out "within the Public Health Service of the Department of Health and Human Services" each place it appears and inserting "within the Department of Health and Human Services"; and

(2) in the second sentence of subsection (a), by striking out "report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services" and inserting "report to the Secretary".

(b) CONFORMING AMENDMENT.—The section heading of such section is amended by striking the following:

"ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE";

and inserting the following:

"ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF DEPARTMENT OF HEALTH AND HUMAN SERVICES".

(c) UTILIZATION OF PUBLIC HEALTH SERVICE PERSONNEL.—Nothing in this section shall be interpreted as terminating or otherwise modifying any authority providing for the utilization by the Indian Health Service of officers or employees of the Public Health Service for the purposes of carrying out the responsibilities of the Indian Health Service. Any officers or employees so utilized shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service (42 U.S.C. 215(a)).

THE NAVAJO NATION,
Window Rock, AZ, April 29, 1994.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: In response to your letter dated March 8, 1994, the Navajo Nation endorses your proposal that would elevate the Indian health Services Director to the level of an Assistant Secretary of Health. By doing so, we believe this measure would alleviate the Administration's many misunderstandings of the Indian Health Service (IHS) and its delivery of health care services to American Indians and Alaska Natives. It would also extend the opportunity for the IHS director to actively participate in developing the IHS budget, thus, it would enlace dialogue between the Administration and Indian tribes that would be more responsive to tribal needs and concerns.

As you are aware, the Navajo Nation opposes the Administration's proposed FY 1995 IHS budget. Current examples of the lack of visibility and participation of IHS abound in the concurrent budget.

The Navajo Nation recognizes the mounting pressures of budget limits and government downsizing that would potentially devastate the IHS and health care services to Indian people. The Executive directives explicitly reduced the Full-Time Equivalent (FTE) of IHS, which is less than two percent of the entire Department of Health and Human Services budget, yet IHS is absorbing almost 40 percent of the FTE reductions. The FTE reductions come at an unfortunate time because the IHS is scheduled to open two new health facilities in Shiprock and Tohatchi, New Mexico. These health facilities will be partially staffed and the Navajo people will again be further underserved. Moreover, the FY 1994 and 1995 FTE reductions harshly impact Navajo employment, since the IHS is one of the Major employers on the Navajo Reservation. If the IHS director were at the policy making level of the department to reaffirm tribal interests, we believe these incidences could have been clarified and analyzed from a realistic perspective.

I assure you that other American Indian leaders appreciate and support your proposal. It can only contribute to the health care of American Indians and Alaska Natives.

Sincerely,

PETERSON ZAH,
President.

By Mr. PRESSLER (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HARKIN, and Mr. DURENBERGER):

S. 2068. A bill to authorize the construction of the Lewis and Clark rural water system and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

LEWIS AND CLARK RURAL WATER SYTEM

Mr. PRESSLER. Mr. President, today I am introducing legislation that authorizes construction of the Lewis and Clark rural water system. This system, when complete, will provide adequate quantities of safe drinking water for hundreds of communities in southeastern South Dakota, northwestern Iowa, and southwestern Minnesota.

Joining me in introducing this legislation are Senators DASCHLE, DURENBERGER, GRASSLEY, and HARKIN.

Mr. President, water development is a health issue. Water development is an economic development issue. Finally, it is a rural development issue.

The ability of rural America to survive and grow is related directly to its ability to provide safe and adequate supplies of drinking water. Without a reliable supply of water, these areas cannot attract new businesses and create jobs. The creation of jobs is a paramount issue to a rural State like South Dakota. The Lewis and Clark rural water system will help assure future job growth in the areas served.

Since first coming to Congress, I have fought continually for the development of South Dakota water projects, particularly those providing water for municipal and industrial uses. In return for the sacrifices South Dakotans made for the construction of the dams and reservoirs along the Missouri River, the Federal Government made a commitment to South Dakota. That commitment was to support water development in the State. Approval of this water project will help meet this commitment.

I am proud of the citizens of South Dakota who have worked extremely hard on this project. In fact, several South Dakotans were in Washington last Wednesday to show their support for and commitment to seeing this project become a reality. Although these South Dakotans are not here today for the bill's introduction, the bill represents their hard work. I commend them for these efforts.

Nothing is more important to the health of South Dakota's ranchers, farmers, small businesses, and people living in towns and cities than the availability of safe drinking water. This is important equally to the millions of visitors and tourists who come to South Dakota each year. The bill I am introducing today will see that future water needs are met.

Mr. President, in this day and age of fiscal cutbacks, projects promoting Public health and safety deserve special consideration. The Lewis and Clark rural water system is the only feasible means of ensuring that future supplies of good quality water will be available. The system will serve over 180,500 people.

My goal is to see South Dakotans from border to border enjoy clean safe drinking water. It becomes difficult for rural communities and residents to maintain a healthy standards of living if they do not have access to good quality drinking water. This bill is a major step toward achievements of this goal.

Mr. President, the area that will be served by this project represents the best of America. It is part of America's breadbasket. Sioux Falls was rated recently as the No. 1 city in America. This water project will help assure the future growth and prosperity of Sioux Falls and the many other communities it will serve.

America and the world rely on U.S. farmers and ranchers to provide the food we eat. Rural America must be able to grow and prosper. Rural America must be able to maintain a standard of living comparable to that enjoyed by urban America.

Working together we can ensure that every South Dakotan has access to dependable, high-quality drinking water.

For growth and prosperity, we must be able to utilize our most precious natural resource—water.

Mr. President, I urge my colleagues to support this bill.

Mr. DASCHLE. Mr. President, I join my colleague, Senator PRESSLER, in introducing legislation to authorize the Lewis and Clark rural water system. The Lewis and Clark rural water system is seeking authorization for the construction of a rural water system to provide clean water to southeastern South Dakota, northwestern Iowa, and southwestern Minnesota.

The need for this project is clear. In Sioux Falls, and in the rural counties that rely on Sioux Falls as a center of economic growth, we are now face to face with water shortages. Population growth is outstripping existing supplies of clean water.

Despite heroic efforts by the city of Sioux Falls to conserve water, supplies are not keeping up with demand. Sioux Falls has imposed water restrictions every year since 1987. Water rights for the Big Sioux aquifer, which supplies water to Sioux Falls, have been committed. Therefore, Sioux Falls has been forced to explore other long-term options. Similar problems exist in the nearby rural counties in southeastern South Dakota, Iowa, and Minnesota, areas where water use restrictions are not uncommon. Unless the water supply problem is resolved, it could affect the long-term growth and development of the city.

Not only are there shortages of water, but much of the water that currently supplies the area is contaminated with high levels of iron, manganese, sulfate, and total dissolved solids. In many cases, drinking water is at or above EPA limits, leading to concern over public health in those areas.

There is a solution: The people of this region can tap the enormous resources of the Missouri River to provide long-term public health and economic development benefits. But they cannot do this alone. It will require a partnership between local, State, and Federal Governments.

With the Missouri River carrying billions of gallons of water by this area each year, I am reminded of the ironic line "water, water everywhere, but not a drop to drink." With the construction of the Lewis and Clark system to convey Missouri River water to the people of this region, that irony will cease. Impacts of this project on the flow of the Missouri River will be negligible. Nearly all the water would be returned to the Missouri River via the James, Vermillion, Big Sioux, Little Sioux, Rock, and Floyd Rivers.

In conclusion, there is a strong need for this project throughout the three-State area. The water supply shortages, the poor water quality, and the need to allow this region to grow economically, all demand that a solution be found that allows the people of this region access to clean, safe drinking water. The Lewis and Clark project is a sensible and timely answer to those needs. I encourage my colleagues to lend their support to this project in hopes that Congress will authorize its construction in the near future.

ADDITIONAL COSPONSORS

S. 79

At the request of Mr. DECONCINI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 79, a bill to restore public confidence in the performance and merits of elected officials and Federal employees.

S. 978

At the request of Mr. BAUCUS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 978, a bill to establish programs to promote environmental technology, and for other purposes.

S. 1266

At the request of Mr. MACK, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1266, a bill to amend title XIX of the Social Security Act to improve the Federal medical assistance percentage used under the Medicaid Program, and for other purposes.

S. 1460

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1460, a bill to amend the Elementary and Secondary Education Act of 1965 to authorize programs of child abuse education and prevention, and to establish a demonstration project relating to child abuse education and prevention.

S. 1472

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1472, a bill to provide financial assistance to rural eligible local educational agencies to improve rural education, and for other purposes.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1693

At the request of Mr. REID, the names of the Senator from Utah [Mr. HATCH] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1693, a bill to amend the Internal Revenue Code of 1986 to delay the effective date for the change in the point of imposition of the tax on diesel fuel, to provide that vendors of diesel fuel used for any nontaxable use may claim refunds on behalf of the ultimate users, and to provide a similar rule for vendors of gasoline used by State and local governments.

S. 1805

At the request of Mr. WARNER, the name of the Senator from Louisiana [Mr. JOHNSTON] 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. 1924

At the request of Mr. HATCH, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1924, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 1943

At the request of Mrs. KASSEBAUM, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1943, a bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes.

S. 1975

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of 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.

S. 1976

At the request of Mr. DODD, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Washington [Mr. GORTON] were added as cosponsors of 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.

S. 1979

At the request of Mrs. MURRAY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of 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.

S. 1986

At the request of Mr. BREAUX, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a co-

sponsor of S. 1986, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

S. 2029

At the request of Mr. BREAUX, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2029, a bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters.

SENATE JOINT RESOLUTION 168

At the request of Mr. ROBB, the names of the Senator from Michigan [Mr. LEVIN], the Senator from North Carolina [Mr. HELMS], the Senator from Colorado [Mr. BROWN], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 168, a joint resolution designating May 11, 1994, as "Vietnam Human Rights Day."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE JOINT RESOLUTION 178

At the request of Mr. DOMENICI, the names of the Senator from Nevada [Mr. REID] and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SHELBY], the Senator from Ohio [Mr. GLENN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Florida [Mr. GRAHAM], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE RESOLUTION 64

At the request of Mr. LUGAR, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Resolution 64, a resolution expressing the sense of the Senate that increasing the effective rate of taxation by lowering the estate tax exemption would devastate homeowners, farmers, and small business owners, further hindering the creation of jobs and economic growth.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the names of the Senator from Kentucky [Mr. FORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 208—RELATING TO MAMMOGRAPHY SCREENING

Mr. COHEN (for himself and Ms. MIKULSKI, Mrs. HUTCHISON, Mr. GRASSLEY, Mr. STEVENS, Mr. BRADLEY, Mr. BROWN, Mr. JEFFORDS, Mr. FORD, Mr. BURNS, Mrs. MURRAY, Mr. SPECTER, Mr. REID, Mr. MACK, Mrs. BOXER, Mrs. KASSEBAUM, Mrs. FEINSTEIN, and Ms. MOSELEY-BRAUN) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 208

Whereas breast cancer is a substantial health problem in the United States, and the leading cause of death in women between the ages 15 to 54;

Whereas breast cancer is the most common form of cancer for women in the United States, and the second leading cause of cancer death among all women;

Whereas it is estimated that in 1994 alone, over 182,000 new cases of breast cancer will be diagnosed and over 46,000 women will die as a result of breast cancer;

Whereas in 1992, 40,000 cases of breast cancer were diagnosed in women under the age of 50, of which 28,900 cases were diagnosed in women between the ages of 40 and 49;

Whereas the risk of breast cancer increases significantly after the age of 40;

Whereas mammography is recognized as a valuable diagnostic technique for screening women for breast cancer and has been proven to reduce mortality for women over the age of 50 with breast cancer;

Whereas the National Cancer Institute is the lead Federal agency for research on the causes, prevention, diagnosis and treatment of cancer, and whose statements are relied upon by health professionals and patients for critical health care decisions;

Whereas the National Cancer Institute in 1987 developed guidelines recommending that breast cancer screening begin by age 40 and consist of annual clinical examination with mammography screening performed at 1- or 2-year intervals to age 49;

Whereas on December 3, 1993, the National Cancer Institute released a statement on breast cancer screening for women over the age of 50 that states that "there is a general consensus among experts that routine screening every 1 to 2 years with mammography and clinical breast examination can reduce breast cancer mortality by about one-third for women ages 50 and over";

Whereas such statement departed from the earlier recommendations of the National Cancer Institute on mammography screening for women ages 40 to 49 by stating that "experts do not agree on the role of routine screening mammography for women ages 40 to 49" and that "to date randomized clinical trials have not shown a statistically significant reduction in mortality for women under the age of 50"; and

Whereas significant disagreement among experts in the field of oncology over the interpretation and accuracy of recent clinical studies on the value of mammography for women under age 50 and the recent statement by the National Cancer Institute on mammography for women ages 40 to 49 has sent both confusing and conflicting messages to women at risk of breast cancer: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it is good public health care policy that appropriate mammography screening be available and accessible for women between the ages of 40 and 49;

(2) in light of the scientific disagreement regarding the value of mammography screening for women between the ages of 40 and 49, it is critically important that women and their doctors decide what is the best course of care for the early detection of breast cancer, including mammography screening;

(3) health plans be established in such a manner to ensure that all women, including women ages 40 to 49, receive coverage for mammography screening that is appropriate for the early detection of breast cancer;

(4) comprehensive health care reform include adequate protection of all women, including women ages 40 to 49, to ensure that all women have access to coverage for mammography screening where it is appropriate for the early detection of breast cancer;

(5) the National Cancer Institute supports additional research, which may include randomized clinical trials, for mammography screening for women ages 40 to 49 to determine the effectiveness and benefits of mammography screening for reducing breast cancer mortality in women under the age of 50;

(6) the National Cancer Institute increase research to improve imaging techniques such as mammography, and to develop new types of early detection such as digital mammography, and other technologies that will improve early detection of breast cancer in all women, especially for women ages 40 to 49; and

(7) the Public Health Service, in conjunction with national and international centers, consumer groups, and appropriate medical and professional organizations, should immediately reach a consensus on the studies that should be undertaken to provide information to determine the effectiveness and benefits of mammography screening and other emerging technologies for women ages 40 to 49.

Mr. COHEN. Mr. President, today together with Senators MIKULSKI, HUTCHISON, GRASSLEY, STEVENS, BRADLEY, BROWN, FORD, JEFFORDS, BURNS, MURRAY, SPECTER, REID, MACK, KASSEBAUM, BOXER, FEINSTEIN, and LEVIN, I am submitting a sense-of-the-Senate resolution addressing the controversy surrounding the National Cancer Institute's recent policy statement questioning the effectiveness of mammography screening for women between the ages of 40 to 49. This resolution underscores that it is crucial to ensure that women between the ages of 40 to 49 have adequate access to mammography screening for the early detection of breast cancer. It also encourages the Public Health Service to work with national and international groups in de-

termining what additional scientific studies should be conducted to test the effectiveness of emerging cancer screening technologies.

Despite promising scientific advances in the diagnosis and treatment of breast cancer, this very serious disease remains a major health threat to millions of American women. This year alone, over 182,000 new cases of breast cancer will be diagnosed and more than 46,000 women in the United States will die as a result of this devastating disease. Breast cancer is the most common cause of death for women aged 40 to 44. Indeed, since the current probability is that one in every eight women will be diagnosed with breast cancer, few families across this Nation will be untouched by this life-threatening disease.

With statistics this somber, I am very concerned by the recent announcement of the National Cancer Institute that it will no longer recommend that breast cancer screening begin at age 40 and consist of annual exams and mammograms every year or 2 years up until age 49. This announcement has, in effect, reversed the NCI's guidelines on mammography that have been in place since 1987.

The NCI's new position comes in the midst of great debate over the scientific basis for routine mammograms for women under 50, and before any adequately designed study has definitively established that mammography screening is not advisable for women in this age group. The NCI's action has been strongly opposed by over 20 national organizations dedicated to women's health, cancer prevention, and cancer research, such as the American Cancer Society and the American Medical Women's Association.

The NCI's new position is highly controversial even within the National Institutes of Health itself. While the NCI determined, based on eight clinical trials, that there was insufficient evidence to show that mammography reduces mortality rates for women in their forties, only one of these studies was adequately designed to specifically evaluate screening for women in this age category. Moreover, this new policy was announced despite the advice of the NCI's own National Cancer Advisory Board—an extremely rare occurrence. By a 14 to 1 vote, the Advisory Board concluded that the Institute's earlier guidelines should remain in place because the science is inconclusive to support any changes at the present time.

Mr. President, there has been widespread speculation on why the NCI has altered its position on mammography for women under 50, against the advice of its own board and a host of providers and advocates for women's health. Some women's groups, health care organizations, and doctors allege that it is economics, rather than scientific information that is leading this change in policy. They are concerned that the NCI's decision may have been influenced by the costs of reimbursing mammograms for women aged 40 to 49 if mammography is included in a standard benefit package under health care reform.

I am not convinced that this was the motive behind NCI's action. I do, however, seriously question the wisdom of scaling back mammography standards for women during a time when the incidence of breast cancer has reached epidemic proportions and no clear consensus on this issue has been reached.

I am very concerned that the NCI's action will send a confusing message about the importance of mammography, thus discouraging younger women to obtain screening. This mixed message is particularly disturbing at the same time that breast cancer treatment studies have come under fire for allegedly covering up possible falsification of data.

I am also very concerned that the NCI's action has already had an adverse effect on insurance coverage for this important cancer screening tool, and that some insurance plans are now refusing to cover mammograms for women in this age group.

There are exciting new developments emerging through cancer research, including blood tests and digital mammography to more accurately detect breast cancer. Until these alternative screening techniques are widely available, however, mammography remains one of the only weapons we have to help detect breast cancer during its first stages. Since early cancer detection offers the best opportunity for treatment to be successful, it is critical that we send the appropriate public health message to women: namely, that women of all ages at risk of breast cancer and women over the age of 40 should have access to, and should consult with their physician about routine mammography screening.

This year, over 900 women in Maine will be diagnosed with breast cancer, and over 225 women will die as a result of this disease. Alarmingly, as many as 80 percent of these women have no known risk factor for cancer, but will still develop the disease.

Recently, I met with a group of courageous breast cancer survivors from Maine who were visiting Washington to draw attention to the magnitude of the breast cancer epidemic in this country.

Bonnie Tucker, a third generation breast cancer survivor, from Hampden, ME, was one of these survivors. Her grandmother was diagnosed with breast cancer at age 66 and her mother was diagnosed at age 48—and died at age 50. Bonnie's own cancer was diagnosed at age 39, and she has no doubt that the mammogram that detected her cancer has added years to her life. She is furious with the NCI's recent policy statement and fears that many women without a family history of breast cancer may defer mammography until their cancer is too advanced, as in the case of her mother and grandmother. Bonnie is still fighting her own disease, and is fighting the battle for a cure for her daughter and millions of other young women in this country.

Mr. President, as we tackle health care reform, we must do all we can to encourage preventive health care, as one of the most effective means of controlling costs in the long run. A key factor in preventive health care is educating patients on early disease detection and encouraging them to discuss screening techniques with their doctors. Clarifying the importance of mammography for women in their 40's is an important step in this direction.

This resolution is endorsed by the American Cancer Society, American Medical Women's Association, National Breast Cancer Coalition, National Alliance of Breast Cancer Organizations, National Medical Association, American College of Radiology, American Society of Internal Medicine, Cancer Research Foundation of America, American Association of Women Radiologists, the Society for the Study of Breast Disease, Cancer Awareness Programs, and the Susan G. Komen Foundation.

Mr. President, some have argued that we should not politicize science by intruding upon the actions of the National Cancer Institute, and that we should, instead, allow the science to speak for itself. I share this concern that we should not allow politics to dictate our scientific findings. This resolution, however, does not alter the scientific conclusions of the NCI, but rather clarifies that, in the absence of definitive scientific evidence to the contrary, we cannot afford to discourage women from seeking out early breast cancer screening.

I applaud Senator MIKULSKI for her leadership in promoting quality mammography screening. Both she and I look forward to working with our colleagues, the NCI, and a host of major national cancer, health, and women's organizations in encouraging early detection of breast cancer. I urge my colleagues to cosponsor this sense-of-the-Senate resolution to send a strong, clear message that mammography is an important cancer screening tool which should be encouraged and available. To do any less could jeopardize the lives of millions of American women.

I ask unanimous consent that a list of the groups that support the resolution be printed in the RECORD.

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

GROUPS WHO ENDORSE THE RESOLUTION

American Cancer Society.
American Medical Women's Association.

National Breast Cancer Coalition.
National Alliance of Breast Cancer Organizations.
National Medical Association.
American College of Radiology.
American Society of Internal Medicine.
Cancer Research Foundation of America.
American Association of Women Radiologists.
The Society for the Study of Breast Disease.
Cancer Awareness Programs.
Susan G. Komen Foundation.

Mr. FORD. Mr. President, I rise today in support of this resolution, Senate Resolution 208, that is so vitally important to the women of this Nation. Breast cancer is a most horrible disease, it strikes all generations and is unrelenting in the attack on its victims. If there is anything that can be done to stop it, we must pursue that effort with all the resources that we possess.

Mr. President, there is something that we can do. A properly performed mammography can help catch this dreaded disease in its early stages, when changes are highest for a full recovery. It is not perfect, it is not 100 percent effective, but it is a start. However, relaxed new guidelines on when women should begin routine mammography screening could put this valuable preventive medicine out of reach. Passage of this resolution will demonstrate how wrong the Senate feels these new guidelines are.

This is not the solution to the greater problem, but it is a positive first step in the fight against breast cancer, and I say again, the least that can be done. It is with that sentiment that I ask my colleagues to join me in my support for this most meaningful legislation.

Ms. MIKULSKI. Mr. President, I rise to join Senator COHEN in introducing Senate Resolution 208. We are introducing this resolution to express the sense of the Senate with respect to mammography screening to detect breast cancer in women. And we encourage our colleagues to join us in our efforts.

Why a resolution on mammography?

Because women and men across the country are angry about the mixed and confusing messages about the benefits of mammography for women between the ages of 40 and 49.

Because they are concerned that without clear scientific agreement about the value of mammography screening for women aged 40 to 49 that insurance companies will take that as a sign to stop covering this procedure.

Because they are concerned that there isn't sufficient research being done on the benefits of mammography in younger women or enough research being supported to improve early detection techniques that could better detect breast cancer in younger women.

And because they are concerned that coverage for mammography screening in health care reform may not be adequate to the task of screening women to save lives.

On April 9, I held a hearing of the Subcommittee on Aging to discuss women's health and health care reform. This was a historic hearing: six of the seven women Senators attended that hearing and all of them raised serious concerns about the confusing message coming from the National Cancer Institute regarding the value of screening women between the ages of 40 and 49.

Last fall the National Cancer Institute after a serious review of the studies on mammography concluded that while there was a general consensus among experts that routine screening and clinical breast examination can reduce mortality for women over 50, there is no agreement among experts about the role of routine screening from mammography for women ages 40 to 49. They found that studies to date do not show significant reduction in mortality for this age group.

The National Canter Institute also said that it was no longer issuing guidelines regarding mammography. Instead they issued a statement of their findings and encouraged women to discuss with their physicians appropriate health care regarding the early detection of breast cancer.

The problem was that scientists of the highest caliber disagreed about the NCI findings. Respected physician groups also divided over the issue of whether women under the age of 50 should be screened regularly as had been the NCI recommendations from 1987 through 1993.

And consumer health groups are divided as well about what to recommend to their constituents.

That is why we need this resolution: we need more research, more cooperation, and a better way to communicate change in scientific guidelines to women in this country. We need a clear, scientific, and agreed upon course of action to reach a clear message. And we need to be sure that that process has input from consumer groups, appropriate medical and professional organizations, and national and international researchers.

We also need an NCI that can lead, that can be trusted, and that can understand the fears and anger of women and men in this country over the rising rate of breast cancer and the lack of clear scientific agreement on how to best detect this disease.

We know breast cancer continues to be the second leading cause of cancer death in women in the United States behind lung cancer. We know that 182,000 new cases of breast cancer are estimated to be diagnosed this year, 40,000 of which will be diagnosed in women under the age of 50. And we know sadly that 46,000 women will lose their lives to this disease alone this year.

That makes this resolution all the more urgent. We cannot retreat from the need to understand and find a cure for this disease. Nor can we retreat assuring that women get the type of care that is appropriate for the early detection of this disease in the face of scientific uncertainty.

This resolution makes sure that we go forward—not backward.

It makes clear that women between age 40 and 49 will get appropriate screening for the early detection of breast cancer.

It makes clear that any health care reform bill must provide adequate and appropriate coverage for the early detection of breast cancer.

And it makes clear that it is time that NCI take the leadership and bring all players to the table to reach a consensus on the studies to be taken to determine the effectiveness and benefits of mammography screening and other emerging technologies for women ages 40 to 49.

The women who are dying from breast cancer every year are more than statistics. They are women of all ages, mothers, sisters, daughters, and granddaughters. We owe it to them to redouble our efforts on all fronts to eliminate this disease.

SENATE RESOLUTION 209
HONORING MIKIS THEODORAKIS

Mr. RIEGLE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 209

Whereas Mikis Theodorakis is an internationally renowned musical genius and is considered to be Greece's greatest living composer;

Whereas Mikis Theodorakis was born in 1925 on the Greek island of Khios to a family which instilled in him a love of music and a passion for life;

Whereas, as a youth, Mikis Theodorakis pursued his love of music by teaching himself to write music from memory and without access to musical instruments;

Whereas, in 1953, Mikis Theodorakis entered the Paris Conservatory, launching his brilliant musical career;

Whereas Mikis Theodorakis has composed more than 200 popular songs, 10 symphonies, 3 ballets, 2 oratorios, a folk opera, and the Olympic anthem (which was first performed at the 1992 Summer Olympic Games in Barcelona, Spain);

Whereas Mikis Theodorakis is famous throughout the world for his film scores to "Z" and "Zorba the Greek";

Whereas Mikis Theodorakis combines his exceptional artistic talent with a deep love of his country and is dedicated to heightening international awareness of human rights and environmental issues, and ending child hunger in the world;

Whereas Mikis Theodorakis is on a month-long goodwill tour of Europe, Canada, and the United States;

Whereas Mikis Theodorakis returns to North America after an absence of nearly 2 decades, leading the 150 Ensemble Symphony Orchestra and Chorus of Hellenic Radio and Television in concert performances of his own works;

Whereas the proceeds from Mikis Theodorakis' concert tour will benefit a number of philanthropic organizations, including the Greek reforestation effort sponsored by the Plant Your Roots in Greece Foundation;

Whereas his beautiful homeland of Greece is fortunate to claim Mikis Theodorakis as a national figure; and

Whereas the United States is fortunate to welcome Mikis Theodorakis for the series of concerts he will present here during May 1994: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Mikis Theodorakis' musical contributions, and his efforts to promote human rights, raise awareness of environmental issues, and end child hunger deserve our appreciation and support; and

(2) the Senate welcomes Mikis Theodorakis to the United States and applauds his talent and enthusiasm for his work.

AMENDMENTS SUBMITTED

FAIR CREDIT REPORTING ACT

BRYAN AND OTHERS) AMENDMENT NO. 1667

Mr. BRYAN (for himself, Mr. BOND, and Mr. RIEGLE) proposed an amendment to the bill (S. 783) to amend the Fair Credit Reporting Act, and for other purposes; as follows:

On page 80, line 2, strike "and".

On page 80, between lines 2 and 3, insert the following:

"(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

On page 80, line 3, strike "(B)" and insert "(C)".

On page 80, line 20, strike "subsection (d)" and insert "subsections (a)(2) and (d)".

On page 105, strike lines 17 through 21 and insert the following:

"(3) if the consumer certifies in writing that the consumer—

"(A) is unemployed and intends to apply for employment during the 60-day period beginning on the date on which such certification is made;

"(B) is a recipient of public welfare assistance; or

"(C) has been the victim of fraud.

On page 106, line 7, strike the quotation marks and the final period.

On page 106, between lines 7 and 8, insert the following new subsection:

"(c) CONSUMER REPORTS AT SPECIFIED CHARGE.—

"(1) IN GENERAL.—Upon the written request of a consumer, a consumer reporting agency that maintains a file on the consumer shall make all disclosures pursuant to section 609 once during any 12-month period at the applicable charge described in paragraph (2).

"(2) APPLICABLE CHARGE.—For purposes of paragraph (1), the applicable charge shall not exceed the lesser of—

"(A) the total costs incurred by the consumer reporting agency in making the disclosures; and

"(B) $3.".

On page 107, strike lines 16 through 18 and insert "paragraph (2); and".

On page 112, between lines 14 and 15, insert the following new subsection:

(d) AFFILIATE SHARING NOTICE REQUIREMENT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by subsections (b) and (c), is amended by adding at the end the following new subsection:

"(f) AFFILIATE SHARING NOTICE REQUIREMENT.—Whenever credit or insurance for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased, either wholly or partly because of information that is furnished to the user of the information by a person related to the user by common ownership or affiliated by corporate control, and that bears upon the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall—

"(1) notify the consumer of the action, and upon a written request from the consumer for the reasons for such action that is received by the user not later than 60 days after transmitting such notice, not later than 30 days after receiving such request, disclose the nature of the information to the consumer; and

"(2) provide to the consumer a toll-free telephone number that is established and maintained by the user and that enables the consumer to contact the user regarding the action.".

On page 112, line 20, strike "A person" and insert "Except as provided in section 622(c), a person".

On page 112, line 23, strike "subsection (c)" and insert "subsection (b)".

On page 113, strike lines 1 through 3.

On page 113, line 4, strike "(c)" and insert "(b)".

On page 113, line 18, strike "(d)" and insert "(c)".

On page 114, line 6, strike "A person" and insert "Except as provided in section 622(c), a person".

On page 114, line 9, strike "subsection (c)" and insert "subsection (b)".

On page 114, strike lines 10 through 12.

On page 114, line 13, strike "(c)" and insert "(b)".

On page 114, line 23, strike "(d)" and insert "(c)".

On page 115, strike line 23 and all that follows through page 116, line 2, and insert the following:

"(2) DUTY TO CORRECT AND UPDATE INFORMATION AFTER REINVESTIGATION.—A person who furnishes to a consumer reporting agency information that is disputed by a consumer in accordance with section 611 and that, as a result of an investigation conducted in accordance with subsection (b), is determined by the person to be inaccurate or incomplete shall—".

On page 116, between lines 9 and 10, insert the following new paragraph:

"(3) DUTY TO CORRECT INFORMATION OTHERWISE DETERMINED TO BE INACCURATE OR INCOMPLETE.—A person who regularly and in the ordinary course of business furnishes to a consumer reporting agency information that, other than as a result of an investigation conducted in accordance with subsection (b), is determined by the person to be inaccurate or incomplete shall—

"(A) promptly notify the consumer reporting agency of that determination; and

"(B) provide to the agency any corrections to that information, or any additional information, necessary to make the information provided by the person to the agency complete and accurate.

On page 116, line 10, strike "(3)" and insert "(4)".

On page 116, line 18, strike "(4)" and insert "(5)".

On page 117, line 1, strike "(5)" and insert "(6)".

On page 117, strike line 9 and all that follows through page 118, line 10.

On page 118, line 11, strike "(c)" and insert "(b)".

On page 118, line 19, strike "25-day" and all that follows through "611(a)(1)" and insert the following: "applicable period under section 611(a), during which the consumer reporting agency is required to complete actions required by that section regarding that information".

On page 118, line 25, strike "(d)" and insert "(c)".

On page 119, strike lines 1 through 3 and insert the following:

"(1) LIMITATION ON LIABILITY.—Sections 616 and 617 do not apply to any failure to comply with paragraph (1), (3), (4), (5), or (6) of subsection (a).

"(2) ENFORCEMENT.—Paragraphs (1), (3), (4), (5), and (6) of subsection (a) shall be enforced exclusively under section 621 by the agencies identified in that section.

On page 119, line 4, strike "(2)" and insert "(3)".

On page 120, line 9, insert "except in the case of a violation of section 622(a)(1)," after "(D)".

On page 121, line 23, insert ", except that no civil penalty may be imposed for a violation of section 622(a)(1)" before the quotation marks.

On page 123, between lines 18 and 19, insert the following:

"(ii) section 605, relating to obsolete information, except that this clause does not affect the applicability of any State law in effect on the date of enactment of the Consumer Reporting Reform Act of 1994;

On page 123, line 19, strike "(ii)" and insert "(iii)".

On page 124, line 3, strike "(iii)" and insert "(iv)".

On page 124, line 8, strike "(iv)" and insert "(v)".

On page 124, line 18, strike "under—" and all that follows through "622(b)(2)" and insert "under section 609(c)".

On page 126, line 6, strike "under—" and all that follows through line 8 and insert the following: "under section 609(c).

"(4) APPLICABILITY.—Notwithstanding any other provision of this subsection, beginning 6 years after the date of enactment of the Consumer Reporting Reform Act of 1994, a State may adopt a law, or certify that the voters of the State have voted in favor of a constitutional or other provision, which states explicitly and by its terms that the law or provision is intended to supplement this Act, if the law or provision gives greater protection to the consumer than is provided under this Act.".

On page 133, line 7, strike "You have" and all that follows through the period on line 10.

On page 133, line 10, strike "also".

On page 133, line 14, insert the following after the period: "You are also entitled to receive a free copy of your credit report if you are unemployed and intend to apply for employment during the next 60 days, if you are a recipient of public welfare assistance, or if you have been the victim of fraud.".

LIEBERMAN (AND OTHERS) AMENDMENT NO. 1668

Mr. LIEBERMAN (for himself and Mr. MACK, Mrs. BOXER, Mr. GRAMM, Mr. BRADLEY, Mrs. FEINSTEIN, Mr. BINGA-

MAN, Mr. DECONCINI, Mr. WELLSTONE, Mr. GORTON, Mr. SHELBY, Mr. BENNETT, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. LAUTENBERG, and Mr. ROBB) proposed an amendment to the bill S. 783, supra; as follows:

At the appropriate place insert:

SECTION 1. FINDINGS.

(a) The Financial Accounting Standards Board (FASB) is currently considering changing the Generally Accepted Accounting Principle relating to employee stock options plans and stock purchase plans;

(b) FASB's proposal that would require the use of complex mathematical formulas to estimate a value for employee stock options at the date of grant and requires those estimated values be deducted from earnings on companies' income statements;

(c) FASB has just completed an extended review of its proposal which included a public comment period, numerous field hearings and a field test;

(d) FASB's proposal has generated opposition which is unprecedented in both its intensity and universality;

(e) The accounting profession, as represented by the American Institute of Certified Public Accountants and each of the 6 largest national accounting firms, oppose FASB's proposal;

(f) Individual investors, as represented by the United Shareholders Association, oppose FASB's proposal;

(g) Institutional investors and pension funds, as represented by the Council of Institutional Investors, oppose FASB's proposal;

(h) Both the Secretary of the Treasury and the Secretary of Commerce have raised serious concerns about FASB's proposal: "Most troubling is the possibility that implementation of the proposal might result in more volatile and less accurate and consistent financial statements because of the extreme difficulty of valuing long-term, non-marketable, forfeitable stock options;"

(i) There is a broad consensus among those who have studied the FASB proposal it will diminish and not improve either the integrity or comparability of information available to investors;

(j) The National economic policy implications of FASB's proposal are substantial because small, growth-oriented companies often lack capital and therefore regularly rely on broad-based employee stock options to attract employees and large business provide employee stock options and broad-based employee stock purchase plans to help motivate their employees and improve productivity; and

(k) The FASB proposal will diminish the ability of small companies to raise capital and attract employees and it will curtail, not enhance broad-based employee ownership.

SEC. 2. SENSE OF THE SENATE.

It is the Sense of the Senate that

(a) the new accounting treatment of employee stock options and employee stock purchase plans, proposed by the Financial Accounting Standards Board, will have grave economic consequences particularly for businesses in new-growth sectors which rely heavily on employee entrepreneurship;

(b) the new accounting treatment of employee stock options and employee stock purchase plans, proposed by the Financial Accounting Standards Board, will diminish rather than expand broad-based employee stock option plans; and

(c) the Financial Accounting Standards Board should not at this time change the current generally accepted accounting treatment of stock options and stock purchase plans contained in Accounting Principles Board Decision 25.

LEVIN (AND BOREN) AMENDMENT NO. 1669

Mr. LEVIN (for himself and Mr. BOREN) proposed an amendment to the amendment No. 1668 proposed by Mr. LIEBERMAN to the bill S. 783, supra; as follows:

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

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the status of the Financial Accounting Standards Board as a private body of independent accounting experts should be respected and safe-guarded; and

(2) the Congress should not impair the objectivity or integrity of the Financial Accounting Standards Board's decisionmaking process by legislating accounting rules.

GORTON AMENDMENT NO. 1670

Mr. BRYAN (for Mr. GORTON) proposed an amendment to the bill S. 783, supra; as follows:

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

SEC. . SECURITIES AND EXCHANGE COMMISSION, SEATTLE DISTRICT OFFICE.

It is the sense of the Senate that the Securities and Exchange Commission district office located in Seattle, Washington shall not be closed, nor its services, operations, or staff be reduced from the levels in effect on January 1, 1994. None of the operations of the Seattle office shall be transferred to another office of the Securities and Exchange Commission.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a Hearing on Wednesday, May 4, 1994, beginning at 9:30 a.m., in 485 Russell Senate Office Building on H.R. 6 and S. 1513, reauthorization of the Elementary and Secondary Education Act of 1965.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Saturday, May 14, 1994, beginning at 8:30 a.m. and concluding at approximately 12 noon. The hearing will be held in the Special Events Building of the Indian Pueblo Culture Center, 2401 12th Street NW., Albuquerque, NM.

The purpose of the hearing is to receive testimony on the Department of the Interior's proposed rule to amend the Department's regulations concerning livestocks grazing.

Because of the limited time available for the hearing, witnesses may testify by invitation only. Witnesses testifying at the hearing are requested to bring 15 copies of their written testimony with them on the day of the hearing.

Anyone wishing to submit a statement for the record should bring one copy to the hearing, or send a copy to Senator BINGAMAN or Senator DOMENICI's office in Albuquerque, or to the Committee on Energy and Natural Resources, Room 304 of the Dirksen Senate Office Building, Washington, DC, 20510-6150.

For further information regarding the hearing, please contact Pat Montoya of Senator BINGAMAN's Albuquerque office at (505) 766-3636, Maxine Gallegos of Senator DOMENICI's Albuquerque office at (505) 766-3481, or Tom Williams of the committee staff in Washington at (202) 224-7145.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce that the Committee on Energy and Natural Resources will hold a hearing on the disposition of excess weapons plutonium.

The purpose of the hearing is to receive testimony on options available to manage excess weapons plutonium and on the administration's efforts to formulate a plutonium disposition policy.

The hearing will take place on Thursday, May 26, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Sam Fowler of the committee staff at (202) 224-7569.

NOTICE OF RESCHEDULING OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES—SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public the rescheduling of an April 26, 1994, oversight hearing before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on water quality and quantity problems and opportunities facing the lower Colorado River area.

The hearing will begin on Wednesday, June 8, 1994, from 2:30 p.m. to 5 p.m. and continue on Thursday, June 9, 1994, from 9:30 a.m. to 12 p.m. in room 366 of the Dirksen Senate Office Building,

First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, counsel for the subcommittee at (202) 224-4531, or Leslie Palmer at (202) 224-6836.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that the hearing before the Subcommittee on Public Lands, National Parks and Forests previously scheduled for Thursday, April 28, 1994, has been rescheduled for Thursday, May 12, 1994. The hearing will begin at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two bills pending before the Subcommittee pertaining to the management of the Presidio in San Francisco. The bills are:

S. 1549, to amend the act establishing Golden Gate National Recreation Area to provide for the management of the Presidio by the Secretary of the Interior, and for other purposes; and

S. 1639, to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-8115.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on May 3, 1994, at 10 a.m. on the nomination of Robert E. Karmek to be commandant and Arthur E. Henn to be vice commandant and immediately following a hearing on the Coast Guard reauthorization.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 10 a.m., May 3, 1994, to receive testimony on boron-neutron cancer therapy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 3 at 10 a.m., to hold a hearing on the administration's proposal to seek modification of the 1972 Anti-Ballistic Missile Treaty (Ex. L. 92-2).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 3, 1994, at 10:30 a.m. to hold nomination hearings on the following nominees: Mr. Melvyn Levitsky, of Maryland, to be Ambassador to the Federative Republic of Brazil; Mr. Myles Robert Rene Frechette, of Maryland, to be Ambassador to the Republic of Colombia; and Ms. Donna Jean Hrinak, of Virginia, to be Ambassador to the Dominican Republic.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 3, 1994, at 4 p.m. to receive a closed briefing on United States policy toward Haiti.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BRYAN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, May 3, at 9:30 a.m. for a hearing on: Federal telecommunications policy.

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

COMMITTEE ON SMALL BUSINESS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, May 3, 1994, at 12:15 p.m. The Committee will be voting on the nomination of Jere Glover to be the chief counsel for Advocacy at the Small Business Administration.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 3, 1994, at 10 a.m. to hold an open hearing on counterintelligence improvements legislation.

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

SUBCOMMITTEE ON COALITION DEFENSE AND REINFORCING FORCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Coalition Defense and Reinforcing Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 3, 1994, at 2:30 p.m., in open session, to receive testimony on the Army investment strategy 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 HEALTH FOR FAMILIES AND THE UNINSURED

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Health for Families and the Uninsured of the Committee on Finance be permitted to meet today, May 3, 1994, at 10 a.m., to hear testimony on the subject of classification of workers as employees or independent contractors under health care reform.

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

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 3, beginning at 10 a.m. to conduct a hearing on the Housing Choice and Community Investment Act of 1944.

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

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Tuesday, May 3, 1994, in open/closed session, to receive testimony on the Department of Energy's weapons and material support and other defense programs 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 REGIONAL DEFENSE AND CONTINGENCY FORCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Regional Defense and Contingency Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 3, 1994, at 10 a.m., in open session, to receive testimony on the Navy investment strategy 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 TECHNOLOGY AND THE LAW

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law, of the committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, May 3, 1994, at 9:30 a.m. to hold a hearing on the administration's Clipper Chip Key Escrow Encryption Program.

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

ADDITIONAL STATEMENTS

THE 100TH ANNIVERSARY OF THE TRAVELERS AID SOCIETY OF RHODE ISLAND

• Mr. CHAFEE. Mr. President, 100 years ago the Young Women's Christian Association founded a committee—Travelers Aid—to assist and protect young women moving to Providence, RI. Today, I am pleased to announce the centennial anniversary of the Travelers Aid Society of Rhode Island, and I wish to thank its members for their tremendous contributions to our State.

While the staff and scope of Travelers Aid has greatly expanded since 1894, its dedication to service remains unchanged. Today, a skilled and largely volunteer staff provide a wide range of educational and medical services to Rhode Islanders in need. In addition, the Travelers Aid Society maintains an aggressive outreach program designed to help at-risk individuals, including the homeless.

Three of the Travelers Aid programs are especially noteworthy:

First is the Travelers Aid Adult Education Program. It offers language, general education diploma [GED], and English as a second language [ESL] courses, in addition to other classes where students are taught basic skills to locate and maintain employment. Some of these classes are taught by Ms. Sally Gabb, the recipient of the 1993 Rhode Island Adult Educator of the Year award and director of the Travelers Aid Adult Education Program.

Second is the mobile Medical Van Program. Since 1987, the Travelers Aid Society of Rhode Island has made basic medical services available through its mobile Medical Van. For the past 7 years, the volunteer staff has aided more than 10,000 Rhode Islanders. Those seeking assistance are the homeless, the unemployed, and those who are working but have neither medical insurance nor the means to see a doctor. Patients range from children to senior citizens, and can be seen by appointment or on a walk in basis.

The third program is called the Travelers Aid Project Street [TAPS], where many graduates of Travelers Aid return to show and share their success stories—they do for others what Travelers Aid has done for them. For example, Mr. LeMoyne Waite, who was once in and out of several Travelers Aid clinics, now walks the streets of Providence informing men and women about the many services available to them at Travelers Aid.

In conclusion, I ask my colleagues to join me in wishing Travelers Aid of Rhode Island a happy 100th anniversary, and praising this wonderful organization for a century of public service.•

A MOM AND POP MANIFESTO

• Mr. SMITH. Mr. President, it was my privilege to serve for 6 years in the House of Representatives with the distinguished Representative from Illinois, HENRY HYDE. Throughout his nearly 20-year career in the House, Congressman HYDE has been one of the Nation's most eloquent and respected voices in defense of traditional family values.

But Congressman HYDE has not just spoken out for family values. He has also put his beliefs into action. Perhaps his greatest achievement was the passage of the famous Hyde Amendment, which banned Federal funding of abortions under Medicaid, in 1977. The Hyde amendment has been passed again and again every year since then. Countless numbers of our fellow citizens owe their lives, in a very real sense, to HENRY HYDE.

Congressman HYDE's latest contribution to the cause of restoring those traditional family values that are essential to our Nation's moral renewal is an unusually insightful and lucid article in the spring 1994 edition of Policy Review. His article is entitled "A Mom and Pop Manifesto: What the Pro-Family Movement Wants From Congress." I strongly recommend it to all of my colleagues.

Mr. President, I ask for Congressman HYDE'S article to be printed in the RECORD.

The article follows:

[From Policy Review, Spring 1994]

A MOM AND POP MANIFESTO—WHAT THE PRO-FAMILY MOVEMENT WANTS FROM CONGRESS

(By Representative Henry Hyde)

When Lenin, that architect of tyranny, asked his famous question—"what is to be done?"—his response was to overturn the foundations of civil society. Right question, wrong answer. America, now the free world's most violent nation, faces a historic moment of similar magnitude. What is to be done, by us, to restore the family as the surest basis of civil order, the strongest foundation for free enterprise, the safest home of freedom?

It is a question that official Washington seems incapable of answering. Instead of acknowledging the role of the traditional family in sustaining a democratic order, Congress continues at best to ignore, and at worst to undermine, that role in everything from education and health to aging and crime. In addition, Congress has placed new financial pressures on the family. Last year it repealed the Young Child Tax Credit, a Bush-era innovation to provide low-income households a refundable tax credit (about $500 per child) to help them care for newborns and toddlers. Meanwhile, President Clinton's tax hike—$255 billion over five years—will fall squarely on the American family, both in direct levies and higher prices.

ABDICATION, NOT ANALYSIS

It is now an oft-repeated truism that the problems of the family transcend public policy and that their solutions must therefore come primarily from outside government. That valid observation is easily distorted, however, into the specious assertion that there isn't much government can do to reverse the downward spiral of family life in this nation.

That is abdication, not analysis. The more we discover what government has done to undermine family life over the last three decades, the clearer it becomes that public policy must have a central role in restoring to America a family order of things.

Theologians tell us that prudence is one of the four cardinal virtues, the crucial good habits upon which all others depend. Much will depend upon the prudence of the pro-family movement in the months ahead. It would be short-sighted for the movement to allow its current mode of opposition, necessary as it is, to define its long-range future. Instead, a pro-family agenda must aim to reconstruct a now devastated mosaic of interrelationships, values, and assumptions. Rather than losing ourselves amid the many fragments, we can begin by setting in place the key pieces that give coherence to the whole picture.

RESTORE FAMILY PROSPERITY

The first piece is pro-family economic policy. That's not because money is the most important element in family life, but because government's appetite for the family's cash has been a crucial factor in creating its current plight. Most of us have heard the numbers. If today's personal exemption accounted for the same proportion of family income as it did in 1948, it would be about $8,000, not $2,350.

That means government has moved from sheltering families to crushing them. Despite all the talk about women having choices in our newly egalitarian work place, the ugly reality is that millions of American women have been "put to work." In Uncle Sam's new tax order, it's become the only way to maintain a decent lifestyle for their families.

Consider the cultural ripple effects of a dramatic increase in the personal exemption. For example, how many moderate-income families might, for the first time, be able to choose their children's schools? How many households would reconsider the necessity of having two earners? How many would pursue home schooling? How many parents, whether moms or dads, would find more time to spend with the kids and less to spend on the job?

To open up these opportunities, two House freshmen, Rod Grams and Tim Hutchinson, have introduced legislations to provide an across-the-board tax credit of $500 per child, to compensate in part for the erosion of the personal exemption. Their bill also would establish a commission, along the lines of Representative Dick Armey's successful Base-

Closure Commission, to present Congress with a take-it-or-leave-it package of off-setting spending reductions.

In tandem with dramatic tax relief for families, several other steps should be taken. One, of course, is cutting the capital gains tax and indexing it to inflation. That would be a tremendous boost to business investment and job creation, and millions of good new jobs are essential to the restoration of family prosperity in this country. As part of our capital gains package, conservatives should propose a zero-rate for households with modest incomes and for small, family-owned businesses. Let liberals oppose that one! As Patrick Henry might say today, if this be wedge-politics, make the most of it.

Another small but important economic corrective will be to repeal the regulations of the Department of Labor (DOL) that have the effect of forbidding employers from paying what used to be called a "family wage." In other words, paying more to a family breadwinner, in recognition of the fact that he or she has responsibilities a single worker is less likely to have. This used to be a commonplace practice, in the days when children were looked upon as assets to the community rather than as liabilities.

Congress never legislated on the matter. But bureaucrats at the Department of Labor came up with this remarkable bit of ideological reasoning: 1) Congress banned pay discrimination on the basis of gender. 2) Workers receiving a family wage are most likely to be male. 3) Therefore, the family wage is inherently discriminatory and is made illegal under DOL regulations. But the discrimination issue is a red herring. If an employer chooses to pay a salary differential to breadwinners, both male and female, that should be the business of nobody in the federal government.

Another way to restore the family wage is to reduce a worker's FICA tax if he or she has minor dependents. The rationale is simple: The long-range future of Social Security is in serious doubt. Part of the problem is that there will be too few workers. Part of the solution is to assist today's workers who are supporting children—and to give them financial encouragement to have those children in the first place. With most workers paying more in FICA taxes than in income taxes, a family-based FICA would be another subtle, political means of promoting more stable families.

PRO-FAMILY BUDGET

The second broad priority for the pro-family movement is the flip side of the first. Diversion of resources away from government and back to the family inevitably entails dramatic constriction of the public sector. That is an end in itself. For the public sector feeds the premises of the Left, supplies its financial resources, its breeding ground. And only when the Left is structurally curbed can the American family be secure.

Let me state the obvious: The only reason there is a pro-family movement in this country is that there has long been an anti-family movement. It's never called that, but there it is. Its essential strategy, it seems, is to transfer resources from what works—the two-parent family—to what doesn't. Success must subsidize failure, not until failure succeeds, but until success fails. This is why we have poured tens of billions into programs under the Elementary and Secondary Education Act without putting any of the money into the hands of parents. It explains why welfare policy has underwritten illegitimacy, and why all sorts of income-transfer entitlements kept pace with inflation while the personal exemption for taxpayers with kids was frozen.

Thus, the American Left, like the blossoming beastie in "The Little Shop of Horrors," has grown artificially, unnaturally over the last three decades—fed from the family dollars channelled by government to the millions of persons whose income no longer has any connection with market forces. But restore a pro-family tax code, enact pro-family budgets, and the money slows down. Maximize daily decision-making by households, minimize governmental favoritism, and you restore the discipline of the free market—which is to say, the public will—into all aspects of American life, especially culture. This is the only way to undercut the public policy prejudice against the traditional family and its values.

EMPOWER PARENTS

Third, Congress must address two critical areas that demand a reversal of government influence—education and welfare. For the former, our task is already clear. We must aggressively assert family rights wherever they are threatened—not just in sex-education programs, but also in biased curricula, propagandizing reading lists, and ideological student counselling. Most of these battles will be fought at the local level, not in Congress. But the objective of the pro-family movement should be to array federal authority—in law, regulation, and the courts—on the side of parents.

Vouchers will be a crucial lever to move education in the right direction; while the most important progress in that regard must come at the state level, the pro-family movement can convince Congress to support parental vouchers, instead of grants to school districts, to distribute federal education funds.

A Congress friendly to the family will dismantle the apparatus of centralized government control currently building in the Clinton Administration. That includes mechanisms for setting, and eventually enforcing, national "opportunity-to-learn standards," a virtual invitation for the federal courts to take control of the way states finance education. Instead, Congress should work with the states to launch pilot projects for altogether removing federal authority from schooling. Let's see what several states can do with their schools without any federal intervention apart from enforcement of civil rights laws.

In higher education, Congress can act most effectively by acting indirectly. I want no federal hand, conservative or liberal, on the nation's colleges and universities. But we can guard against official favoritism in the awarding of government grants and contracts. And we can, as much as possible, restore market forces to academia. Only consumer rights in education can correct the problems exposed by Martin Anderson, Thomas Sowell, and other thoughtful critics of today's leftist professoriate.

The fourth pillar of the pro-family resurgence should be a radical restructuring of welfare. Stop-gap measures have their place, and I do not mean to disparage any of the welfare reform proposals now in the policy limelight. But at their best, they may make marginal improvements in a fundamentally defective system because they do not focus on the single most important factor in today's poverty equation: illegitimacy.

Will this or that welfare reform plan "put people to work"? Perhaps, but those people will still be the single mothers of children headed for limited horizons. Whatever progress is made in helping some individuals grow out of dependency is likely to be more than offset by the growing number of children without fathers.

We still face the unanswered question: What must be done, now or in the future, to deal with a welfare system that has become the most destructive anti-family enterprise of the federal government?

My answers are tentative and open to correction. First, Congress should remove decision-making responsibility regarding welfare—beginning with Aid to Families with Dependent Children—from Washington. However it is to be financed, by federal block grants or some other mechanism, control of public assistance must go back where it belongs, to the state and local level. Only there can prudent judgments be made, on a household-by-household basis, about what might help families reach the mainstream of American life. If some states botch the job, their taxpayers can take corrective action. That will be a great improvement over the status quo, in which voters can't even ascertain who is responsible for the welfare mess—perhaps the major reason why 1960s social planners wanted to centralize the system in Washington.

Once welfare is back in the hands of the public, it will be easier to require under-age moms to live with their parents as a condition of eligibility. That's already a popular idea. I would go farther and maximize the role of religious institutions in distributing assistance. Especially in the inner city, churches should be made the primary channels for federal nutrition programs, community health services, and other programs. Many of them are already involved, of course, but I am thinking of something on a grander scale.

Congress should be aiming for the virtual replacement of public-sector welfare agencies by those of the private sector, especially religiously motivated groups that are rooted in low-income communities. That does not mean requiring church attendance; so long as no doctrinal preferences are made as to which institutions can participate, there should be no constitutional objections. It does mean increasing exposure to constructive influences on the part of those who most need it. Even more important, it means interweaving into a larger caring community those individuals—young mothers and their fatherless children—who most need support systems, counsel, and role models, as well as material aid. It means more protective influences for the vulnerable, and a better chance in life.

Some will consider those changes inadequate and will want to abolish AFDC altogether, not out of frugality but from compassion, in the belief that the availability of welfare only worsens the incidence of illegitimacy. They may be right, but there are steps we should take in the short run as we grapple with the challenge that Charles Murray and other prophets have set before us.

PARADIGM SHIFT

Reformation is critical not only in regards to welfare, however. A deep cultural transformation is needed in the way our society views the family. Admittedly, such a "paradigm shift" must be prompted mainly by non-political factors—from William Bennett's Book of Virtues to a teencounseling center at a local church. But even here, Congress has a responsibility to help undo some of the damage inflicted on the family through a long series of governmental decisions.

One step would be to reaffirm our public allegiance to the profound importance of the

marriage commitment. Since California's legislature launched the divorce revolution in 1970, we have looked the other way as women and children were reduced to the ranks of the "new poor" by easy or unilateral dissolution of the marriage contract. Now it is time to reassert the community's interest, both economic and social, in fostering two-parent households.

I am not proposing federal legislation, but rather the drafting of a model law that state legislatures could use as a starting point for their own initiatives. It might provide for a cooling-off period (an increasingly popular concept among family counsellors). It certainly should make divorce more cumbersome in two cases: whenever children are involved, and when either spouse opposes the action. And it should reflect the British legal bias that bestows possession of property upon whichever parent wins custody of the children.

Another contentious issue for a pro-family Congress will be the legal status of non-martial living arrangements, whether heterosexual or homosexual, in federal programs ranging from health and retirement benefits to the IRS code. Last year's battle over homosexuals in the military is only a prelude to the controversies that await us. I can understand why many of my congressional colleagues would want to sidestep this difficult matter, but the policy aggressiveness of homosexual activists will eventually force the issue. However these questions may be handled at the state and local level, Congress must, for federal purposes, affirm the traditional family created by ties of blood, marriage, or adoption. In a more negative sense, Congress must ensure that no activities of the federal government give legitimacy to lifestyles inimical to the family.

HUMAN LIFE AGENDA

While seeking consensus, pro-family forces in Congress will nonetheless have to grasp nettles of controversy. The most obvious example is the abortion issue. The current lineup on Capitol Hill is grossly out of sync with public opinion, which splits on the continued legality of abortion but overwhelmingly supports certain restrictions on it. A Congress truly reflective of the public will on this matter could, even without constitutional amendment or a Human Life Bill, dramatically reduce the incidence of abortion.

First, it can cut off the anti-life propaganda and lobbying that flourishes on federal contracts and grants to organizations that are part of the abortion industry. A case in point is the federally controlled family planning program, Title X, which should be removed from Washington's grasp and converted to a state-controlled maternal and child health initiative. This would put a host of controversial issues, like school-based clinics, closer to local control and accountability.

Imagine, too, the impact if Congress were to mandate inclusion of at least late-term abortions in the nation's infant mortality statistics, or if the Department of Transportation included pre-born children in its traffic mortality numbers. Even while *Roe* vs. *Wade* stands, we can enact a national feticide law, in the absence of which courts have dismissed charges against persons who brutally attacked pregnant women, causing the death of their unborn babies.

Someone has observed that, in post-modern America, there are two standards for determining the morality of something: whether it's tax deductible, and whether it can be covered by insurance. So be it. Let Congress deal with abortion under both headings, barring it from any health insurance plan touched by federal policy—just as we would not tolerate racial discrimination in those plans.

More positively, Congress can promote adoption by providing a tax credit for its costs, which sometimes are quite heavy. We can also require adoption counselling in federally funded programs that assist pregnant women. We can work with state and private-sector foster care agencies to reform procedures, and rethink attitudes, that have left hundreds of thousands of adoptable kids in temporary homes.

ONE-STOP SHOPPING

A less obvious way to deepen our public commitment to the unborn and the family in general is a proposal by Congressman Tom Bliley—ignored by the current House majority—to consolidate overlapping programs into one block grant to promote maternal and child health. This would divert money from bureaucracies to actual services, let states target the special needs of their low-income households, and provide "one-stop shopping" in health care for mothers and infants. Mr. Bliley's plan could become the basis for a grassroots crusade against infant mortality and child abuse—the kind of initiative that will bring home to the public what the pro-family movement is truly about.

Over time, the states will do the rest. They will enact parental notification laws, require waiting periods, and ban late-term abortions. As the stigma of abortion grows, as the procedure becomes more difficult to obtain, as medical schools limit training for it, as fewer physicians are willing to perform it, and as consent laws and pregnancy aid programs help women avoid it, the clout of the abortion industry will diminish—to the point at which the nation will definitively choose life.

That choice, defining the core of our civilization, cannot be left to the discretion of an unelected judiciary. The judicial branch has, over the last half-century, done more than its share to erode the rights of the family and to create a secular culture hostile to it. It may be time, therefore, to consider a constitutional amendment asserting that the rights of the family, which are anterior and superior to government, may not be abridged.

Such a concept, of course, cries out for greater precision. Moreover, changes to the federal constitution should not be undertaken lightly. Fortunately, there is underway a related effort with regard to state constitutions. It progress can show us the merits, and possible pitfalls, of a constitutional approach to protecting the family. If successful, it may either obviate the need for action on the federal level—or make it irresistible.

SHELTERING FAMILIES

On a wide range of issues, then, the pro-family movement has much to say to the vast majority of Americans. Certainly, one of the clearest lessons of the 20th century is that the strength of government and the strength of the family often have been countervailing forces, as if the two are perched on opposite ends of a seesaw. Where the power of the state has expanded, the power of the family has correspondingly receded.

In the century ahead, the best safeguard of personal autonomy—and personal responsibility—will not be the isolated individual, but the self-directed family. Washington, with all its financial resources, programs, agencies, and countless bureaucrats, cannot advance the cause of liberty unless it allows generations of Americans to be shaped and sheltered by families. The alternative is *de facto* wardship to the state. That was the Leninist choice. It cannot, it must not be ours.•

NATHANIEL BENNETT, NATIONAL WINNER OF THE VFW VOICE OF DEMOCRACY PROGRAM

• Mr. DURENBERGER. Mr. President, I rise today to pay tribute to a young man from Minneapolis, Nathaniel Bennett, who was the first place national winner of the 1994 VFW Voice of Democracy Program and recipient of the $20,000 T.C. Selman Memorial Scholarship Award provided by the Veterans of Foreign Wars and its ladies auxiliary.

A junior at Minneapolis South High School, Nat was sponsored by VFW Post 1149 and its ladies auxiliary in Minneapolis. Over 138,000 students participated in this year's program.

Now in its 47th year, the Voice of Democracy Program requires entrants, all high school students, to write and record an essay on a patriotic theme. This year's theme was "My Commitment to America."

In reading Nat's essay, I was struck that rather than speaking about the legal obligations of citizenship, Nat spoke about the unique contribution each individual can make to our society, and specifically about the way he can express his own personal commitment to America through his talents and abilities in photography and music.

Mr. President, I ask that Nat's winning essay be included in the RECORD immediately following my remarks.

I urge all of my colleagues to read and carefully consider this young man's thoughts. We could all learn something from what he has to say.

The essay follows:

MY COMMITMENT TO AMERICA

(By Nathaniel Bennett)

All of us can think of a commitment that we've made to someone else, in marriages, in families and with friends. Commitment means people pledging themselves, often to each other. My commitment to America is no different. It involves America and I pledging ourselves to each other. For America's part, I have been welcomed by my family, my community, a government that is of, by and for the people, and by a society that has made this country great. To make the relationship between my nation and myself work, I must make my own commitment.

I have always felt a commitment to America, but only recently thought about what that commitment really is. I have pledged allegiance to the flag and to the republic for which it stands, but never fully understood the meaning of allegiance. I studied the Constitution, and discovered that it explains what the government can and cannot do, and gives the people certain rights, but nowhere in the Constitution does it mention a legal commitment. To understand my commitment to this country, I had to look deeper than the letter of the law. I had to look at the moral principles that America is based

on, such as freedom of expression, toleration of differences, and belief in peaceful compromise. I had to realize that I, and every other American, must make a moral commitment to America.

As part of that commitment, it is important that I exercise my right to vote, my right to free speech, and my right to petition the government. Still, this is not enough. I must also contribute to society in my own, individual way. America is not only a political state, it is a society that was shaped by many people, in many ways.

Many of the greatest Americans were not involved in politics. If Mark Twain had been a career politician, we would not have his novel, Tom Sawyer, and we would not know how fun and profitable it can be to whitewash a fence. If Alexander Graham Bell had spent his life studying Constitutional law, we might still be communication by Pony Express. If the father of the sky-scraper, Louis Sullivan, had been a Washington lobbyist, the world of architecture would be less interesting and a lot shorter. If Harriet Tubman had been a member of Lincoln's cabinet, there would have been many slaves that never made it to freedom. The point is not that these people weren't making political statements. Of course their lives reflected their political opinions. The point is that they contributed to society in their own way.

Right now, I am experimenting with a few ways to express my commitment to America. I'm no Ansel Adams, whose pictures inspire awe of our nation's natural beauty, but I do take photographs of my surroundings that express my commitment to America. One of my pictures is of a building with a billboard displaying the message, "Support our troops in Operation Desert Storm." Below the billboard, on the building are the words, "Troops Out" in black spray-paint. When I took the photograph, I thought of it as merely an ironic urban scene, super-imposing two messages into one image, but now it seems to me it is an example of the American forum. The maker of the billboard, the maker of the graffiti, and I, the maker of the photograph, all considering America's direction.

I'm not on a par with Bob Dylan, the American troubador, but I play the bass guitar and occasionally I write songs. One of them called "Indecision" describes an inner struggle. Two lines read, "I try to communicate. I do so with perseverance. But hypocristy retaliates with its interference." The tunes and lyrics are simple, but the song reflects my occasional frustrations about life.

And what about this speech? I do not think the great American orator, Fredrick Douglas, will lose his place in history because of me, but I am using this speech to explore and explain my commitment to America. It made me think about how my photograph and music reflect that commitment. Even now, as I recite, I gain more insight into who I am and what my commitment to America means.

I've discovered that I treasure the freedom of expression that allows me to contribute my music, my photography, and my opinions to American society. My whole generation and I experience this freedom because of many Americans before us; Americans who have given their ideas in political speeches, in songs, in stories and in actions; Americans who have worked in factories and universities and grocery stores; Americans who have given their loyal services and even their lives, in the armed forces. In response to and in honor of those Americans, I contribute my ideas, my talents, and my life to America in order to make it better now and for generations to come. This is my commitment to America. It is the greatest commitment that I can make.•

KANTOREI: THE SINGING BOYS OF ROCKFORD

• Mr. SIMON. Mr. President, I rise today in recognition of Kantorei, the Singing Boys of Rockford, IL, which is celebrating its 30th anniversary this year.

Kantorei has been both internationally acclaimed and domestically lauded, performing in such diverse places as Austria, Japan, France, the White House, the U.S. Capitol, and Walt Disney World. During the school year they perform in Rockford and the northern Illinois area.

As singing ambassadors of goodwill, Kantorei has promoted international camaraderie through music, and has been warmly received throughout the globe.

Mr. President, please join me in celebrating the 30-year anniversary of this extraordinary group of talented young men.•

THE RETENTION OF THE STATE DEPARTMENT'S COORDINATOR FOR COUNTERTERRORISM

• Mr. D'AMATO. Mr. President, I rise today, to express my satiafaction that the conference committee on the Foreign Relations Authorization Act was able to work out a manner in which the State Department's post of Coordinator for Counterterrorism and the accompanying office could be saved. Most importantly, the office will remain independent, answering directly to the Secretary of State, at least for another year.

I am, however, concerned that the proper consideration will not be paid to the selection of the nominee for this post. I do not want this position to languish for the 1-year range of the legislation. This office cannot be allowed to wallow in obscurity for the term. It cannot be ignored. The attention that the office has received from Congress over the past months is indicative of our interest and it is not a subject we will set aside and forget.

I am pleased that the House will hold hearings later this summer on the office, its role in the fight against terrorism, and the severity of the threat posed to the United States today. I hope that through the course of these hearings, support will build even further for the continued independence of this office and its Coordinator.

In the near term, I hope that the President will choose the strongest possible nominee, to replace the Acting-Coordinator. We must have a strong Coordinator for Counterterrorism. If we do not, we will send the message that we do not care about terrorism and that our commitment is lacking. For those that wish to do Americans harm, that will be a green light to attack.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise today, as I have done each week during this session, to announce to the Senate that 13 people were killed by gunshot in New York City this past week, bringing the total for 1994 to 348.•

MINOR BOUNDARY ADJUSTMENT AND MISCELLANEOUS PARK AMENDMENTS ACT OF 1994

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 400, H.R. 1305, relating to Park Service boundary adjustments; that the committee amendment be agreed to; that the bill be read a third time, and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill to make boundary adjustments and other miscellaneous changes to authorities and programs of the National Park Service, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1994".

TITLE I—MINOR BOUNDARY ADJUSTMENTS

SEC. 101. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001-B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION BY DONATION.—(1) Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 102. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is au-

thorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in Section 28 to the park and to exclude the 5.51 acres in Section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Act.

SEC. 103. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on a map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625–80, 043A and dated July 1992.

SEC. 104. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 105. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands, and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands, and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands, and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 106. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 107. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands, and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

TITLE II—MISCELLANEOUS SPECIFIC PARK AMENDMENTS

SEC. 201. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK, HI.—

(1) This subsection may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994".

(2) Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by subsection (b) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994.".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK, NY.—Section 1601(h)(5) of the Act of December 28, 1980 (16 U.S.C. 410ll(h)(5)), is amended by striking "ten years" and inserting in lieu thereof "twenty-five years".

SEC. 202. AMENDMENT OF BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

TITLE III—GENERAL AUTHORIZATIONS AND REPEALERS

SEC. 301. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 302. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 303. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Act shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Act, or section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft and helicopters, or contract for such use, in furtherance of the management of the National Park System, and the provisions of section 47(a) of title 18, United States Code, shall not be applicable to such use.".

SEC. 304. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum objects and museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum pro-

fession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 305. VOLUNTEERS IN THE PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,750,000".

SEC. 306. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SEC. 307. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i–169i–1 is amended by striking "Federal Lands Cleanup Day" each place it occurs and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day".

SEC. 308. CORINTH INTERPRETIVE CENTER.

(a) SHORT TITLE.—This section may be cited as the "Corinth, Mississippi, Battlefield Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) the 14 sites located in the vicinity of Corinth, Mississippi, that were designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the National Historic Landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(c) PURPOSE.—It is the purpose of this section to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the region and to ensure public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(d) ACQUISITION OF PROPERTY.—(1) IN GENERAL.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, such lands or interests therein in the vicinity of the Corinth battlefield in the State of Mississippi, as the Secretary determines necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth: Provided, That such lands or interests therein shall only be acquired with the consent of the owner thereof.

(2) Lands and interests therein owned by the State of Mississippi or a political subdivision thereof may be acquired only by donation.

(e) CONSTRUCTION OF CENTER.—The Secretary is authorized to construct, operate, and maintain on the property acquired under subsection (d) a center for the interpretation of the Siege and Battle of Corinth and associated historical events. The center shall include interpretive exhibits and such other features as may be necessary for public appreciation and understanding of the Siege and Battle of Corinth.

(f) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if such sites are determined by the Secretary to be protected by State or local governmental agencies.

(g) ADMINISTRATION.—The lands and interests in lands acquired, and the facilities constructed and maintained pursuant to this section shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws and regulations applicable to the park, the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

(h) IN GENERAL.—(1) Subject to paragraph (2), there are authorized to be appropriated such sums as are necessary to carry out this section.

(2) CONSTRUCTION.—Of the amounts made available to carry out this section, not more than $6,000,000 may be used to carry out section 4(a).

The bill (H.R. 1305) was deemed read a third time, and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1305) entitled "An Act to make boundary adjustments and other miscellaneous changes to authorities and programs of the National Park Service", 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 "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1994".

TITLE I—MINOR BOUNDARY ADJUSTMENTS

SEC. 101. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION BY DONATION.—(1) Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 102. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in Section 28 to the park and to exclude the 5.51 acres in Section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Act.

SEC. 103. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on a map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625–80, 043A and dated July 1992.

SEC. 104. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 105. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands, and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands, and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the

laws and regulations applicable thereto. The Secretary is authorized to acquire private lands, and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 106. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 107. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322-80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands, and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

TITLE II—MISCELLANEOUS SPECIFIC PARK AMENDMENTS

SEC. 201. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK, HI.—

(1) This subsection may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994".

(2) Notwithstanding section 505(f)(7) of Public Law 95-625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by subsection (b) of this section.

(3) Section 505(f)(7) of Public Law 95-625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994.".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK, NY.—Section 1601(h)(5) of the Act of December 28, 1980 (16 U.S.C. 410ll(h)(5)), is amended by striking "ten years" and inserting in lieu thereof "twenty-five years".

SEC. 202. AMENDMENT OF BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z-1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

TITLE III—GENERAL AUTHORIZATIONS AND REPEALERS

SEC. 301. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 302. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j-2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 303. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Act shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Act, or section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft and helicopters, or contract for such use, in furtherance of the management of the National Park System, and the provisions of section 47(a) of title 18, United States Code, shall not be applicable to such use.".

SEC. 304. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum objects and museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 305. VOLUNTEERS IN THE PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,750,000".

SEC. 306. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a-2), is amended—

(1) in paragraph (i), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SEC. 307. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i-169i-1 is amended by striking "Fed-

eral Lands Cleanup Day" each place it occurs and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day".

SEC. 308. CORINTH INTERPRETIVE CENTER.

(a) SHORT TITLE.—This section may be cited as the "Corinth, Mississippi, Battlefield Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) the 14 sites located in the vicinity of Corinth, Mississippi, that were designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the National Historic Landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(c) PURPOSE.—It is the purpose of this section to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the region and to ensure public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(d) ACQUISITION OF PROPERTY.—(1) IN GENERAL.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, such lands or interests therein in the vicinity of the Corinth battlefield in the State of Mississippi, as the Secretary determines necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth: Provided, That such lands or interests therein shall only be acquired with the consent of the owner thereof.

(2) Lands and interests therein owned by the State of Mississippi or a political subdivision thereof may be acquired only by donation.

(e) CONSTRUCTION OF CENTER.—The Secretary is authorized to construct, operate, and maintain on the property acquired under subsection (d) a center for the interpretation of the Siege and Battle of Corinth and associated historical events. The center shall include interpretive exhibits and such other features as may be necessary for public appreciation and understanding of the Siege and Battle of Corinth.

(f) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if such sites are determined by the Secretary to be protected by State or local governmental agencies.

(g) ADMINISTRATION.—The lands and interests in lands acquired, and the facilities constructed and maintained pursuant to this section shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws and regulations applicable to the park, the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

(h) IN GENERAL.—(1) Subject to paragraph (2), there are authorized to be appropriated such sums as are necessary to carry out this section.

(2) CONSTRUCTION.—Of the amounts made available to carry out this section, not more than $6,000,000 may be used to carry out section 4(a).

MEASURE PLACED ON THE CALENDAR—H.R. 4013

Mr. BRYAN. Mr. President, I ask unanimous consent that H.R. 4013, just received from the House, be placed on the calendar.

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

AUTHORIZING USE OF CAPITOL GROUNDS—HOUSE CONCURRENT RESOLUTION 237

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 237, permitting the use of the Capitol grounds for the 13th annual National Peace Officers' Memorial Service, just received from the House.

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

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 237) authorizing the use of the Capitol grounds for the 13th annual National Peace Officers' Memorial Service.

Mr. BRYAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 237) was agreed to.

HUMAN SERVICES AMENDMENTS OF 1994

Mr. BRYAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2000) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2000) entitled "An Act to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Human Services Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEAD START PROGRAMS

Sec. 101. Short title; references in title.
Sec. 102. Definitions.
Sec. 103. Services.
Sec. 104. Authorization of appropriations.
Sec. 105. Allocation of funds.
Sec. 106. Report.
Sec. 107. Designation.
Sec. 108. Monitoring and quality assurance.
Sec. 109. Enhanced parent involvement and transition coordination with schools.
Sec. 110. Facilities and administrative requirements.
Sec. 111. Participation.
Sec. 112. Initiative on families with infants and toddlers.
Sec. 113. Appeals, notice, and hearing.
Sec. 114. Goals and priorities for training and technical assistance.
Sec. 115. Staff qualifications and development.
Sec. 116. Research, demonstrations, evaluation.
Sec. 117. Announcements and evaluations.
Sec. 118. Reports.
Sec. 119. Repeals.
Sec. 120. Consultation with the Corporation for National and Community Service.
Sec. 121. Study of benefits for Head Start employees.
Sec. 122. Study of full-day and full-year Head Start programs.
Sec. 123. State dependent care development programs.
Sec. 124. Reauthorization of Child Development Associate Scholarship Assistance Act of 1985.
Sec. 125. Technical and conforming amendments.
Sec. 126. Effective date; application of amendments.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

Sec. 201. Short title and references.
Sec. 202. Authorizations of appropriations.
Sec. 203. Discretionary authority of Secretary.
Sec. 204. Community food and nutrition.
Sec. 205. Instructional activities for low-income youth.
Sec. 206. Amendment to Stewart B. McKinney Homeless Assistance Act.
Sec. 207. Amendments to the Human Services Reauthorization Act of 1986.
Sec. 208. Effective date.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

Sec. 301. Short title and references.
Sec. 302. Statement of purpose.
Sec. 303. Authorization of appropriations.
Sec. 304. Emergency funds.
Sec. 305. Authorized uses of funds.
Sec. 306. Targeting of assistance to households with high home energy burdens.
Sec. 307. Clarification of audit requirement.
Sec. 308. Use of Department of Energy weatherization rules to achieve program consistency.
Sec. 309. Matters to be described in annual application.
Sec. 310. Report of funds available for obligation.
Sec. 311. Miscellaneous and technical amendments.
Sec. 312. Residential energy assistance challenge option (R.E.A.Ch.).
Sec. 313. Sense of the Congress regarding appropriations for LIHEAP.
Sec. 314. Effective date.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

Sec. 401. Short title.
Sec. 402. Community-based family support and family resource programs.
Sec. 403. Federal Council on Children, Youth, and Families.
Sec. 404. Family Resource Act.

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.)

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by adding after paragraph (11) the following:

"(12) The term 'family literacy services' means services and activities that include interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training (including training in English as a second language), and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(3) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (13), (5), (6), (4), and (10), respectively; and

(4)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated;

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated;

(D) by inserting after paragraph (10), as so redesignated, the following:

"(11) The term 'local educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.

"(12) The term 'migrant Head Start program' means a Head Start program that serves families who are engaged in agricultural work and who have changed their residence from one geographical location to another in the preceding 2-year period."; and

(E) by adding at the end the following:

"(14) The term 'State educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.".

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal years 1995, 1996, 1997, and 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998—

"(A) to carry out the Head Start Transition Project Act; and

"(B) to carry out activities authorized under section 642(d); and

"(2) not more than $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) ALLOCATION AND USE OF FUNDS FOR QUALITY IMPROVEMENT.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training, including developing skills in working with children with non-English language background, when appropriate.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, including, where appropriate, services to families with very young children.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "geographical areas specified in subsection (a)(2)(B) and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clauses (ii) and (iii), respectively.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration between State governments and Head Start programs regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are designed to benefit low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State;

"(II) the State educational agency and local educational agencies; and

"(III) other agencies and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, libraries, and national service activities, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996

and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) CONSIDERATIONS FOR ALLOCATION OF FUNDS FOR PROGRAM EXPANSION.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

"(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations serving children and families (including organizations serving families in whose homes English is not the language customarily spoken) and involving consultation with the State agency that administers early childhood development and education programs;

"(D) the extent to which the applicant has identified a need to provide full-working-day or full calendar year services based on a family and community needs assessment consistent with the preceding paragraph;

"(E) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(F) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) TECHNICAL AMENDMENT.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) COMPENSATION; REGULATIONS; PRIORITY.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this subchapter shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

"(k) Regulations issued by the Secretary that require a certain number of hours of service to be provided to children in Head Start programs shall include such flexibility as will permit Head Start agencies to satisfy such requirement through one or more of a variety of techniques, including adjustments to the length of a daily session or to the number of days of service.

"(l) With funds made available under section 640(a)(2) to migrant Head Start programs, the Secretary shall give priority to migrant Head Start programs that serve eligible children of migrant families whose work requires them to relocate most frequently.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) INDIAN RESERVATIONS.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including Indians in any area designated by the Bureau of Indian Affairs as near-reservation)".

(b) DESIGNATION OF AGENCIES.—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2), as so redesignated, with the margins of paragraph (3).

(c) CONSIDERATIONS IN DESIGNATING NEW HEAD START AGENCIES.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence";

(B) in paragraph (3), by inserting ", including Even Start programs," after "preschool programs"; and

(C) in paragraph (4), to read as follows:

"(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(C) to offer (directly or through referral to local entities, such as public and school libraries and entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) parental social self-sufficiency training;

"(ii) substance abuse counseling;

"(iii) training in nonpunitive discipline techniques that are age appropriate, consistent, and positive for the child;

"(iv) training in basic child development;

"(v) assistance in developing communication skills;

"(vi) opportunities for parents to share experiences with other parents, or

"(vii) any other activity designed to help such parents understand the importance of their involvement in the education of their children and to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7)—

(A) by striking "non-English language children" and inserting "non-English language background children and their families"; and

(B) by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) CONFORMING AMENDMENT.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

"(a) QUALITY STANDARDS.—

"(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards applicable to Head Start agencies, programs, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, transition-to-elementary-school, and other services;

"(B) administrative and financial management standards, including standards that address recordkeeping and file maintenance practices;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects;

"(D) standards for the provision of services to families with very young children; and

"(E) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically, culturally, and developmentally appropriate services to non-English language background children and their families), administration, and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this subchapter in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management;

"(iv) guidelines and standards currently in effect or under consideration that promote child

health services, and projected needs of expanding Head Start programs;

"(v) changes in the population of children who are eligible to participate in Head Start programs, including the language background and family structure of such children; and

"(vi) the need for, and state-of-the-art developments relating to, local policies and activities designed to ensure that children participating in Head Start programs make a successful transition to public schools; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under section 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Follow-up reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs and the diverse (including linguistic and cultural) needs of eligible children and their families; and

"(B) are supervised by such an employee at the site of such Head Start agency.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (b), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corrective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

"(e) SUMMARIES OF MONITORING OUTCOMES.—Not later than 90 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. ENHANCED PARENT INVOLVEMENT AND TRANSITION COORDINATION WITH SCHOOLS.

Section 642 (42 U.S.C. 9837) is amended—

(1) by amending subsection (b) to read as follows:

"(b) In order to be so designated, a Head Start agency shall also—

"(1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests;

"(2) provide for their regular participation in the implementation of such programs;

"(3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources;

"(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training;

"(6) at the option of such agency, offer (directly or through referral to local entities), to such parents, parental social self-sufficiency training, substance abuse counseling, training in nonpunitive discipline techniques that are age appropriate, consistent, and positive for the child, training in basic child development, assistance in developing communication skills, opportunities for parents to share experiences with other parents, regular in-home visitation for families at risk of child abuse and neglect, or any other activity designed to help such parents become full partners in the education of their children;

"(7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

"(8) establish procedures to seek reimbursement, to the extent feasible, from other agencies for services for which any such other agency is responsible, which are provided to a Head Start participant by the Head Start agency;

"(9) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources; and

"(10) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers.";

(2) in subsection (c)—

(A) by striking "schools that will subsequently serve children in Head Start programs,"; and

(B) by inserting ", including Even Start programs," after "other programs"; and

(3) by adding after subsection (c) the following:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) The Head Start agency shall take steps to coordinate with the local educational agency (as defined in the Elementary and Secondary

Education Act of 1965) serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children;

"(D) organizing and participating in joint transition-related training of school staff, Head Start staff, and parents;

"(E) providing transportation and using facilities; and

"(F) on the request of the local educational agency, providing noneducational services to such children.

"(3) In order to promote the continued involvement of parents of children who participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to such parents—

"(i) to inform such parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable such parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of such parents with schools, school personnel, and school-related organizations.

"(4) The Secretary, in cooperation with the Secretary of Education, shall—

"(A) evaluate the effectiveness of the projects and activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.);

"(B) disseminate to Head Start agencies information (including information from the evaluation required by subparagraph (A)) on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

"(C) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instructions,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following:

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following:

"(g) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a preference eligible, as described in section 2108(3)(C) of title 5 of the United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended by adding at the end the following:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria; may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS.

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following:

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community (including transition-to-school programs and linkages with programs of other agencies, including local educational agencies serving families with infants and toddlers) to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Comprehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and technical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act, and from migrant Head Start programs that serve a large number of infants and toddlers.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—(1) In recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881–9887) are repealed by paragraph (2).

(2)(A) Part E of title II of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Amendments of 1988 (Public Law 100–297; 102 Stat. 325) is repealed.

(B) Subchapter F of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 42 U.S.C. 9801 note, et seq.) is repealed.

(c) CONFORMING AMENDMENT.—Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION AND HEARING FOR DISPUTES WITH DELEGATE AGENCIES.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is amended by striking subsection (b) and inserting the following:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict;

"(2) a reasonable period for the mediation;

"(3) a timeline for an administrative hearing, if necessary, to resolve the conflict; and

"(4) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(c) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(d)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A(a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c);

(5) by inserting after subsection (a) the following:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in community-wide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in developing full-working-day and full-calendar-year programs and making the transition to such programs, with particular attention to involving parents and programming for children throughout a longer day;

"(5) assist Head Start agencies in better serving the needs of families with very young children;

"(6) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures; and

"(7) assist in efforts to secure and maintain adequate facilities for Head Start programs."; and

(6) in subsection (d), by adding at the end the following:

"Special consideration shall be given to entities that have demonstrated effectiveness in educational programming for preschool children that includes components for parental involvement, care provider training, and developmentally appropriate related activities.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

"(a) CLASSROOM TEACHERS.—

"(1) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) MENTOR TEACHERS.—

"(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff, that are experiencing difficulty in meeting applicable education standards, or that lack staff able to communicate in the languages of participating children and their families;

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs; and

"(D) promote the development of model curricula, designed to ensure the attainment of appropriate competencies by individuals working, or planning to work, in the field of early childhood development and family services.

"(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) HEAD START FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowships', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

"(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) ASSIGNMENTS OF FELLOWS.—

"(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services (including services to non-English language background children and their families), shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) IN GENERAL.—

"(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities, and otherwise to further the purposes of this subchapter.

"(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under

this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) IN GENERAL.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"SEC. 651. REPORTS.":

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(C) by adding after paragraph (12) the following:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities; and

"(14) a study of the availability and delivery of Head Start programs to Indian children living on and near Indian reservations and to children of migrant and seasonal farmworkers, including estimates of the percentages of such children being served by Head Start programs.".

(b) REDESIGNATION.—Section 651 is redesignated as section 650.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

SEC. 120. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

The Act is amended by adding at the end the following:

"SEC. 657A. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"The Secretary shall consult with the Chief Executive Officer of the Corporation for National and Community Service regarding the dissemination of information about the Corporation's programs, to programs that receive funds under this subchapter.".

SEC. 121. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) REPORT.—

(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals; and

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program.

(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 122. STUDY OF FULL-DAY AND FULL-YEAR HEAD START PROGRAMS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the extent to which Head Start programs are addressing the need for child care services during a full working day or full calendar year among eligible low-income families with preschool children.

(b) REPORT.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1996, containing the results of the study that—

(1) describes the number of full-day, full-year Head Start programs and the number of children served in such program or provided full-day or full-year services through arrangements with other service providers;

(2) compares the number of children in full-day or full-year Head Start programs with the need for full-day or full-year care among such families;

(3) identifies the barriers to meeting the need for full-day, full-year care among such families;

(4) describes promising models currently employed by Head Start programs for meeting such needs both directly and through arrangements with other service providers; and

(5) makes recommendations on how the child care needs of families with children enrolled in Head Start programs may be addressed.

SEC. 123. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEAD START TRANSITION PROJECT ACT.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) SOCIAL SECURITY ACT.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r-5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

SEC. 126. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act with respect to fiscal years ending before October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

SEC. 201. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title 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 Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATION.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this subtitle.".

(b) STATE ALLOCATIONS.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following:

"(a)(1) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for train-

ing, technical assistance, planning, and evaluation activities related to programs or projects carried out under this subtitle. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.

"(2) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(A) ensure the needs of eligible entities relating to the improving program quality are addressed to the maximum extent feasible; and

"(B) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the community action State and national network as well as community development corporation national and State organizations.

"(3) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(A) assist eligible entities in the development of sound management practices, including financial management practices; and

"(B) consistent with the availability of funds, respond to the training requests and concerns of community development corporations, community action agencies and programs.".

(c) APPLICATIONS AND REQUIREMENTS.—

(1) FORM AND ASSURANCES.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) USE OF FUNDS.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this subtitle" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this subtitle will use such funds".

(3) ASSURED ACTIVITIES.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) STATE RESPONSIBILITIES.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this subtitle, including outposting where appropriate State or local public employees into entities funded under this subtitle to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than the greater of $55,000 or 5 percent of its allotment under section 674; and

"(v) considering the distribution of funds under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need.".

(5) TRIPARTITE BOARD.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by striking the comma after "provide assurances that" and inserting "(A)"; and

(C) by adding at the end the following:

"and

"(B) in the case of a public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(d) COMMUNITY ACTION AGENCY PLAN.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (i) through (iii), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with subparagraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following:

"(13) secure from each eligible entity as a condition to its receipt of funding under this subtitle a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this subtitle.".

(e) PUBLIC INSPECTIONS OF PLANS.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) AUDITS.—The last sentence of section 675(f) (42 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

(g) EVALUATION INVOLVING WAIVERS.—Section 675(h) (42 U.S.C. 9904(h)) is amended by inserting "(including any State that received a waiver under Public Law 98–139)" after "States" the last place it appears.

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) TRAINING AND ACTIVITIES.—Section 681(a) (42 U.S.C. 9910(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "to provide for—" and all that follows through "(2)" and inserting "to provide for"; and

(2) by striking "special emphasis programs for—" and all that follows through paragraph (3), and inserting the following:

"a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c).".

(b) COMMUNITY INITIATIVE PROGRAM.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

"(b) COMMUNITY INITIATIVE PROGRAM.—

"(1) IN GENERAL.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing or managing community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(2) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units;

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs; and

"(C) grants to nonprofit private organizations that provide assistance for migrants and seasonal farmworkers.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.".

SEC. 205. INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

The Act (42 U.S.C. 9901 et seq.) is amended—

(1) by redesignating sections 682 and 683 as sections 683 and 684, respectively; and

(2) by inserting after section 681 the following:

"SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

"(a) GENERAL AUTHORITY.—The Secretary of Health and Human Services is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give a priority to eligible service providers that have a demonstrated ability to operate such a program.

"(b) PROGRAM REQUIREMENTS.—

"(1) Any instructional activity carried out by an eligible service provider receiving a grant under this subsection shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act) and shall include—

"(A) access to the facilities and resources of such an institution;

"(B) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(C) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(D) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(E) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drugs and alcohol abuse, health and nutrition, career opportunities and family and job responsibilities.

"(c) ELIGIBLE PROVIDERS.—A national private nonprofit organization, a coalition of such organizations, or a private nonprofit organization applying jointly with a business concern shall be eligible for a grant under this subsection if—

"(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

"(2) the applicant shall contribute amounts in cash or fairly evaluated in kind of no less than 25 percent of the amount requested;

"(3) the applicant shall use no funds from a grant authorized under this section for administrative expenses; and

"(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary of Health and Human Services for use of funds made available by this grant.

"(d) APPLICATIONS PROCESS.—Eligible service providers may submit to the Secretary of Health and Human Services, for approval, an application in such form at such time as the Secretary deems appropriate.

"(e) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations or program guidelines to ensure funds made available under a grant made under this section are used in accordance with the intentions of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each fiscal year 1995, 1996, 1997, and 1998 for grants to carry out this section.".

SEC. 206. AMENDMENT TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

The last section of subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11646) is amended—

(1) by striking "SEC. 751." and by inserting "SEC. 754.", and

(2) by striking "1991" and all that follows through "1993", and inserting "1995, 1996, 1997, and 1998".

SEC. 207. AMENDMENTS TO THE HUMAN SERVICES REAUTHORIZATION ACT OF 1986.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9901b) is amended—

(1) in subsection (a) by adding at the end the following:

"(3) Initial and subsequent grant awards may fully fund projects for periods of up to 3 years.";

(2) in subsection (b)(1)(B) by striking "After the first fiscal year" and inserting "After the first funding period";

(3) by amending subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) In addition to the grant programs described in subsection (a), the Secretary may make grants to community action agencies for the purpose of enabling such agencies to demonstrate new approaches to dealing with the problems associated with urban gangs or similar antisocial activities of urban youth. Demonstrations shall include such activities as peer counseling, mentoring, development of job skills, assistance with social skills, antigang education, family literacy, parenting skills, and other services designed to assist at-risk youth to continue their education, to secure meaningful employment, or to pursue other productive alternatives to joining gangs or engaging in any other form of anti-social activity."; and

(B) by amending paragraph (4) to read as follows:

"(4) Such grants made under this subsection on a competitive basis shall be based on an annual competition determined by the Secretary. Grants made under this subsection shall not exceed $500,000."; and

(4) by amending subsection (h) to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this section.

"(2) Of the amounts appropriated for this section not less than 30 percent shall be used to carry out the programs authorized under subsection (c).

"(3) In addition to sums which are required to carry out the evaluation, reporting, and dissemination of results under subsections (a), (c), (d), and (f), the Secretary is authorized to reserve up to 2 percent of the amounts appropriated pursuant to subparagraphs (1) and (2) for administration of the program as well as for planning and technical assistance.".

SEC. 208. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

SECTION 301. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title 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 Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Section 2602(a) (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) In order to assist low-income households, particularly those with the lowest incomes that pay a high proportion of their income for home energy, both in meeting their immediate home energy needs, and in attaining the capacity to meet such needs independently in the future, the Secretary of Health and Human Services may make grants to States for programs and activities consistent with this title.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999."; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "(1)";

(ii) by striking "July 1" and inserting "October 1"; and

(iii) by striking "for which" and inserting "following the year in which"; and

(B) by striking paragraphs (2) and (3);

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621), as amended by section 303, is amended by adding at the end thereof the following:

"(e) There is authorized to be appropriated in each fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4), as so redesignated, the following:

"(3) The term 'highest home energy needs' means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.".

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(e) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant. The Secretary shall notify Congress of the proposed allotment pursuant to this subsection before releasing the allotted funds.".

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting

their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

"(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (14) by striking "and" at the end;

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following:

"(16) use such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.".

SEC. 306. TARGETING OF ASSISTANCE TO HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSEHOLD INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 308. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D)) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 309. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 310. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 311. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605(b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) is amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for compacts between suppliers and individuals eligible for benefits under this title that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602 (42 U.S.C. 8621) is amended—

(A) in subsection (b), as amended by section 303 of this Act—

(i) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(ii) by striking the second period at the end thereof; and

(B) in subsection (c)(1) by striking "Act" and inserting "title".

(2) Section 2603(2) (42 U.S.C. 8622(2)), as amended by section 304 of this Act, is amended—

(A) by striking "(4) the" and inserting "(4) The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) Section 2604 (42 U.S.C. 8223) is amended—

(A) in subsection (b)(1) by inserting "of the United States" after "Virgin Islands"; and

(B) in subsection (c)(B)(3)(ii) by striking "application" and inserting "applications".

(4) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(5) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(6) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(7) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

(c) CRITERIA AND REPORT.—Section 2605(b) (42 U.S.C. 8624(b)), as amended by subsection (b) of this section, is amended by adding at the end the following:

"The Secretary shall develop performance goals and measurements in consultation with State, tribal, and local grantees, that the States may use to assess their success in achieving the purposes of this title and shall, beginning in 1996, make such goals and measurements available together with the model plan required by paragraph (3). Not later than 18 months after the date of the enactment of this sentence, the Secretary shall report to the committees of the House of Representatives and of the Senate that have jurisdiction of this title, on the manner in which, and the degree to which State and local energy assistance programs carried out under this title are meeting the purposes of this title and on any improvements or changes necessary to accelerate the achievement of these goals. The Secretary may not require additional program or client data to be collected by grantees for such report.".

SEC. 312. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.CH.).

The Act is amended by inserting after section 2607A the following:

"SEC. 2607B. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.CH.).

"(a) For fiscal year 1996, and each subsequent fiscal year, the Secretary shall allocate not less than 5 percent of the amount appropriated under section 2607A for such fiscal year to a Residential Energy Assistance Challenge Fund for the purpose of making challenge grants to States that submit qualifying plans that are approved by the Secretary for a Residential Energy Assistance Challenge (in this section referred to as 'R.E.A.Ch.') initiative in such State. States may use such grants—

"(1) for the costs of planning, implementing, and evaluating the initiative; and

"(2) for the costs of achieving performance goals including the long-term reduction of the energy burden program dependency of households eligible for, or receiving, energy assistance under this title, and those goals set out in subsection (b) of the initiative established by the States and approved by the Secretary.

"(b) The Secretary shall establish criteria for approving State plans required by subsection (a). Such criteria shall require such plans to include the following goals:

"(1) To minimize health and safety risks that result from high energy burdens on low-income Americans.

"(2) To prevent homelessness as a result of inability to pay energy bills.

"(3) To increase the efficiency of energy usage by low-income families.

"(4) To target energy assistance to those most in need.

"(5) To encourage eventual energy self-sufficiency for low-income persons.

"(c)(1) Notwithstanding subsection (a), the Secretary may not approve a State plan submitted under such subsection unless such plan includes provisions acceptable to the Secretary with respect to each of the required program elements specified in subsection (d).

"(2) The Secretary may require a State to provide appropriate documentation that its R.E.A.Ch. activities conform to the State plan as approved by the Secretary.

"(3) Subject to approval by the Secretary, a State plan may include benefits and services in addition to those required program elements specified in subsection (d) that are consistent with the purpose of this title and the R.E.A.Ch. Challenge Option.

"(4) A State may designate all or part of the State, or all or part of the client population, as the focus of its R.E.A.Ch. initiative.

"(d) Each State plan submitted under subsection (a) shall include the following:

"(1)(A) An assurance that such State will provide R.E.A.Ch. services will be delivered through community-based nonprofit entities in such State by—

"(i) making grants to or contracts with such entities for the purpose of providing such services and benefits directly to individuals eligible for such services and benefits; or

"(ii) if a State makes payments directly to eligible individuals or energy suppliers, making contracts with such local entities to administer such programs, including determining eligibility, providing outreach services, and providing noncash benefits.

"(B) An assurance that in making grants or contracts to carry out such R.E.A.Ch. initiative, States shall give priority in selecting organizations described in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)); organizations which the Secretary has determined have a record of successfully providing energy services under this title; and organizations that receive weatherization assistance program funds under this title, except that a State may not require any such entity to operate a R.E.A.Ch. initiative program.

"(2) An assurance that all entities that receive grants or contracts under paragraph (1)(A) will provide a program of services and benefits that includes, at a minimum—

"(A) payments to or on behalf of individuals eligible for residential energy assistance services and benefits pursuant to section 2605(b) for home energy costs;

"(B) home-energy-demand-management services, such as residential weatherization energy education and other energy-related home repair which services to be provided jointly with existing Department of Energy weatherization assistance programs;

"(C) counseling and needs assessment on energy budget management, payment plans, and related services; and

"(D) advocacy on behalf of households eligible for R.E.A.Ch. services and benefits before home energy suppliers and State or local energy regulatory officials.

"(3) A description of the methodology the State will use to determine—

"(A) which households will receive 1 or more forms of benefits under the State R.E.A.Ch. initiative; and

"(B) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than monetary benefits alone.

"(4) A method for targeting nonmonetary benefits that is not inconsistent with the requirements of section 2605.

"(5) A description of the crisis and emergency assistance activities the State will carry out to demonstrate that such assistance provided under this section is designed to discourage crises, to encourage responsible vendor and consumer behavior, and to provide no financial incentive that discourages household payment.

"(6) A description of the activities the State will carry out to provide incentives for recipients of such assistance to pay home energy costs and for responsible vendor behavior. If such plan contains provisions for direct payments to vendors, such plan shall describe efforts such State will carry out—

"(A) to encourage regular payments by individuals or households receiving financial assistance for home energy costs;

"(B) to provide for compacts or covenants between suppliers of home energy and individuals eligible for services and benefits under this title that reduce home energy costs and minimize the risk of home energy crisis;

"(C) to ensure that local entities providing services and benefits under this title have staff who are charged with ensuring responsible vendor behavior; and

"(D) to ensure that direct payments to vendors is at the option of the State and local providers and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households.

"(7) Information and assurances demonstrating that R.E.A.Ch. services and benefits will be targeted to—

"(A) households with high energy burdens; and

"(B) individuals with acute health or safety vulnerability including small children, frail older individuals, and individuals with temporary energy-related emergencies.

"(8)(A) A detailed description of the financial standards that will be applied for determining eligibility for R.E.A.Ch. services and benefits. Such standards shall require that the highest level of assistance under this section will be furnished to households that have highest energy burdens.

"(B) An assurance that such State will require entities providing R.E.A.Ch. services or benefits to establish priorities for providing services to individuals residing in its service area consistent with the purposes of the State R.E.A.Ch. initiative.

"(9)(A) An assurance that such State has conducted public hearings, after giving notice in public media and by mail to all subgrantees, (DOE/WAP) subgrantees, and community action agencies, with respect to the provisions of such plan and before submitting such plan to the Secretary for approval.

"(B) A summary of comments received at such public hearing.

"(C) An assurance that such plan and any revision thereof submitted to the Secretary will be made available for public inspection in such a manner as will facilitate timely and meaningful review of, and comment.

"(10) An assurance that the State will require entities that receive funds under this section to take appropriate measures to solicit the views of individuals who are financially eligible for benefits and services under this section in establishing its local service priorities.

"(11) A description of specific performance goals for the State R.E.A.Ch. initiative and a description of the indicators that will be used to measure whether such performance goals have been achieved. Such performance goals shall include 1 or more of the following and such other goals as the Secretary may require:

"(A) To increase in the affordability of energy over 1 or more fiscal years.

"(B) To increase the regularity of home energy bill payments by eligible households.

"(C) To increase energy vendor contributions toward the costs of home energy on behalf of eligible individuals and households.

"(D) To decrease the incidence of homelessness and health and safety risks resulting from high household energy burdens.

"(e)(1) The Secretary may waive on request administrative cost ceilings and carryover requirements otherwise applicable to the first 3 years of the operation of a R.E.A.Ch. program's operations.

"(2) None of the costs of providing services or benefits required under this subsection shall be considered to be an administrative cost or function for purposes of any limitation on such administrative cost or functions contained in this title.

"(3) In verifying income eligibility for purposes of subsection this section, the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the Community Services Block Grant program, under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this section, or under other income assistance or service programs (as determined by the State).

"(4) Neither a State nor a local provider of services or benefits shall be required to provide services or benefits to an individual or household if such provision is inconsistent with State or local priorities.

"(5) If a State chooses to pay home energy suppliers directly, the State plan shall include procedures identified in section 2605 of this title.".

SEC. 313. SENSE OF THE CONGRESS REGARDING APPROPRIATIONS FOR LIHEAP.

(a) FINDINGS.—(1) Seventy-seven percent of the over 25 million households that were eligible for the Low-Income Home Energy Assistance Program (hereinafter referred to as "LIHEAP") in fiscal year 1992 did not receive assistance due to a lack of funds.

(2) Recent economic distress has caused significant unemployment, which has resulted in a greater need for energy assistance than ever before.

(3) More than 66 percent of LIHEAP household recipients have an annual income that is below the poverty level.

(4) Forty-three percent of all LIHEAP eligible households include children.

(5) LIHEAP eligible households with children spend approximately 16 percent of their annual incomes on home energy costs, which is more than 4 times greater than that paid by the average household in the United States, and far beyond their means.

(6) Approximately 40 percent of LIHEAP household recipients are comprised of elderly or disabled persons.

(7) LIHEAP is an essential, long-term Federal program that is crucial to the well-being of impoverished American families and their children.

(8) Congress appropriated $1,475,000,000 for LIHEAP for fiscal year 1995.

(9) The Department of Energy predicts that the costs of residential fuels will increase at a pace greater than inflation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the maintenance of LIHEAP should be a high priority in order to enable the working poor, the disabled, and the low-income elderly, who all depend on LIHEAP, to meet their energy costs and needs;

(2) all appropriations made for LIHEAP for fiscal year 1995 should be expended; and

(3) expenditures for LIHEAP for fiscal year 1996 should ensure the provision of services at or above the level provided in fiscal year 1995.

SEC. 314. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Family Resource and Support Act of 1994".

SEC. 402. COMMUNITY-BASED FAMILY SUPPORT AND FAMILY RESOURCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, comprehensive, statewide system of family support and family resource services in collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

(b) AUTHORITY.—The Commissioner shall make grants to States for the purpose of—

(1) establishing and expanding statewide a system of community-based family support and family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family support and family resource programs which are responsive to the unique and diverse strengths of children and families;

(2) ensuring the active involvement of families of children with disabilities in the planning, development, implementation and evaluation of such a statewide system;

(3) promoting child abuse and neglect prevention activities;

(4) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family support and family resource programs;

(5) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family support and family resource programs; and

(7) facilitating the changing of laws, regulations, policies, practices, procedures, and organizational structures, which impede the availability or provision of family support and family resource services.

(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

(1) such State has established or maintained in the previous fiscal year—

(A) a trust fund, including appropriations for such fund; or

(B) any other mechanism for integrating family resource services funded by Federal, State, or private sources; and

(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family support and family resource programs.

(d) AMOUNT OF GRANT.—

(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted, among eligible States in each fiscal year so that—

(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $1,000,000, and each territory shall receive not more than $100,000; and

(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

(2) MINIMUM GRANT AMOUNT.—If the amount appropriated for any fiscal year is less than $50,400,000, grants shall be awarded on a competitive basis with no grantee receiving less than $1,000,000.

(3) AWARD PERIOD.—Grants made on a competitive basis shall be awarded for a period of 3 years and shall be calculated in the manner described in paragraph (1).

(4) GRANTS TO TERRITORIES.—From amounts appropriated to carry out this section for any fiscal year, the Commissioner shall pay to each territory that has an application approved under this section not more than $100,000.

(e) EXISTING GRANTS.—A State that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program shall continue to receive funds under such Program, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner determines to be essential to carry out the purposes and provisions of this section, including—

(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family support and family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

(A) is the trust fund advisory board or an existing quasi-public organization with interdisciplinary governance that pools State, Federal, and private funds for family support and family resource programs or integrating child and family service resources; or

(B) with respect to a State without a trust fund mechanism or quasi-public organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family support and family resource programs;

(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

(B) a commitment to parental participation in the design and implementation of family support and family resource programs;

(C) the capacity to promote a statewide system of family support and family resource programs throughout the State; and

(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to and funding for family support and family resource services across agencies;

(3) an assurance that the lead entity will coordinate the activities funded through a grant made under this section with the activities carried out by councils within the State, including the following councils:

(A) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act;

(B) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

(C) the State Rehabilitation Advisory Council, established under the Rehabilitation Act of 1973;

(D) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act; and

(E) other local or regional family support councils within the State, to the extent that such councils exist;

(4) an assurance that the lead agency will actively coordinate with the councils referred to in Paragraph (3) in carrying out the development and implementation, or expansion and enhancement of, a family-centered and family-directed, comprehensive, statewide system of family support and family resource services;

(5) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

(B) provides a written plan for the establishment of a network of family support and family resource programs publicly available; and

(C) involves appropriate personnel in the process, including—

(i) parents and prospective participants in family support and family resource programs, including respite care programs;

(ii) staff of existing programs providing family support and family resource services, including staff of Head Start programs and community action agencies that provide such services;

(iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;

(iv) representatives of the business community;

(v) representatives of general purpose local governments;

(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

(vii) representatives of local communities in which family support and family resource programs are likely to be located;

(viii) representatives of groups with expertise in providing services to children with disabilities; and

(ix) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

(6) a description of the current family support and family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource and family support services, including respite care, and the intended scope of the State family support and family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will re-

late to other community services and public agencies;

(7) evidence that Federal assistance received under this section—

(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family support and family resource program; and

(B) will be used to supplement and not supplant other State and local public funds expended for family support and family resource programs;

(8) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

(9) an assurance that the lead agency will ensure that the amount of Federal funds spent on respite care services within the State during the previous fiscal year shall be maintained;

(10) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

(11) an assurance that the State will provide funds for the initial startup costs associated with the development of 1 respite program annually in the State, as well as other specific family resource services, and a description of the services to be funded;

(12) an assurance that the State program will maintain cultural diversity and be culturally competent;

(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited-English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

(14) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(15) a description of the State and community-based interagency planning processes to be utilized to develop and implement family support and family resource programs;

(16) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

(17) a plan for providing training, technical assistance, and other assistance to local communities in program development;

(18) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family support and family resource programs within the State;

(19) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family support and family resource programs; and

(20) an assurance that the State will provide the Commissioner with reports, at such time and containing such information as the Commissioner may require.

(g) LOCAL PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family support and family resource programs that—

(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocational rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

(C) identify appropriate community-based organizations to administer such programs locally;

(D) provide core services, and other services directly or through contracts or agreements with other local agencies; and

(E) involve parents in the development, operation, and governance of the program.

(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

(h) DEFINITIONS.—As used in this section:

(1) CHILDREN WITH DISABILITIES.—The term "children with disabilities" has the meaning given such term in section 602(a)(1) of the Individuals with Disabilities Education Act.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families.

(3) COMMUNITY REFERRAL SERVICES.—The term "community referral services" means services to assist families in obtaining community resources, including respite care services, health and mental health services, employability development and job training and other social services.

(4) CULTURALLY COMPETENT.—The term "culturally competent" means services, supports, or another assistance that is conducted or provided in a manner that—

(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

(B) has the greatest likelihood of ensuring maximum participation of such individuals.

(5) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term "family-centered and family-directed" means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support and family resource services for families;

(B) responds to the needs of the entire family in a timely and appropriate manner; and

(C) is easily accessible to and usable by families.

(6) FAMILY SUPPORT.—The term "family support"—

(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

(i) support families in the efforts of such families to raise their children with disabilities in the family home;

(ii) strengthen the role of the family as primary caregiver;

(iii) prevent inappropriate out-of-the-home placement and maintain family unity; and

(iv) reunite families with children with disabilities who have been placed out of the home, whenever appropriate; and

(B) may include—

(i) service coordination that includes individualized planning and brokering for services with families in control of decision making;

(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanent or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, recreation and leisure activities, specialized nutrition clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care, child care and camps, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids and toys; and

(iii) financial-assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

(7) FAMILY SUPPORT AND FAMILY RESOURCE PROGRAM.—The term "family support and family resource program" means a program that offers community-based services that provide sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(A) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(C) the creation of supportive networks to enhance the child-rearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

(8) FAMILY RESOURCE SERVICES.—The term "family resource services" means—

(A) core services that must be provided directly, or by referral or contract, by the family support and family resource program under this section, including—

(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

(iii) respite care services which are available 24 hours per day and every calendar day of the year;

(iv) outreach services;

(v) community referral services; and

(vi) follow-up services; and

(B) other services, which may be provided either directly or through referral, including—

(i) early care and education (such as child care and Head Start);

(ii) respite care;

(iii) job readiness and counseling services (including skill training);

(iv) education and literacy services, including English as a second language and family literacy services;

(v) nutritional education;

(vi) life management skills training;

(vii) peer counseling and crisis intervention, and family violence counseling services;

(viii) referral for health (including prenatal care) and mental health services; and

(ix) substance abuse treatment.

(9) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term "family-centered and family-directed" means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families;

(B) responds to the needs of the entire family in a timely and appropriate manner; and

(C) is easily accessible to and usable by families.

(10) INTERDISCIPLINARY GOVERNANCE.—The term "interdisciplinary governance" includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

(11) RESPITE CARE SERVICES.—The term "respite care services" means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

(A) The children are in danger of abuse or neglect.

(B) The children have experienced abuse or neglect.

(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.

(i) STRATEGIC PLAN.—

(1) IN GENERAL—Not later than 1 year after the date on which assistance is received by a State under this section, the lead agency of the State, shall prepare and submit to the Commissioner, a strategic plan designed to achieve the purposes and policy of this section.

(2) CONTENTS.—The strategic plan shall include—

(1) a statement of the mission, philosophy, values, and principles of the statewide system of family support and family resources in the State;

(2) a statement of family-centered outcomes to be achieved by the statewide system of family support and family resources;

(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support and family resource services, and for achieving the family-centered outcomes;

(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation that builds upon state-of-the-art practices and research findings;

(5) a description of the specific programs, projects, and activities funded under this section and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

(7) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this section that includes all eligible families;

(8) an analysis of the extent to which family support and family resource services for an individual family is defined as a benefit and not as income; and

(9) a description of the plan to conduct an annual evaluation of the statewide system of family support and family resources.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 and 1997.

(k) REPEAL OF EXISTING PROGRAM.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is repealed.

SEC. 403. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following:

"(5) identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modifications or elimination; and

"(6) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

SEC. 404. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)) is amended—

(1) in paragraph (3)—

(A) by striking "model"; and

(B) by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(5) develop and maintain a system for disseminating information about all types of respite care options;

"(6) develop and provide an array of training and technical assistance activities to establish and maintain quality respite care options;

"(7) engage in a variety of evaluation and research activities to identify effective models of respite care services, examine the effects of respite care services on family functioning, and to develop simple evaluation models for use by local respite care service programs.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking "$2,300,000" and all that follows through the end thereof and inserting "$2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate disagree to the House amendments, agree to the request for a conference, and that the Chair be authorized to appoint conferees.

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

The PRESIDING OFFICER (Mr. AKAKA) appointed the following conferees: Mr. KENNEDY, Mr. DODD, Mr. METZENBAUM, Mr. PELL, Mrs. KASSEBAUM, Mr. JEFFORDS, and Mr. COATS conferees on the part of the Senate.

JEAN MAYER HUMAN NUTRITION RESEARCH CENTER ON AGING

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4204, a bill to designate the Federal building on Washington Street in Boston as the "Jean Mayer Human Nutrition Research Center on Aging," just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table; that a statement by Senator KENNEDY relating to this measure be included in the RECORD at the appropriate place.

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

So the bill (H.R. 4204) was deemed read the third time, and passed.

Mr. KENNEDY. Mr. President, the pending bill will confer a well-deserved honor on a world renowned nutritionist for his outstanding contributions toward ending world hunger. I am proud to give my support to this measure to designate the Federal building at 711 Washington Street in Boston as the Jean Mayer Human Nutrition Research Center on Aging.

The center, which was established by Congress in 1977 and is operated by Tufts University, houses 250 research and support staff studying the role of nutrition in the aging process of senior citizens. The center serves as a national model for an effective partnership between government, universities, and the private sector in developing innovative methods for improving nutrition. Naming the facility for Jean Mayer is a fitting tribute to a man who devoted his life to this cause for peoples throughout the world.

Jean Mayer, who died in January 1993, was a remarkably talented and dedicated man who distinguished himself as a war hero, university president, and international leader in the battle against hunger. He served as an adviser to three Presidents, and helped develop national and international policies to combat hunger and improve nutrition, especially among the poor and elderly.

He was born and raised in France, and joined the French Army in World War II. He was captured by German forces, but escaped from a prison camp and rejoined the French forces to work underground. After the war, he came to the United States where he was destined to become one of this country's greatest immigrants.

He joined the faculty at Harvard University in 1950, where he taught classes on nutrition and public health. For many years, he served as an advisor on public policy issues to Congress, the U.N. Food and Agriculture Organization, the World Health Organization and the U.N. Children's Fund. In 1966, he became one of the first American scientists to speak out against the use of herbicides in the Vietnam War.

In 1969, under President Nixon, he organized the highly regarded White House Conference on Food, Nutrition and Health, which produced a much greater national understanding of the

problem of hunger in our land of plenty, and led directly to a large expansion of the food stamp and school lunch programs. Jean Mayer was one of the first to recognize the important connection between nutrition and achievement, and he worked hard to make this finding a key part of the Nation's policy. As a result of his extraordinary efforts, Federal spending on food programs for poor and elderly citizens increased more than fivefold in a period of 3 years—from $800 million in 1969 to $4.2 billion in 1972.

Jean Mayer made hunger unacceptable not only in America, but in many other lands as well. In 1969, he led a mission to the war-torn province of Biafra in Africa. As a result of his findings, the United States increased shipments of food and medical relief. He organized many other relief missions to impoverished countries and inspired an international conference on famine where, for the first time, an intentional policy of starvation was condemned as a violation of human rights.

Jean Mayer served as the president of Tufts University in Massachusetts for 16 years, and built the small liberal arts college into an internationally renowned research institution. During his tenure, he founded the Nation's first graduate school of nutrition, created New England's only veterinary school, and established the Sackler School of Graduate Biomedical Sciences and the Center for Environmental Management.

The outstanding contributions that Jean Mayer made to Massachusetts, the Nation, and the world are now legendary. He was a remarkable person who devoted his remarkable life to helping others. This legislation is a fitting tribute to his many extraordinary accomplishments.

Mr. BRYAN. 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. BRYAN. 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. BRYAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Wednesday, May 4; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their later use in the day; that there then be a period for morning business not to extend beyond the hour of 11:30 am, with Senators permitted to speak therein for up to 5 minutes each, with the following Senators recognized for the time limits specified:

Senator ROTH for up to 20 minutes; Senators LIEBERMAN and GRASSLEY for a total of 20 minutes; Senators BOREN and LEAHY for up to 15 minutes each; Senator KOHL for up to 5 minutes; that at 11:30 a.m. the Senate resume consideration of S. 783, the fair credit reporting bill.

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

RECESS UNTIL WEDNESDAY, MAY 4, 1994, AT 10 A.M.

Mr. BRYAN. 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 7:22 p.m., recessed until Wednesday, May 4, 1994, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 3, 1994:

DEPARTMENT OF STATE

BRADY ANDERSON, OF ARKANSAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

DOROTHY MYERS SAMPAS, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SALLY A. SHELTON, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE RICHARD E. BISSELL, RESIGNED.

DEPARTMENT OF JUSTICE

NANCY E. GIST, OF MASSACHUSETTS, TO BE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE. (NEW POSITION).

FEDERAL ELECTION COMMISSION

LEE ANN ELLIOTT, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1999. (REAPPOINTMENT.)

DANNY LEE MCDONALD, OF OKLAHOMA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1999. (REAPPOINTMENT.)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. ARLEN D. JAMESON [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. JEFFREY G. CLIVER [redacted] REGULAR AIR FORCE

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOHN G. COBURN [redacted] U.S. ARMY

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5053:

To be vice chief of naval operations

To be admiral

VICE ADM. RICHARD C. MACKE, [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. WILLIAM J. FLANAGAN, JR. [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. RONALD J. ZLATOPER [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5141:

To be chief of naval personnel

To be vice admiral

REAR ADM. (SELECTEE) FRANK L. BOWMAN [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. JOSEPH P. REASON [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. CONRAD C. LAUTENBACHER, [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. PHILIP M. QUAST [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOHN S. REED [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) ARCHIE R. CLEMINS [redacted] U.S. NAVY

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

VALERIE J. RICE [redacted]

To be major

JAY J. BREYER [redacted]

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

WILLIAM G. BUTTS [redacted]
RONALD K. DANEHOWER [redacted]
DONALD H. GLOVER [redacted]
KEITH C. GOODHOPE [redacted]
JOHN B. GRIMBALL [redacted]
SAMUEL W. LEDBETTER, JR. [redacted]
JOHN A. MCMURDIE [redacted]
ARTHUR K. O'CONNOR [redacted]
JULIUS A. WHITE [redacted]

MEDICAL CORPS

To be colonel

JOHN S. MCNULTY, [redacted]

ARMY NURSE CORPS

To be colonel

BETHANY A. DUSENBERRY, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

TIMOTHY J. COWAN, [redacted]
MICHAEL J. DACY, [redacted]
JAMES P. DALEY, [redacted]
THOMAS T. GALKOWSKI, [redacted]
BRIAN W. GOODWIN, [redacted]
DAVID D. GRAY, [redacted]
DENNIS L. GUM, [redacted]
ROBERT H. INGRAM, [redacted]
ROBERT E. JACKSON, [redacted]
JAMES JOSEPH, [redacted]
WILLIAM J. KAUTT III, [redacted]
GARY N. KINDER, [redacted]
TERRY G. KRSNAK, [redacted]
DANIEL M. LINDSLEY, [redacted]
WILLIAM B. MALONEY, JR., [redacted]
JOEL MICHAUD, [redacted]
PETER W. OGDEN, [redacted]
SUSAN E. RODRIGUEZ, [redacted]
GEORGE M. ROSS, [redacted]
HERBERT D. SMILEY, [redacted]
FRANK T. SPEED, JR., [redacted]
MARCUS C. STILES, [redacted]
MARK E. STORER, [redacted]
WYNIACO D. THOMAS, [redacted]
GEORGE M. TOMKO, [redacted]
JEFFRY D. VAUGHN, [redacted]
THOMAS E. VIA, [redacted]
EDWIN C. WAHLGREN, [redacted]
GEORGE D. WARN, [redacted]
WILLIAM J. WASHO, [redacted]
RONALD L. WEAVER, [redacted]
RICHARD L. WILLIAMS, [redacted]
CHARLES S. WOODS, [redacted]
KATHY J. WRIGHT, [redacted]
JOHNNIE L. YOUNG, [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

GARY R. BROWN, [redacted]
MICHAEL T. MCCABE, [redacted]

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. RONALD D. BROOKS, [redacted], 11/30/93
MAJ. MICHAEL W. CORBETT, [redacted], 1/7/94
MAJ. GREGORY A. DYKES, [redacted], 12/4/93
MAJ. MARK E. FREELAND, [redacted], 12/20/93
MAJ. JESSE D. KINGHORN, JR., [redacted], 12/23/93
MAJ. CHARLES MORRISON, [redacted], 12/12/93
MAJ. LINDA K. MCTAGUE, [redacted], 11/8/93
MAJ. RICHARD L. POUNDER, [redacted], 11/4/93
MAJ. BARTLETT C. SMETANA, [redacted], 12/11/93
MAJ. JOSEPH B. VEILLON, [redacted], 12/6/93
MAJ. KENT R. WAGGONER, [redacted], 11/18/93
MAJ. GARY R. WOOD, [redacted], 12/5/93

BIOMEDICAL SERVICES CORPS

To be lieutenant colonel

MAJ. ANDREW R. BUZZELLI, [redacted], 11/15/93
MAJ. JOHN R. STEPUSIN, [redacted], 11/13/93

MEDICAL CORPS

To be lieutenant colonel

MAJ. GREGORY V. WHITE, [redacted], 12/4/93
MAJ. WYMAN K. YEE, [redacted], 12/4/93

NURSE CORPS

To be lieutenant colonel

MAJ. JOHN J. DERTZO, [redacted], 12/4/93
MAJ. PATRICIA P. BRONNER, [redacted], 12/4/93
MAJ. KAREN L. WOLF, [redacted], 11/20/93

DENTAL CORPS

To be lieutenant colonel

MAJ. JEFFREY D. BREYMAIER, [redacted], 12/9/93

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be colonel

ERIC D. ADRIAN, [redacted]
ROBERT A. ANSON, [redacted]
STEPHEN M. CAMERON, [redacted]
CARL G. GLASER, [redacted]
PUSHPINDER GROVER, [redacted]
RONALD J. HAYES, [redacted]
ALBERT H. HOLLMANN, [redacted]
WILLIAM C. JOHNSON, [redacted]
RODNEY KATAGIHARA, [redacted]
EDWARD A. KODITEK, [redacted]
STEPHEN R. LEE, [redacted]
JOHN C. MITCHELL, [redacted]
NICHOLAS C. QUIGLEY, [redacted]
WILLIAM F. ROSE, [redacted]
JERRY M. SCHWARTZ, [redacted]
HENRY C. SEYMOUR, [redacted]
JOHN M. WHITLEY, [redacted]
ROBERT A. YARD, [redacted]

MEDICAL CORPS

To be colonel

MICHAEL A. BERRY, [redacted]
JAMES L. BESON*, [redacted]
PHILIP W. BLAIR*, [redacted]
BENROE W. BLOUNT*, [redacted]
SHELBY R. BRAMMER*, [redacted]
DORIS BROWNE*, [redacted]
CANDICE L. CASTRO, [redacted]
HOWARD M. CUSHNER, [redacted]
PHILLIP L. DAY, [redacted]
HOLLY L. DOYNE*, [redacted]
SALLIE DRANEBOSCH*, [redacted]
PAUL EVANS, [redacted]
FRANK T. FLANNERY, [redacted]
JAMES K. GILMAN, [redacted]
CLEMENT J. HANSON, [redacted]
JAMES A. HASBARGEN*, [redacted]
LOMA H. HASSELL, [redacted]
CHARLES G. HECKEL*, [redacted]
EDWARD C. HUYCKE*, [redacted]
BRUCE H. JONES*, [redacted]
SHAILESCH C. KADAKIA*, [redacted]
ROBERT J. KAMINSKI, [redacted]
JEROME J. KARWACKI, [redacted]
SOK M. KIM, [redacted]
DANIEL L. KOPP, [redacted]
WILLIAM C. LLOYD, [redacted]
CHARLES F. LONGER, [redacted]
KATHLEEN A. MCHALE*, [redacted]
KELLY T. MCKEE*, [redacted]
GLENN W. MITCHELL, [redacted]
JOE M. MOODY, [redacted]
WALTER J. MOORE, [redacted]
ALBERT J. MORENO*, [redacted]
BENJAMIN W. PAGE, [redacted]
DOUGLAS F. PHILLIP, [redacted]
HARRELL L. REED, [redacted]
JOHN H. ROSEMOND, JR.*, [redacted]
JANET L. ROWE*, [redacted]
LAWRENCE C. RUNKE*, [redacted]
STEPHEN A. SIHELNIK, [redacted]
WARREN S. SILBERMAN, [redacted]
ROBERT H. SLOVER, [redacted]
THOMAS W. SMITH*, [redacted]
RICHARD A. STEINER, [redacted]
WILLIAM T. TUCKER, [redacted]
GORDON S. VINCENT, [redacted]
ROBERT H. WEBB, [redacted]
GEORGE W. WEIGHTMAN*, [redacted]
EDWARD J. YANG, [redacted]
RULY YOEDIONO, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be captain

MARTIN E. BACON
BRYAN O. BARNETT
JOHN L. BOONE
BARBARA MILLER BRADLEY
HARRY MURRAY BRAMMER I
JEFFREY H. BRODIE
JAMES JOSEPH BURNS
CARL GAGE BUSH
MITCHELL CARL
JONATHAN BAILEY CLARK
CHARLES J. CONLON
BARBARA R. CRAIG
MICHAEL GEORGE DAUM
SUSAN R. DAVIS
LINDA JO FULLER
LARRY STEVEN GARSHA
THEORDORE GEOR GOLDFARB
MICHAEL S. GONZALEZ
DAVID ALLEN HILAND
THERESA TARLTO HOLLAND
WILLIAM EDWARD HUGHES
RICHARD R. JEFFRIES
CARL HOWARD JUNE
JULIAN FAISON KEITH II
ROBERT LOUIS KERN
MARIE ELIZABET KNAFELC
CHARLES WENDELL LANDON
JOHN T. LEAVELL
PATRICK M. LYONS
EDWARD R. MCDEVITT
THOMAS A. MILLER
DANIEL MITCHELL
WILLIAM P. NASH
CARROLL JOHN NICKLE
JOHN LESTER PERSON
ROGER DAVID REVILLE
WILLIAM L. ROBERTS
WILLIAM M. ROBERTS
VINCENT S. SHEN
LYNN PROCTOR SHIPMAN
RONALD EARL SMITH
RICHARD JOSEPH THOMAS
NORMAN J. WAECKER, JR.
JAMES H. WALKER
DEBORAH JANE WEAR
RICHARD C. WELTON
JOHN H. WILCKENS
EDWARD RAYMOND ZECH

SUPPLY CORPS OFFICERS

To be captain

BRIAN WILLIAM BLANCHFIELD
STEPHEN BERTRAM BROOKS
MARK THOMAS BROWN
EDWARD J. CASE
RICHARD DENNIS COSTELLO
THEODORE ALAN COYLE
MICHAEL JOHN DILLENBURG
JAMES MICHAEL DYKES
GREGORY BRUCE EASTON
PETER SAMUEL ELTRINGHAM
BRUCE EDWARD FEERER
EDWARD JOHN FISHBURNE
PATRICK JAMES FLANAGAN
JAMES WAITES FREEMAN, JR.
CHARLES WALTER FREY
JAMES RALPH GARBAN
ROLAND WILFRED GORRIE
JEFFREY DAVID GREENE
DON RICHARD HAVEN
ELWOOD THOMAS HODNETT, JR.
ROBERT HERMAN JACKSON III
RICHARD MARK LEVY
DAVID MICHAEL MADDON
JAMES MANNESS MARTIN
STEVEN MICHAEL MCCANN
HARRY EDWARD PALM, JR.
GREGORY HOWARD PEARSALL
JOSEPH MURRAY RUPPERT, JR.
ROBERT MARSHALL RUSSELL
MICHAEL PAYNE SCHOEDLER
JOHN EDWARD SCHWEICHLER
RHYS CLAY SUEUR
CLIFFORD EDWARD SZAFRAN
RICHARD MORRIS VIZZIER

CHAPLAIN CORPS OFFICERS

To be captain

JAMES W. ANDERSON
CHARLES T. BROWN
GEORGE DENNIS COOPER
THOMAS EDWARD DANSAK
CHARLES RICHARD EIS
RUSSELL OLIVER GUNTER
JOSEPH RICHARD LAMONDE
STEPHEN J. LINEHAN
JIMMY HAROLD MARTIN
TIMOTHY TADAYOSHI MORITA
JAMES VERNON PRINCE

CIVIL ENGINEER CORPS OFFICERS

To be captain

ANDREW DAVID BRUNHART
PETER LOEWNER CHECK
GLENN ALAN CUTLER
WALTER LEONARD DILLINGER, JR.
JOHN RODERICK DUNBAR
DOUGLAS FRANK ELZNIC
GEORGE NEIL EUSTACE
KEVIN TALMADGE GROSS
CHARLES ANTHONY HEINRICHS
ERNEST RAY HUNTER
RAYMOND MELLO
JOHN FAHEY MORAN
CHARLES JOSEPH NAVIN
BENJAMIN DANIEL NEAL
ROBERT CHARLES PARSONS
CHESTER ALLEN RICE
WILLIAM LAWRENCE RUDICH
HERBERT LEE SCHWIND, JR.
JOSEPH WAYNE TAYLOR

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

KENNETH R. BRYANT
RONALD IVOR CLOVE
BRUCE BENTON DAVIDSON
DEAN M. HINKLEY
STEVEN WILLIAM HORTON
RAYMOND JOHN KREICHELT
RONALD BRUCE LEO
JOHN TAYLOR OLIVER
RICHARD R. OZMUN
FRANK J. PROCHAZKA
ROBERT H. TROIDL
KEVIN RICHARD VIENNA

DENTAL CORPS OFFICERS

To be captain

PETER M. BERTRAND
ANDREW FRANKLIN BOBROFF
JIMMY WAYNE CHISUM
STEPHEN JOSEPH CONNELLY
NELSON CHARLES DAVIS
KENNETH ELROD
ARMSTEAD LEAYL GALIBER
DAVID ALAN GLASS
KENNETH MICHA HARRISON
THOMAS N. HAWKINS
WILLIAM CLAY HIGHTOWER
JOHN WILLIAM KIRBY
BARRY A. LACOMBE
CHRISTOPHER C. LECLAIRE
AUSTIN W. MAXWELL
WILLIAM JALMER P. MELBY
CURTIS THORN MIDDLETON
THOMAS J. RAMSEY
WILLIAM L. RICHARDSON
JOSEPH A. VOGT
THOMAS L. WALKER
MARC NORRIS WATERMAN
DONALD HOBSON WOEHLING

MEDICAL SERVICE CORPS OFFICERS

To be captain

WILLIAM WALLA CAMPBELL
THOMAS CANDELARIA
HARRY CHARLES COFFEY
MARY JOAN DOOLING
DAVID THOMAS DUNDON
LAWRENCE HENRY FRANK
CHRIS HENRY GARDINER
STANLEY NIXON GARN
STERLING ELLIS GARNTO
CARL JAMES HOOTON
DAVID HILARY LARDY
WILLIAM FREDE LORENZEN
MICHAEL EDWARD PLANTE
WILLIAM RAYMON SATTLEY
TIMOTHY J. SINGER
DONALD RAY THOMPSON
JOSEPH P. VANLANDINGHAM
LAWRENCE JAMES WALTERS
DAVID RAY WOKER

NURSE CORPS OFFICERS

To be captain

PATRICIA KATHER BANNOW
JIMMIE GLENN COTHERN
LINDA MARY CUMMINGS
CECELIA M. DAWEGILLIS
VICKI KRISTINE GOFF
DEBORAH YOUNG KAMIN
PATRICIA ANNE KENNEY
MAUREEN DOOHAN KOWBA
ANN MARIE KUNKEL
DIANE MARIE LEDONNE
NANCY LESCAVAGE
MARGARET JANE MARKLEY
MARGARET ANNE MCNULTY
REBECCA BROWN NULTY
NANCY JO OWEN
FE ESPERANZA RODRIGUEZ
MARY STRAIN SAVITSKY
BARBARA KLOS VERNOSKI
JULIA CAMPBELL WASHINGTON

CONFIRMATIONS

Executive nominations confirmed by the Senate May 3, 1994:

DEPARTMENT OF THE TREASURY

JOAN LOGUE-KINDER, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF DEFENSE

RUDY DELEON, OF CALIFORNIA, TO BE UNDER SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.