

SENATE—Friday, May 6, 1994

(Legislative day of Monday, May 2, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

The PRESIDING OFFICER. The prayer this morning will be offered by the Reverend Richard C. Halverson, Jr.

PRAYER

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

Let us pray:

As we go to prayer this morning, due to the significance of this weekend, it is appropriate for us to take a moment to reflect upon someone who we all have in common—our mothers. And, as we prayerfully reflect upon our mothers, remember the words of Abraham Lincoln, who once said, "All that I am or hope to be, I owe to my angel mother." But, perhaps the most beautiful words come from Hebrew Scripture in praise of a virtuous woman.

Hear now the Word of the Lord:

*Who can find a virtuous woman? for her price is far above rubies. The heart of her husband doth safely trust her * * * She will do him good and not evil all the days of her life. She seeketh wool, and flax, and worketh willingly with her hands. She is like the merchants' ships; she bringeth her food from afar. She riseth also while it is yet night, and giveth meat to her household, and a portion to her maidens. She considereth a field, and buyeth it: with the fruit of her hands she planteth a vineyard. She girdeth her loins with strength, and strengtheneth her arms * * * She stretcheth out her hand to the poor; yea, she reacheth forth her hands to the needy. She is not afraid of the snow for her household: for all her household are clothed with scarlet. She maketh herself coverings of tapestry; her clothing is silk and purple * * * Strength and honour are her clothing; and she shall rejoice in time to come. She openeth her mouth with wisdom; and in her tongue is the law of kindness. She looketh well to the ways of her household, and eateth not the bread of idleness. Her children arise up, and call her blessed; her husband also, and he praiseth her. Many daughters have done virtuously, but thou excellest them all. Favour is deceitful, and beauty is vain: but a woman that feareth the Lord, she shall be praised.—Proverbs 31:10-31; select verses. Amen.*

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 6, 1994.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, Members of the Senate, early this morning an agreement was reached setting forth the procedure by which the Senate will consider several legislative matters. The orders obtained by unanimous consent are printed at page 2 of the Senate's Calendar of Business for today and I will not repeat them in their entirety but will simply summarize.

We will, today, complete action on all remaining amendments on S. 1935, the gift ban bill. The amendments are listed in the order. Any rollcall votes required will occur beginning at not prior to 5 p.m. on Wednesday.

The Senate will then proceed to consideration of S. 978, the Environmental Technology Act. Under a similar process the amendments are listed in the order. They must be offered today, as is the case with the amendments to the gift ban bill, and any votes required will be set over until Wednesday.

The Senate will then begin debate on S. 2042, the Bosnia arms embargo bill. That matter will be before the Senate today for debate only.

On Monday, the Senate will proceed to consideration of the Safe Drinking Water Act. There will be no rollcall votes on Monday.

On Tuesday, the Senate will resume debate on the Bosnia arms embargo bill. There will be no rollcall votes on Tuesday.

And on Wednesday morning, the Senate will proceed to the conference report on the budget resolution and there

will be votes on that day, not prior to 5 p.m., but I expect that there will be several votes lined up to occur beginning at or shortly after 5 p.m.

Mr. President, I again thank all of my colleagues for their cooperation. This is a complex order, embracing many bills and many amendments and affecting the interests of several Senators. I thank them all for their patience and cooperation in participating in the discussions that led to the entry of these orders.

Mr. President, the first amendment on the list is to be offered by Senator EXON. I notice that he is present on the floor.

Am I correct that the Exon amendment is the pending business?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. Then, Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. If the Senator will permit, under the previous order the leadership time is reserved.

CONGRESSIONAL GIFTS REFORM ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1935, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1935) to prohibit lobbyists and their clients from providing to legislative branch officials certain gifts, meals, entertainment, reimbursements, or loans, and to place limits on and require disclosure by lobbyists of certain expenditures.

The Senate resumed consideration of the bill.

Pending:

Exon amendment No. 1682, to express the sense of the Senate that any Member who voted to reduce the pay of Members of the Senate should return to the U.S. Treasury any pay that would not have been received had the amendment been enacted into law.

AMENDMENT NO. 1682

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. EXON. Mr. President, I understand the Exon amendment is the pending business; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. EXON. Since we did not have an opportunity last evening for the reading of the amendment, I request at this time the Senate hear the clerk read the Exon sense-of-the-Senate amendment.

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

The clerk will report the amendment.

The legislative clerk read as follows:

At the appropriate place add the following: It is sense of the Senate that any Member who voted May 5, 1994, to amend S. 1935 to reduce the pay of Members of the Senate by 15%, should return to the U.S. Treasury the full amount of any pay that would not have been received had the amendment been enacted into law and that such Members should provide evidence to the public on an annual basis that they have done so.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. EXON. Mr. President, the amendment that has just been read was an amendment that I offered last evening. There was, as the Senate knows, considerable discussion following that with Members on both sides of the aisle. The majority leader tried very hard to put together a package to unravel a rather difficult situation with regard to the scheduling of Senate business.

One of the things that came up during that discussion, at great length, was the Exon amendment and how we should proceed. It was the view of this Senator and several Members who were cosponsors of the sense-of-the-Senate resolution as introduced, that we should proceed with discussion, debate and a vote on last evening—or more correctly sometime this morning, very early, because I believe we had wandered on beyond midnight during these deliberations and discussions.

The reason I offered this amendment was to attempt to gain a degree of consistency in the Senate. It was not intended as an amendment to particularly embarrass any of my colleagues. However, during the discussion, during the deliberations, several Senators came to me—including the majority leader—and said pressing forward on the Exon amendment at that time would cause a great deal of difficulty to many of my colleagues because they were not present at that time, early this morning, and further said even if, as originally suggested, we put this over until Wednesday, it could cause a very great deal of difficulty and would have prevented the rather complicated unanimous-consent agreement that was finally agreed to last night or early this morning—whatever the timeframe was. I do not remember for certain.

I will simply say, Mr. President, that I thought the amendment that has just been read was simply an opportunity for those who voted for a 15 percent cut in their pay, to give them the opportunity, with the suggestion in the sense-of-the-Senate resolution, to do exactly what they desired to do, evidently, by their votes, even though the amendment did fail.

The reputation this Senator has in the Senate, I think, is clearly one not

designed around recriminations, not built upon trying to place my colleagues on either side of the aisle in a difficult position.

I simply say that it is my intention to withdraw that amendment, at the request of several Senators. I believe that if it were brought to a vote, it would very likely receive overwhelming approval.

But the idea is to getting ahead with the business at hand around here, to address ourselves to the very many, many complicated issues that were contained in the unanimous consent agreement, and others, such as health care, on which we are now facing somewhat of a short time fuse.

Therefore, Mr. President, in order to expedite the proceedings of the Senate, and at the request and suggestion of the majority leader, I have agreed to withdraw the amendment.

I just wanted to take this brief period of time to explain my reasons for offering it. It simply was that one of the things I think we all should do in the body is to try and be a little more consistent, at least during short-term periods, in the U.S. Senate. That was the reason for the amendment.

But as I have explained, I recognize the circumstances that the majority leader faces and, therefore, to expedite matters and not string this out any more than is already necessary, I withdraw the sense-of-the-Senate amendment that I sent to the desk during the previous session of the Senate.

The ACTING PRESIDENT pro tempore. The Senator has that right. Without objection, the amendment is withdrawn.

So the amendment (No. 1682) was withdrawn.

VISIT TO THE SENATE BY THE PRIME MINISTER OF MALAYSIA

Mr. COHEN. Mr. President, I ask unanimous consent that we stand in recess for 1 minute. However, before doing so, I would like to take this occasion to announce that we have the privilege of having the Prime Minister of Malaysia, Mr. Mahathir, who is visiting our country and will be going to the White House shortly to visit President Clinton.

We want to take this opportunity to welcome him to the U.S. Senate and say how much we appreciate our relationship with Malaysia. It is a strong one, both economically and militarily and, hopefully, we will build upon that relationship even more so in the future. So we welcome you to our Senate.

[Applause.]

RECESS

The ACTING PRESIDENT pro tempore. Without objection, the Senate stands in recess for 1 minute.

Thereupon, the Senate, at 10:14 a.m., recessed until 10:17 a.m.; whereupon,

the Senate reassembled when called to order by the Acting President pro tempore [Mr. MATHEWS].

CONGRESSIONAL GIFTS REFORM ACT

The Senate continued with the consideration of the bill.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum. I withdraw the request.

Mr. DOLE. Mr. President, I had intended at this time to offer the amendment, following the amendment which would have been offered by the distinguished Senator from Nebraska [Mr. EXON], because I, too, share his concern about being consistent or inconsistent.

So I was prepared to offer an amendment saying anybody who voted against a pay raise as a sitting Senator, and then has since taken the pay raise, would have to refund that to the Treasury.

I noted there would have been quite a number of sitting Senators who voted no for the recent pay raise but I assume have been accepting it on a monthly basis. I think both the Senator from Nebraska and the Senator from Kansas made our points. I happened to vote for that pay raise, as did the Senator from Nebraska.

But I think last night the effort to reduce the pay by 15 percent—the amendment offered by the distinguished Senator from Montana [Mr. BURNS]—was a good-faith effort. He felt strongly about it and he offered the amendment, but I believe, in view of the disposition of the previous amendment, to withdraw the amendment of the Senator from Nebraska [Mr. EXON], there is no need for this Senator to propose my amendment.

I do not have any amendment to withdraw. I just make the statement based on the action of the Senator from Nebraska. I will not offer the amendment I just discussed, and discussed last evening.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

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

At the appropriate place, add the following:

It is the sense of the Senate that any Senator who voted against pay raises for Members of Congress on July 17, 1991, October 26, 1990, August 1, 1990, February 7, 1989, February 2, 1989, June 14, 1988, June 27, 1988, December 21, 1987, or on any previous occasion, should return the pay raise to the Treasury with interest.

HAITI

Mr. DOLE. Mr. President, on another matter, I just suggest there has been a lot of talk about Haiti and what we are going to do in Haiti—an invasion, whatever.

I just hope the President might seriously consider a bipartisan factfinding mission. I think it would have great appeal on both sides of the aisle, in both the House and the Senate. I believe it could be put together very quickly and have a positive impact on what our course of action should be in Haiti. I would certainly be prepared to cooperate with the President. I am certain my colleagues on both sides of the aisle will, in both the House and the Senate.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to proceed as in morning business for 15 minutes.

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

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

Mr. BIDEN. I object, Mr. President.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BIDEN. Mr. President, I want to inquire of our colleague from Texas. The reason I objected is that I may have misunderstood what she said. Is the Senator introducing a bill and seeking its immediate consideration?

Mrs. HUTCHISON. No, Mr. President. I appreciate the question from the Senator from Delaware. I meant appropriate referral.

Mr. BIDEN. I have no objection. Thank you.

The ACTING PRESIDENT pro tempore. The Senator from Texas may proceed.

Mrs. HUTCHISON. I thank the Chair. (The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 2085 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECOGNITION OF SMALL BUSINESS WEEK

Mrs. HUTCHISON. Mr. President, I also want to rise today to recognize and celebrate Small Business Week.

Small businesses play a crucial role in our Nation's economy. They account for one-half of total employment in this country and a large majority of new job creation. In fact, the American small business community ranks as the world's third largest economic power, behind only the United States economy as a whole and Japan. I believe it is important to recognize the contributions of these hard-working entrepreneurs.

In my home State of Texas, there are over 350,000 firms with less than 100 employees. And these numbers are growing, including unprecedented ownership by minorities and women. During the last few years, the number of African-American-owned businesses in Texas has increased more than 30 percent; the number of women-owned businesses in Texas almost 50 percent; and Hispanic-owned businesses more than 60 percent.

But while we are celebrating these past achievements, we must not forget that the burdens many small business owners continue to face are from their own Government. Each new tax, regulation, or mandated benefit subtracts from business growth and new job creation. If we, in Congress, really want to help small business, we should remove obstacles to growth rather than piling on new ones.

Let me outline three ways we can create a healthier small business environment and, hopefully, a healthier, robust economy.

First, we need to pass health care reform that is affordable and accessible for small business owners and their employees. Unfortunately, a recent study found that under the employer mandate in the Clinton health care plan 850,000 jobs could be lost nationwide, including almost 52,000 in my home State of Texas.

A few months ago, one of my constituents, Ed Norton from Austin, came into my office to talk about health care. Ed owns a chain of barbecue restaurants, and he said his health care costs under the Clinton plan would be higher than his entire net income.

Mr. President, we must listen to the people who are out there working to make ends meet and get this economy going.

Second, small business owners desperately need relief from excessive Government regulations and paperwork. According to the Small Business Administration, small firms spend a minimum of 1.2 billion hours each year just to comply with Government paperwork regulations—1.2 billion hours. As a former small business owner myself, I am very familiar with the weight of excessive regulations. Every minute devoted to filling out another Government form or to comply with another Government regulation is an hour that could be spent better looking at my customer base, developing a new product, better manufacturing methods or expanding my markets—in essence, contributing to the productivity of our Nation's economy.

Ultimately, these regulations are a hidden tax. It is a cost of doing business. Reducing the regulatory burden will free up resources to fuel economic growth well into the 21st century. Mr. President, we must be ever mindful that all our businesses are going to be

competing in the international marketplace.

Finally, Mr. President, we must address skyrocketing product liability costs which are stifling innovation and competitiveness among our smaller businesses. Recently, I received a letter from a small manufacturer in Houston who said:

We have fallen behind foreign competitors in new product development due to concerns of liability exposure. And because product development is being curtailed, so too is our ability to create new jobs. The high cost of product liability insurance increases product costs and reduces the competitiveness of our products. We cannot compete at home or abroad because of this situation.

That was from a small business manufacturer in Houston, TX.

To correct these problems, I cosponsored, along with many of my colleagues, the Product Liability Fairness Act. This bill sets uniform standards for product seller liability, limits punitive damages awards, and sets liability time limitations. I look forward to this bill's floor consideration before Congress adjourns.

I urge my colleagues to join me in recognizing the important contributions of small business owners during this very special week. But, more importantly, I hope they will join me in lifting some of the burdens and some of the regulations imposed by Government on these small firms. Let us initiate a new era of economic growth and prosperity for this country.

Thank you, Mr. President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DORGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONGRESSIONAL GIFTS REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, will the Chair please advise of the pending amendment?

The PRESIDING OFFICER. The Senate is now considering S. 1935. That is its pending business.

Mr. DECONCINI. Is that open to amendment or is there a pending amendment?

The PRESIDING OFFICER. There is a unanimous-consent agreement in which a number of amendments are limited.

Mr. DECONCINI. I wonder if I can have some time while we are waiting for amendments to be taken up.

If there is no objection, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair and I thank the Senator from Michigan.

RUSSIA

Mr. DECONCINI. Mr. President, as Russia continues to work through the wrenching transition from the Soviet era, the debate over how to help shape the direction of Russia's future political course continues to preoccupy United States foreign policymakers. And well it should.

Alarmed by the pattern of Russian pressure on its neighbors, and disturbed by the slowdown of economic reform and the success of hardliners in December's parliamentary election, some have sounded the alarm that Russia cannot be our partner or ally, but is our rival, or even our foe. This view holds that Russia will essentially remain a strategic threat to the United States, regardless of the collapse of communism.

I lean in a different direction. I believe the present and future status of United States relations with Russia are simply unclear and unpredictable. It is premature to draw conclusions about these relations and neatly condense them into a one-word sound bite of a foe, or an ally, or a friend, or an adversary.

Depending on one's prejudices, hopes, or expectations, any one of the words that have punctuated the debate about our relations with Russia—ally, partner, rival, foe—is reasonable. The danger is that the policy we favor will depend on the word we prefer, and that word may change on a regular basis.

I think it is safe to project that Russia will at times cooperate with us, and at other times will not. This should not surprise or frighten us, since we have bitter disputes even with nations that have been our allies for decades.

What should concern us is that Russia accept and act in accordance with certain internationally accepted standards of behavior. Our strategy toward Russia must not only focus on gaining Russian cooperation in specific cases, but on encouraging Russia to play according to the rules of the game. These rules set limits, especially on the use or threat of force, and demand respect for the sovereignty and territorial integrity of other states.

So while the nature of post-Communist Russia is very much a work in progress, and it is too early to decide once and for all whether she is friend or foe, it is not too early to sound the alarm about certain tendencies in Russian politics. I refer, in particular to the deliberate destabilization of its neighbors as a means of regaining control over them.

Russian military support for Abkhazai has led to the de facto dismemberment of Georgia, which has been forced to seek entry into the Commonwealth of Independent States [CIS] and to agree to the stationing of Russian soldiers on its territory. Somewhat less blatantly, Russian forces clearly connived in the coup d'etat that took place last June against the democratically elected president of Azerbaijan and pressured his successor to bring the oil-rich country into the CIS. There is no doubt about that.

In Moldova, the Russian 14th Army appears to be digging in for the duration, even though Russian Government spokesmen speak supportively of a CSCE initiative to resolve the dispute between Moldova's Government and secessionist Trans-Dniestria that envisions the withdrawal of the 14th Army from Moldova. In Tajikistan, there is a very murky line between peacekeeping and keeping the old nomenklatura in power.

In my view, Russia's behavior in Georgia, Azerbaijan and Moldova violates the Helsinki accords and other international agreements—documents which Russia has freely signed and agreed to abide by. We are entitled to expect and, I think, demand that Russia honor its international commitments.

In the Baltic States, after long and arduous negotiations, Russia has finally reached agreement with Latvia on an August 31, 1994, withdrawal date for Russian troops. But Russia continues to delay serious negotiations about a timely withdrawal of its 2,600 troops from Estonia and has added additional terms for withdrawal, including a demand for \$23 million to build housing for these troops in Russia from that country. This breaches the July 1992 Helsinki CSCE document calling for complete and timely withdrawal of all foreign troops from the Baltics. We should all keep in mind that much of our aid program to Russia is contingent upon significant progress toward removal of Russian troops from the Baltics.

Equally ominous are Russian efforts to manipulate the peacekeeping issue. In Georgia, Nagorno-Karabakh and elsewhere, Russia has been seeking international agreement to the stationing of Russian forces in these regions. President Yeltsin, in his February 24 speech, stated that "a strong Russia can become the guarantee of stability all over the territory of the former Soviet Union." But stability must never be an excuse for establishing hegemony over neighboring states against the latter's will, or violating CSCE and U.N. provisions on territorial integrity of member states. If one of Russia's neighbors wishes to enter into a military alliance with Russia, that decision is certainly not ours to contest—in the United States

or elsewhere. But uninvited army bases, deployment of military forces on another Nation's territory or refusal to withdraw forces within a reasonable timeframe are quite another thing. And these activities cannot be justified simply by appeals to "peacekeeping."

One of the issues I find most worrisome is Moscow's tendency to exploit Russian minorities, and Russian-speaking minorities, in the other republics. Official Russian rhetoric about protecting Russian speakers—regardless of where they actually live and their ethnic background—increasingly seems like a pretext to reestablish a sphere of influence throughout the entire former U.S.S.R. This understandably alarms Russia's neighbors, and we should not accept at face value Russian arguments about the need for Moscow to protect Russians wherever they may be physically and geographically located. Many of these Russians know full well and they have said so to Helsinki Commission staff, that Moscow is pursuing its own interests when it asserts the right to defend these Russians. Several Foreign Ministry papers over the last few years have clearly spelled out this policy perception.

Russia would be the dominant player in the region no matter what, because of its size, because of its economy, et cetera. But it is one thing for a giant country to use its economic muscle in negotiations; it is quite another to demand cooperation by threatening to tear a small country apart, or, worse, actually stripping its sovereignty of all meaning.

So what are we to do? First, we must recognize that our leverage is limited. Especially in today's atmosphere of aggrieved nationalism, Russia cannot simply dance to our tune, or be seen as bowing to American dictates. But we can insist on Russian compliance with standard rules that bind all other nations.

Along these lines, talks and projects on the denuclearization of Russia and the United States must continue. These lines to communication are important and can bring about a very positive effect. While we will certainly not eliminate the causes of war, the United States and Russia must work together to reduce our reliance on weapons of mass destruction, and must prevent their proliferation. This is an investment which is clearly in our national interest, and in the interests of the world.

I am not convinced, however, that all aspects of our overall assistance program to Russia are in our national interest or help the Russians. I remain troubled, for example, by the extension of loans to Russia by the IMF, to which the United States is one of the main contributors. Absent evidence of any meaningful financial reform, these loans may well be wasted. Worse still, these loans may indeed serve to perpetuate the old Soviet-style economy.

We must work more actively with our G-7 partners to insure that our multilateral aid is tied to demonstrated compliance with the IMF guidelines instead of continually extending loans which, so far, have been based on empty promises of reform within Russia.

But from a national perspective, I am, frankly, more concerned about our bilateral assistance programs to Russia. Too many of our tax payers' dollars are wasted on high-priced consultants whose transient appearances in Moscow often leave a residue of resentment. We should instead focus on training managers and public officials capable of replacing Communist institutions and attitudes with democratically-oriented reforms. We need hands-on programs that help people develop production and infrastructure.

We have all recently heard many horror stories about the rampant, systemic corruption throughout the CIS. This is an extremely serious phenomenon which requires attention from the international community. We only exacerbate it by funding programs which are not meticulously screened to ensure they are having their intended effect. This means, in my view, a greater concentration on quality rather than quantity.

One component of our assistance program about which I have had serious misgivings is the export guarantee program of the Department of Agriculture. During 1991 and 1992, this program guaranteed nearly \$5 billion of United States commodities exported to the former Soviet Union. I realize this is important to our farm and agricultural business here. But this is taxpayers' guarantees. If they are not paid the U.S. Government will do it.

This program has done little more than permit Russia to avoid reforming its agricultural sector, and it looks as though the American taxpayer may have to pick up the tab for the nearly \$3 billion that remains of this Russian debt to the United States.

I opposed these loans from the beginning because I feared they would not be repaid and would act as a deterrent for the reform of the Russian agricultural sector. It seems like that is going to happen on both tracks. I believe that the previous administration missed an important opportunity to help direct Russian economic policy toward a market economy by not attaching conditions to these loans, which could have encouraged establishment of a genuinely market-oriented agricultural sector. It is clear to me that that has not occurred in Russia and is not occurring today or in the near future. Unless meaningful standards of credit worthiness and IMF compliance are attached to future loan guarantees, this type of aid will benefit neither the Russian people nor the American taxpayer.

A few of our programs are worthwhile. Some of our humanitarian as-

sistance, for example, such as medical supplies and training, are desperately needed and have gone to the people who need them. I also favor the farmer-to-farmer concept in which experienced U.S. farmers provide hands-on training on a long-term basis. I have been impressed with the caliber of experienced managers and technicians who are participating in the CIS. Peace Corps projects. These types of programs provide training for a sustained period and, more importantly, do not consist of commodities or funds which wind up in the pockets of corrupt former Communist leaders. As a British journalist wrote, "Every time you Americans give aid to some Russian city, a half dozen more Mercedes show up in front of city hall." I am sorry to say, but that is becoming more apparent on a day-to-day basis.

Apart from scaling back and prioritizing United States aid to Russia, we must provide more assistance to the other newly independent states on the same kind of basic programs that work. Some might object that we cannot afford to help everyone, but we cannot afford a Russo-centric approach to aid from the United States. It is strategically and politically critical that Ukraine and the countries of the Caucasus and Central Asia remain independent of Russia and make greater progress toward democratic reforms. I might say, we have some very good programs that are operating there without massive billions of dollars of agricultural credits. Properly targeted training programs can help ensure this.

President Yeltsin himself has lamented that "the Russian state hasn't taken its proper place in the world community." It is the proper and needed role of United States foreign policy to insist that Russia's place in the global community be based on its respect for international norms of accepted behavior.

INTEREST RATES AND THE FEDERAL RESERVE

Mr. DECONCINI. Mr. President, on another subject matter, I rise today to voice some concern over the string of recent decisions by the Federal Reserve to raise interest rates an amazing three times in a very short 10-week period of time. Many observers believe that the Fed will raise the rates again, perhaps as soon as the middle of this month. Financial markets and institutions were quick in their negative response to the most recent one-quarter of 1 percent increase on April 18, as bond prices tumbled and the Dow fell 41 points in 1 day.

Some of that has been recouped, but there is certainly some feeling of concern. Proponents of the Fed policy argue that the increases are necessary to stave off inflation which may accompany our growing economy. How-

ever, I believe that adopting this policy, at this time, is premature and unprovoked. Although this Nation's economy is experiencing sustained growth, the warning signs of inflation have remained at bay. Growth figures released last week by the Department of Commerce indicate that the economy grew at a rate of 2.6 percent for the first quarter. While this growth is less than previous predictions, which ranged from 3 to 4 percent, the 2.6 percent figure represents a steady, job-producing level of economic expansion.

The Wall Street Journal said recently the first quarter figures bode well for the remainder of the year. According to the Journal, the economy will continue to grow at a moderate rate, around the 3 percent range. More importantly, the forecast indicates that inflation will remain under control.

Laura Tyson, the head of President Clinton's Council on Economic Advisers stated that the report "*** should calm fears that the economy is growing at an unsustainably rapid rate, or fears that inflation is about to spike upward."

Clearly, the outlook is a positive one which should be greeted with enthusiasm by an American public which has been subjected to years of economic stagnation while Washington has stood idly by. It is this Senator's hope that the recovery will be allowed to run its course unencumbered by another increase later this month of interest rates by the Federal Reserve.

It is the potential that in their zest to avoid inflation the Federal Reserve will prematurely put the brakes on the recovery, which causes me to speak out today. The need to limit inflation is a legitimate one. However, we should not embark on a policy of preempting inflation when there is no indication that it is a problem.

When indicators predict inflation becoming problematic, then clearly raising interest rates is appropriate. Raising the rates prior to that time, as recent experience shows us, creates unwarranted uncertainty in the financial markets and shakes consumer confidence. The impact of the recent increases has had a very real and, in my opinion, detrimental effect not only on Wall Street, but also on Main Street.

For example, a young couple hoping to buy a new home this spring is today facing financial obstacles that did not exist only a short time ago. In a little over a month, the interest rates on the average 30-year, fixed-rate loan, has climbed a full percentage point to 8.5 percent—an increase of 1.75 percent since the rate reached a 25-year low of 6.74 percent last October. Virtually overnight, many have been priced out of the housing market and out of the American dream.

This simple example illustrates another very important concern about

the Federal Reserve: Accountability to the American public.

The decisions of the Fed, perhaps more so than many decisions we make in this Chamber, have an immediate, direct, and unavoidable effect on the lives of millions of Americans. However, unlike Members of Congress, the Fed is not accountable to any of those Americans. Regardless of the policies adopted by the Federal Reserve, neither the Congress, nor the Executive branch have any recourse whatsoever. The Federal Reserve is the most autonomous, and therefore in my judgment, the most powerful of all agencies. This, despite the fact that our form of Government is predicated on accountability.

The issue of accountability has been raised in Congress before, and I am aware of at least two pieces of legislation which have been introduced in this Congress as well. I hope that this body will give those measures the thorough consideration that they deserve. The simple fact is, the American public has a right to expect the Federal Reserve to be accountable for the decisions they make.

At present, they are not. At a minimum, enhanced disclosure or congressional oversight would ensure the citizens of this Nation that policies which affect them directly are well thought out. It is clear that this issue is one which should be addressed, and I welcome the opportunity, and hope and encourage the committees of jurisdiction to take that opportunity now.

However, the more immediate concern which must be addressed is another possible increase later this month of the interest rates set by the Federal Reserve. I sincerely hope that the Federal Reserve will weigh the potential damage another increase will have on the recovery. This Nation is at long last experiencing growth which will be endangered if further increases are sought. We should reconsider the current policy and give the expansion a chance to run its course. After enduring a lengthy recession, the American people are entitled to at least that much.

President Clinton and this administration have taken very positive steps to see that there is economic growth. The economic package that passed this body and the House of Representatives resulted—for the first time in my career in this body—in the growth of the deficit going down, in actual cuts in Government spending, and yes, a modest tax increase of 1 percent on only the wealthiest Americans. These positive steps have produced economic assurance and growth in this country.

I hope that we will keep a steady course and that the Federal Reserve will not muck it up.

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

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

CONGRESSIONAL GIFTS REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1685

(Purpose: To express the sense of the Senate concerning the Racial Justice Act)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. GORTON, and Mr. DOMENICI, proposes an amendment numbered 1685.

At the appropriate place, add the following:

It is the sense of the Senate that the conferees to the upcoming Senate-House conference on omnibus crime legislation should totally reject the so-called Racial Justice Act provisions contained in the crime bill passed by the House of Representatives on April 21, 1994.

Mr. D'AMATO. Mr. President, this is a straightforward, sense-of-the-Senate resolution that clearly indicates there is no place in our society, and particularly in our criminal justice system that a situation can exist whereby the punishment of an individual or the sentence imposed on an individual will be determined or the guilt or the innocence of an individual will be determined by way of their race, color, or creed.

Lady Justice is unique in that she wears a blindfold. It is more than symbolism because we take pride in working to see to it that we have a system that dispenses justice regardless of a person's ethnic background, race, color, religion, their wealth, or their position. Justice should be dispensed in a manner and in accordance with what is right and proper, in accordance with the evidence—the facts.

Let us understand clearly what our colleagues in the House of Representatives have done. They have now said that the imposition of law—the death penalty in this case—will be based on statistical evidence that can be used to keep a person who may even be an admitted killer, a person who has been judged by a jury and found to be guilty of a heinous crime, from receiving the verdict of the jury, if that verdict were the death penalty.

I find it interesting that while the House of Representatives has jumped up and down and said that the death penalty has now been expanded to

cover—I do not know how many—new laws, it has in this instance passed the so-called racial justice provision.

There is no one who is opposed to racial justice. Yet, when we discuss this subject we are talking about political gamesmanship. That is what it is—political gamesmanship. How can you get up and say you are opposed to racial justice?

Let us make it very clear. There should never be, at any point in time, the introduction or undertaking that we could be considering a person's guilt or innocence, particularly in criminal law, that it would be impacted or affected as a result of a person's race. That is repugnant to everyone. That is why this amendment that the House put in, the so-called racial justice provision, is so repugnant.

Simply put, we are rolling back the clock. We are now saying the innocence of a person or the guilt of a person or the sentence that will be meted out will be on the basis of racial quotas. As a matter of fact, under the House bill, an inference that race was the basis of a death penalty can include evidence that the death sentences were being imposed significantly more frequently on persons of one race as opposed to that of another.

Any numerical inequality in sentencing persons of different races would be considered statistically significant. This means that the death penalty must be imposed on an equal number of persons from all races. I have never heard of anything so preposterous.

In order to apply the death penalty under this provision, you would have to have an equal number of people—black, white, Hispanic, Asian—otherwise you cannot apply it. The result is clear, this provision wipes out the death penalty. This is a wonderful and clever way of abolishing the death penalty. I would like to state that I respect those people who have deep convictions and do not believe the death penalty should ever be applied. At least, we can argue on the basis of their system of beliefs—at least I know from where they are either coming from as opposed to them hiding it and cloaking it with the so-called idea of racial justice.

Everyone is for racial justice. We are not for saying that because a person may be of a particular color or ethnic background at a particular time and statistically there are not the same number of people who are going to be executed within that jurisdiction, that the punishment should not be applied. We look to the facts of each individual case, and based upon that case and the person's actions, and if a jury finds them to be guilty, and then if they impose a sentence, that is the criteria. Was it done fairly? Was that person given an opportunity to defend himself or herself? Were they given all of the safeguards provided under the Constitution, both of the United States

and of the constitution of the various States? If they were, then the law goes forward—color blind, not with some kind of mumbo jumbo about racial equality, that the House hid behind.

Does this mean that all of those on death row today can raise appeals now—some of them may have been there 10 years, and all of their appeals have been exhausted, more than 3,000 of them. Can they then say, "We want to ascertain whether or not we fall within a certain statistical proportion as it relates to a number of people from the jurisdiction we come from who may be awaiting imposition of the death penalty"? Yes.

It means that effectively you have wiped out the death penalty. The ugly thing about this—and it is ugly, nasty, and mean spirited and wrong—that when we title this racial justice, that is a mischaracterization of a deliberate nature. This provision is intended to obfuscate the facts and intended to say that those people who now will be calling for the death penalty and getting rid of this obnoxious provision, somehow do not care, do not share the craving that justice should be without any relationship to the ethnic background or race of an individual who is being tried.

That is why I find it particularly disturbing. That is why I think many of my colleagues have a reluctance—although they feel as strongly as this Senator, some more strongly, that this is a repugnant provision that the House included under the guise of racial justice, they are reluctant to publicly come forward, because we are in the age of political correctness. When some of the great newspapers can so blindly fall into this business and spend no time analyzing the impact of what this legislation does, and simply under the call of equality and fairness, back this legislation. This is something all of us believe in, because if you were to believe the headlines and not look behind the content of this provision, you would say, "of course, I am for racial justice," and this Senator is. But I am not for a system that will now develop a quota system for the imposition of a penalty, and I do not care what the penalty is.

Do we really go about saying, "Well, I am sorry, this is a disproportionate number of people who committed this particular offense and, therefore, you are not subject to the imposition of a law"? Sorry, the quota is up. Do you mean that confessed killers, who have admitted their deed, with evidence that is uncontroversial, with witnesses, et cetera, under this provision they would escape the death penalty on the basis of what their race, color, or ethnic background is? Sorry, you do not fit the statistics; there are too many whites today, too many Asians today, which would effectively denude this country of one of the great features of

our justice system—equality under the law.

Our justice system has not always been perfect, and people can dredge up cases from the sixties and earlier, in which discrimination was present and rampant. Let us wipe out discrimination, and make sure it is discrimination that we are after and not an attempt to impede the imposition of a penalty by this ruse—and that is what this is.

Racial justice is a way to erase the equality of the application of the law. It will say that we will not apply the law any longer on the basis of the guilt or innocence of the particular person, but on the basis of his or her race. It should not be based upon the origin of that person.

Mr. President, there are many more things that we can say and which I will be speaking to later. I know Senator GORTON has some remarks, and I know there will be further debate on this.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, throughout the history of this country and, for that matter, of those other nations from whom we inherit our legal institutions, the prosecution of crime has been intensely individual. It is individuals, by name, who are charged with offenses against the state and against society.

Verdicts are based on whether or not a jury believes beyond a reasonable doubt that the individual committed the offense with which he or she is charged. And when a conviction is obtained, we have prided ourselves, throughout our history, in suiting the sentence to that individual and to the circumstances surrounding that individual's conviction.

In fact, in the many debates in the Supreme Court of the United States over the constitutionality of capital punishment, the ultimate result was a demand by the Supreme Court that individuals convicted of capital offenses be subject to capital sentences only on the basis of their own actions, and only after jurors or judges have listened carefully to both aggravating and mitigating circumstances surrounding the commission of the most serious criminal offenses.

This has been our history; this has been our glory; this has been the result of decisions of the Supreme Court of the United States based on the due process and equal protection clauses. Never has the Supreme Court permitted consideration of race with respect to the imposition of capital punishment or, for that matter, the conviction of a crime. It is not a defense to the traffic offense of running a red light that other people ran the red light and were not arrested and pros-

ecuted, whether of the same or a different race or sex. It is an individual offense. It is not a defense to a drug charge that those who lived in a different neighborhood were not so frequently charged or convicted, or those of a different sex, or those of a different race were not charged and convicted in similar numbers or in similar percentages.

The theory of title IX of the House crime bill stands our history on its head. It is badly misnamed the "Racial Justice Act." It ought to be named the "Racial Quota and Repeal of Capital Punishment Act." For the first time, the House of Representatives, in this title, says that race must be a conscious consideration in the imposition of capital punishment sentences.

They can be challenged, almost certainly successfully, on the basis of a showing that any other race has been subjected to capital punishment within that jurisdiction in differing numbers in spite of the percentage of that group in the society or, I assume by inference in reading title IX, in different percentages without regard to the number of those charged, the number of those convicted. Although that itself will be a separate ground for challenging under title IX of the House bill.

This totally and completely different theory of criminal justice undercuts the entire history, the entire proud history, of not permitting the charging of groups simply on the basis of the fact that they belong to the same race, the same family, the same neighborhood, of the criminal activities of a single individual.

Granted this reverses the process and says in the ultimate analysis it is only the sentence which can be changed on that ground, but it is absolutely certain that if title IX should become law, many, if not all, of the most aggravated forms of first-degree murder, the most outrageous of crimes, the crimes of serial killers, will result in a challenge to a sentence of capital punishment, not on the basis of any act or omission of the defendant, but solely on the basis of the way in which other members of that race were treated over an extended period of time in the same jurisdiction.

The net result of the passage of this proposition is the repeal, not only of the capital punishment statutes which have been passed by the Senate of the United States and the House of Representatives in the course of the last 6 months—almost without exception by overwhelming votes—but the repeal, or at least the attempted repeal, of the capital punishment statutes of all or the great majority of the States in which they are imposed.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. GORTON. We have a graphic example in the State of Washington of the effect in communities of a proposal

like this. More than 12 years ago in the small community of Clearview, WA, a work-release inmate named Charles Campbell brutally murdered Renae Wicklund, her 8-year-old daughter Shannah, and her neighbor Barbara Hendrickson, in revenge for Renae's earlier testimony which had sent Mr. Campbell to jail for sexual assault.

When several months later, almost 12 years ago, a jury sentenced Campbell to death for his acts, the family and friends of the victims, and overwhelmingly the people of Washington State, felt that justice was done and expected justice to be served.

Twelve years later the family, the neighbors, the people of the State are still waiting.

Charles Campbell is exhibit A for failures of the present criminal justice system. More than \$2.3 million in taxpayer money has been spent on 44 motions and briefs filed during five different appeals of that sentence, including three Federal habeas corpus petitions. Still, this murderer and his attorneys are using additional opportunities to delay justice.

Most recently, a panel of the Ninth Circuit Court of Appeals dismissed Mr. Campbell's last petition for habeas corpus. He has now asked the Supreme Court once again to intervene.

It seems unlikely to this former attorney general of the State of Washington, Madam President, that the Supreme Court will do so, the Supreme Court itself having taken almost unprecedented action a couple of years ago to direct the ninth circuit to expedite and to decide one of these earlier habeas corpus appeals. Nonetheless, the possibility of another stay exists.

Charles Campbell is now scheduled to be executed on the 27th of this month. According to officials in the State of Washington, the only likely factor to delay final justice for Mr. Campbell is a major change in the law like this one.

The prosecuting attorney in the county in which Mr. Campbell was tried and sentenced, wrote me on April 21 about the so-called Racial Justice Act provisions in the following words:

In our view, if the bill passed before that date [of Campbell's execution], the execution will almost certainly not occur as scheduled. It is entirely possible that the execution would never occur. * * * Under this bill, all death sentences in a State are illegal if death sentences are "imposed based on race." Defendants can create an inference of this simply by showing that upon persons of any one race more frequently than those of another. The State must then prove race was not a factor. How it could meet this burden is not at all clear. The statute specifically precludes reliance on testimony that State officials did not intend to discriminate.

Madam President, I agree with the judgment of the prosecuting attorney of Snohomish County. I believe that there is a high degree of likelihood not only that Mr. Campbell's execution

would be delayed, but that it might never take place should, by some fortuitous circumstance, this title become law before the date of his execution. Mr. Campbell is Caucasian. Nevertheless, he would have the right to make such a challenge under the terms of this title.

Now, I understand it was stated during debate over this matter in the House of Representatives that the House conferees would, at the very least, take out the retroactivity provisions of this title. But that really does not make any difference. It might possibly mean that justice was done in this single instance, but it would almost certainly prevent justice from taking place under any similar or even identical set of circumstances in the future.

It is the view of many in law enforcement, especially those who must prosecute and defend appeals in capital punishment cases, that for all practical purposes this title repeals capital punishment in the United States.

I am not saying that there is something wrong with debating the appropriateness of capital punishment statutes. That is a debate which is almost as old as the Republic itself. It is a debate in which many thoughtful and principled people find themselves with a different position than my own. But it is clearly not the view of the majority of the American people. It is not the law in the majority of American States. It is not what this body decided as recently as 6 months ago when it voted to extend capital punishment to a significant additional number of extremely serious crimes.

The problem with this proposal, Madam President, is that it allows the repeal of capital punishment by indirection, by those who say that this is simply a minor procedural step designed to enhance rather than to inhibit justice, when, in the case of many, they privately have reached the same conclusion that I state here.

Madam President, this sense of the Senate is very simple and straightforward. It strongly suggests to the conferees, yet to be appointed, on this bill that they reject this provision. It is, I suspect, a subject which can appropriately be debated independently and on its own. If the Judiciary Committee should choose to pass a proposal of this nature and bring it to the floor of the Senate, I rather imagine that the debate might be enlightening.

It is highly inappropriate, however, to be included as a part of a bill which is designed and advertised to reduce violent crime in the United States. It will, if it is passed, add to the contempt with which the legal profession and the judiciary is treated by the general public because it will say, on the one hand, that we have greatly expanded capital punishment in the Federal Criminal Code and, on the other

hand, by indirection repealed it, not only from the Federal Criminal Code but with respect to State criminal codes as well.

Madam President, the distinguished Senator from New York and I, of course, have shared these views privately with the eloquent chairman of the Senate Judiciary Committee, as he has shared with us his intention to add to this amendment by second degree a statement that, nevertheless, racial discrimination shall not be practiced in connection with capital punishment. I hope, in anticipating that amendment, that he will explain to us what effect his second-degree amendment is intended to carry out.

As I read the Constitution of the United States and as I read Supreme Court decisions of the United States, racial discrimination is absolutely prohibited in connection with capital punishment or, for that matter, prosecution or the conviction of any other crime by the due process and equal protection clauses of the Constitution of the United States.

So, if we get such a second-degree amendment, either it is intended only to restate protections which the Constitution already provides, or it is intended to change slightly this title IX and to add factors in sentencing not related to the crime of the individual, the actions of the individual, and not add in rights not granted by the Constitution itself as interpreted by the Supreme Court.

For myself—I do not know that I can speak for the Senator from New York in this connection—for myself, if it is the intention of any second-degree amendment here simply to restate constitutional protections which already exist, I would regard the amendment as harmless and would probably agree with it. If it is intended to create other grounds for appeal or other grounds for habeas corpus action than those which presently have been granted by the Supreme Court of the United States, it seems to me this body should have outlined to it exactly what those additional rights are by those who are unwilling to accept this amendment in its present form.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I rise in opposition to the amendment of my friend from New York. I will be relatively brief.

Let me start off by saying my friend from Washington State indicated that there was an appropriateness to debate the existence and the utility and the morality and the constitutionality of the death penalty. And we all agree on that. There is an appropriateness in debating that.

I do not think he meant to say it would be inappropriate to debate whether or not the death penalty was imposed fairly or unfairly.

We do not have to go back 208 years or 150 years or 100 years or 50 years to come up with examples where the application of the death penalty has been applied in a prejudicial manner, where a black man or a black woman committing the same crime as a white man or white woman, where the black man got the death penalty and the white man did not get the death penalty. Unfortunately, to our great shame as a nation, we have several hundred years of history to demonstrate that that has occurred.

I do think that it is totally appropriate for us to debate—and I might add, I am the author of the amendments the Senator from Washington State is referring to. The so-called Biden crime bill which passed out of here and all those death penalties in the crime bill, I wrote, I authored, I put in my bill, the bill that the Senate passed.

I support the death penalty. I have supported the death penalty in appropriate cases, and I outline what those appropriate cases are in the crime bill. There are over 50 cases in which I say, if someone is found guilty beyond a reasonable doubt and all of their appeals under the Constitution are exhausted, they should be put to death for having committed those crimes, and I list them in the Biden crime bill, the bill the Senate passed. So I am the author of those. And I do not mean I am author in terms of originality. I did not think up all of them, but I put them in the Biden crime bill.

So, we should start from the premise that there are many of us who support the death penalty, vote for the death penalty, draft legislation expanding the death penalty, who feel that it is necessary to make sure that the application of those death sentences are done in a nondiscriminatory way.

I do not have the letter that my friend from Washington read from the prosecutor, I guess it was a Washington State prosecutor. I may be wrong about this—and when my colleague comes back on the floor he can correct me—but I thought I heard a phrase or a sentence in there where the prosecutor says, "If this passes, we will have to go back and look at whether or not we applied the death penalty to blacks the same way as we did to whites, to all people."

Why should you not have to go back and look at that? Why should there not be, in a country with our history in the way in which we have treated black Americans, why should we not have to say, let us just make sure here that we are doing the same thing with white folks as we do with black folks or with black folks as with white folks? What is wrong with that?

My friends—and, you know, especially the Senator from New York, he and I are truly really good friends. We say that in this body. We say, "My

friend from" wherever. I mean, this guy is my friend. We hang out together. Our kids hang out together. They room together in college, in law school together. I totally respect his position on this.

But, it seems to me that the debate should be whether or not what those of us Senators—the Presiding Officer, Senator CAROL MOSELEY-BRAUN; the Senator from Massachusetts; the Senator from Delaware, and a lot of other people in this body—are talking about does in fact what we say. What we say is, we just want, as we expand the death penalty, we just want to make sure we do not slip into some bad old habits that have been practiced by this country, by States, some bad old habits of having a different standard when we apply it to the black folk than we do to white folk.

So, it may be, arguably, the language the House of Representatives included in the crime bill—in which it attempted to instruct me as the chairman of the committee who is going to go negotiate this bill with the House, instructing me to say: OK, we do not like that language. But let us make sure there is something in there that makes sure we see to it that this is not applied in a racially discriminatory way.

We can argue, and there are reasonable people who argue that the House bill has unnecessary language in it or goes too far. I might add, back in 1991 I submitted, from the Committee on the Judiciary, a Federal Death Penalty Act that we ultimately passed. It was called the Federal Death Penalty Act of 1989. It actually had the language proposed by Senator KENNEDY. But because I was the guy responsible for putting the bill in and included it in the bill, that had even stronger prohibitions against the discriminatory application of the death penalty. And it passed. It passed the U.S. Senate. It did not become law, but it passed the Senate.

So I think the starting point of this debate should be: Do we all agree that there have been some States, there are some circumstances where in this country today the application of the law is not always applied evenhandedly?

It seems to me we have to acknowledge that occurs. It does not occur all the time. I do not think it occurs most of the time. I do not think it even occurs 40 percent of the time or 30 percent of the time. But it does occur. So, if I, in writing this legislation, am going to increase the number of death penalties, I for one as a supporter of the death penalty want to make sure it is done fairly.

We can argue about whether or not the House language which my friend from New York is attempting to strike goes too far.

By the way, I said 1991. It is not 1991, it was 1989, that report we passed—that provision.

Whether or not it goes overboard, we can argue about that. One part I do think goes overboard. I personally think it goes overboard. The House language says you go back and retroactively apply this. The sponsors of the legislation in the House and the chairman of the Judiciary Committee in the House on the floor said: We want to tell everybody now, we are going to take that out in conference. This is an example we can argue about, if we are up here argue, whether we should or should not have retroactivity. At least it says on the playing field we are worried about discriminatory application of the death penalty. But here what we are doing is we are saying we do not want anything in this massive crime bill that requires us to take an extra look at whether or not black people are being treated the same as white people with regard to the application of the ultimate sanction.

If we put someone in jail, and we put them in jail for drunk driving or we put them in jail for robbery or burglary and they are going to get 1 year, 2 years, 10 years, 12 years, and we turn out to be wrong or it turns out we made a mistake or we did not apply the law fairly, we can go back and make amends. You can say, "Mea culpa, mea culpa, mea maxima culpa. We are sorry. You are out of jail. We will try to make you whole." You never can, but we will try to do it. But once you pull that switch, once you give that injection, it is over. What do we do if it is wrong then? What do we do if it is clear we focused only on one segment of our population? We say, "Oh, golly, we made a mistake." It is too late. It is too late.

So, what we are trying to do here is we left the flexibility in the conference that says: Wait a minute, the idea of including racial justice in this bill makes sense. This is the bill we passed. I have a copy of it here. We passed it in the Senate, the Senate crime bill. I will not read the appropriate sections but I will just cite the page, 265:

The Attorney General acting through the Bureau of Justice Assistance may make grants to States that have established by State law or by court of last resort a plan for analyzing the role of race in the State's criminal justice system. Such plans shall include recommendations designed to correct any findings that racial and ethnic bias plays any role.

Well, we already passed that. This just goes to the thing that is the big deal—death; death.

So, Madam President, when we passed in the Senate Judiciary Committee the Racial Justice Act of 1991, which did not pass the Senate, did not become law but we got it through that committee, what we were trying to do then is what I hope we all are attempting to do. It is not eliminate the death

penalty. If you are against the death penalty you are against the death penalty—racial justice, no racial justice, you are against it. I am for it, but I respect that position. But if you are for the death penalty it is still totally appropriate to sit here and say, "Wait a minute, are we doing this and applying it in a nondiscriminatory way?" I for one can only support a death penalty that is fair, that punishes those who truly deserve to pay the maximum price for their crimes. And as I have added death penalty provisions as the author of these crime bills, the primary sponsor, I have consistently worked to put adequate safeguards in death penalty bills.

I support the Racial Justice Act because I think it furthers that goal. It protects defendants from death sentences imposed for reasons that have nothing to do with the character of the crime but only have to do with the color of their skin.

Federal law already provides that statistical—you heard this argument about these statistics. You know, that it is kind of a radical thing to be talking about, to be able to introduce in evidence that statistically it applies more to blacks than whites. Federal law, as the Presiding Officer knows, already provides that statistical proof of discrimination is sufficient to obtain relief where the right of housing or employment has been infringed. If you can statistically show—and it is very complicated—but if you can statistically show that you are denied housing because notwithstanding the fact you are a U.S. Senator, that you are a black woman, you can, in fact, carry the day. That is because we know that discrimination is insidious. It is awfully hard to find absolute proof that this person at this moment made that decision on the grounds that they say we do not like black women: I do not like black women, therefore you cannot live in this house.

No one says that anymore. They used to say that. The good news is those days are gone, by and large. The bad news is it has gotten much more sophisticated, racism in this country. It has kind of gone underground.

So in order to respond to that, just like for the history of the entire civil rights movement, since and including Dred Scott in the middle of the 19th century, the courts when they have made the right decisions have always had to not just state a principle that you cannot discriminate, they have had to use their ingenuity to overcome the ingenuity of States and governments and people who came up with massive constructs to accomplish the same discriminatory end through a less direct means. So that is how we got to using statistics in housing or employment.

It is kind of interesting. We say if you have a company that has 100 peo-

ple and 500 black folks come and apply for jobs and 100 white folks come and apply for jobs, if you end up with 100 white folks and no black folks you do not have to be a rocket scientist to figure out maybe—maybe—maybe the employer was discriminatory. Just maybe.

Citing statistics does not automatically make the case. It becomes a presumption that has to be rebutted by the employer.

We do that in housing, we do that in job employment in the law. People on that side of the aisle voted for those kinds of proposals, along with the rest of us. I do not know how either one of the sponsors voted on housing discrimination and employment discrimination. I do not know. But I know the vast majority of us voted for that.

But now we are saying when it comes to putting you to death, we are not going to apply that same kind of reasoning. Somehow that is being a quota king or queen, or that is being—there is nothing novel about this, Madam President. There is nothing novel about this approach.

Racial discrimination should play no role in a decision as to who shall live and who shall die. And for that reason, that simple basic reason, I support this legislation. Now again, maybe the precise legislation, as written, does not meet the requirement or meets more than the requirement of that simple proposition that race can play no role in the application of the death penalty. But I hope for goodness sake, this Senate is not saying that is something we should not consider. We consider it in housing, schooling, in everything we do because we, unfortunately, have a history in this country of having some people and some governments act in a discriminatory fashion.

Madam President, the opponents of the Racial Justice Act claim that it will put an end to capital punishment. Let me tell you that with the retroactivity provision taken out, I would not support the Racial Justice Act or an attempt to fashion such language if I believed it would end all capital punishment.

As a start, it is the plan that the Racial Justice Act will not eliminate capital punishment in cases where the statistics do not support any claim of discrimination, and under the act, the defendant has to establish not only that discrimination existed in the system overall, but that he himself was discriminated against. He must show that his case is a type of case where race makes a difference. If he cannot make that showing, then the Racial Justice Act is no bar to the execution of his sentence.

Let me give you an example, and I see other colleagues are here to speak and I will not take much longer because the Senator from Massachusetts knows so much more about this than I

do and has been committed to seeing to it that there is nondiscriminatory policy in the application of all our laws, civil and criminal, for the entirety of his public life.

But let me just give you an example. In a highly aggravated case, a case where the defendants have committed the most heinous of capital crimes, the statistics, in fact, show that the death penalty is dealt out evenly without regard to race. These are the facts now. Remember, I said in the beginning I do not believe that the vast majority or even a significant minority of death penalty sentences are racially motivated or not handed out evenhandedly. The statistics show that the death penalty is dealt out evenly without regard to race in the most heinous crimes because there is no showing of discrimination in those cases, the most serious cases.

The Racial Justice Act will not affect the imposition of death penalty in those cases at all. Nor will the Racial Justice Act affect those cases where the defendant is not a member of a suspect class, a class of persons whose sentences have been tainted by race. Defendants who are not members of a suspect class will not be able to invoke the Racial Justice Act. White males have not been one of those suspect classes.

So the Racial Justice Act will have no impact on a broad range of cases where the death penalty has been imposed. Only in those cases where history has shown that race may be a factor will the Racial Justice Act even apply. Contrary to the claims of the critics, the Racial Justice Act will not dictate the result that the courts must reach. Rather, the act sets out a simple, self-evident proposition, and I quote:

No person shall be put to death in the execution of the sentence that was imposed based on race.

What is wrong with that?

Then turns the application of that simple proposition over to the factfinding body that we most rely upon: The court. It is for the courts, not the Congress, to determine whether racial discrimination exists in a particular case. The courts have long expertly dealt with claims of discrimination on a wide variety of contexts, as I mentioned the reference earlier. This act simply permits the courts to apply that expertise here. By the same token, the act frees the courts to consider in death penalty cases the types of relevant evidence that has been considered for decades in other contexts, such as housing discrimination, employment discrimination, and discrimination in our schools.

At the same time, the act explicitly confers on the court the discretion to reject evidence that is not valid or relevant. In short, the Racial Justice Act will not outlaw capital punishment. What the act will do is force the States

to seriously address the issue of racial disparity in capital sentences. It will force prosecutors to take a hard look at their procedures for seeking the death penalty.

Contrary to what the critics say, there is nothing wrong or wrongheaded about requiring prosecutors to adjust their actions that impact upon the black community more severely. Such actions should be carefully scrutinized so that we can all be sure that racial bias plays no part in the decision to seek the ultimate penalty: Death.

There is no doubt, at least initially, the Racial Justice Act will make it harder to impose the death penalty in certain cases. There is no doubt about that, initially. But assuming the States take seriously their responsibility to develop procedures to do away with unexplained differences in capital sentencing, the act will serve as a restriction only temporarily, because what the State will do here, Madam President, if there is a history of a misapplication of the death penalty, they will turn around and say, here is how we will proceed from now on, and they start from scratch.

Since we are not making it retroactive for people who are already on death row, the inconvenience is de minimis compared to the potential wrong that is possible to be perpetrated.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. BIDEN. I will in just one moment.

Mr. D'AMATO. Just as relates to retroactivity.

Mr. BIDEN. I beg your pardon?

Mr. D'AMATO. I believe that I heard that the application of the provision that we are discussing was not retroactive to those cases. I do not believe the Senator meant that.

Mr. BIDEN. Madam President, the Senator from Delaware did mean that. Let me explain again why. The Senator may not have been on the floor when I started.

It is true the House-passed provision has retroactivity in it.

Mr. D'AMATO. Right.

Mr. BIDEN. What I am asserting on the floor today is that, in my discussions, and also discussions on the floor at the time of passage, the sponsors of the act, including the chairman of the Judiciary Committee in the House, Mr. BROOKS, and the chairman of the Senate Judiciary Committee in the Senate, coupled with the sponsors of the act assert that we will remove retroactivity in the conference.

So the Senator is correct, it is in the bill. But prior to its passage, there was a colloquy on the floor by the sponsors saying—under the House rules, they could not amend it at that moment procedurally. They made a commitment to all their colleagues, and I am making a commitment here, that that

retroactivity provision will be removed. No crime bill will come back with the retroactivity provision in it. That is all I meant to say.

Mr. D'AMATO. I am very glad to hear that. I think that is a point of great concern to many as it relates to the problems in the justice system at the present time.

Again, that does not mean—as my colleague, I think, understands and explained—that we want anybody punished unfairly on the basis that they were discriminated against. But certainly this concession—

Mr. BIDEN. No, it is not a concession.

Mr. D'AMATO. Or acknowledgment.

Mr. BIDEN. An acknowledgment—

Mr. D'AMATO. There would be no retroactive application as it relates to those people who are on death row at the present time.

Mr. BIDEN. Right.

Mr. D'AMATO. I thank the Senator. That is why I asked for that point of clarification.

Mr. BIDEN. Madam President, I do not want to mislead anybody here. No. 1, if you take away the retroactivity and, No. 2, you do what this act does in the House language, you in effect say to the States that may have had a practice that was discriminatory or showed a statistical application to blacks more than whites, all they have to do is come along and say from this moment on here is how we are proceeding, these are the rules we are going to use in the future relative to the application of the death penalty—those two things done, I acknowledge in a small number of cases it is going to make it more difficult temporarily to bring about the imposition of a death penalty—those that fall between those already convicted and the passage of this legislation and before a State sets out a new procedure explaining how they are proceeding, if that State is required to do so because of the way in which it has been applied before has made it difficult to discern whether or not it was equally applied.

So I am not suggesting that passage of this act means that nobody has to change the way they are doing business. I am asserting that the change, if necessary, will be able to be done immediately by a State and that it will not affect but a small number of cases temporarily. And the payoff, the benefit of having once and for all in place a capital offense, capital procedures in all the States guaranteeing non-discriminatory application is worth that minor inconvenience. That is the position of the Senator from Delaware.

Now, on a final note, the Racial Justice Act does not, as some claim, overrule the Supreme Court decision in *McCleskey versus Kemp*. Justice Powell, the author of that opinion, effectively invited legislative acts in this arena.

Madam President, let me conclude by saying for the reasons I have stated and others I have not, I support there being in this crime bill legislation that is called racial justice, a Racial Justice Act. I will vote to oppose the amendment of the Senator from New York, but tell the Senator from New York, whether he wins or loses, I am committed to the withdrawal of retroactivity, and I am open to any reasonable changes or proposals that relate to the House language.

But I am not prepared to say what essentially a vote for the amendment of the Senator from New York would require of me—to be insensitive that: First, there is no need for a Racial Justice Act; and second, the Racial Justice Act in the House provision would end the death penalty.

I yield the floor.

Mr. KENNEDY addressed the Chair.

Mr. D'AMATO. I wonder if I might ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I will yield for the purpose of making that request and retain my right to the floor.

Mr. D'AMATO. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I thank my colleague.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to commend my friend and colleague, the chairman of the Judiciary Committee, for the excellent explanation of the public policy issues which are involved in the Racial Justice Act.

It is no secret to any of the Members of this body that I am opposed to the death penalty as a matter of conscience. That has been my position for as long as I have been in the Senate and still remains my position. I do think, nonetheless, we will and should speak out on the issues of how the death penalty is applied in our country. And that is the subject I want to address the Senate about this afternoon.

Madam President, as the Senator from Delaware has pointed out, the issue of the role of race in the application of the death penalty, whether it is in regard to the race of the defendant or the victim, has been an issue in our society for many years. Numerous studies conducted over a very long period of time have analyzed the application of the death penalty State by State and it is unquestionable that the race of both the defendant and the victim has a profound effect on the application of the death penalty.

I can remember when we passed the 1988 anticrime act. In that legislation we asked the General Accounting Of-

fice to conduct an analysis of race discrimination in death penalty cases using the most modern technology and analysis available to the General Accounting Office. I will just take a moment to read their conclusion:

Our synthesis of the 28 studies shows a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty. * * * In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty—those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.

This finding was remarkably consistent across data sets, states, data collection methods, and analytic techniques. * * * The race of victim influence was found at all stages of the criminal justice process. * * * Legally relevant variables, such as aggravating circumstances, were influential but did not explain the racial disparities researchers found. * * * After controlling statistically for legally relevant variables and other factors thought to influence death penalty sentencing * * * differences remain in the likelihood of receiving the death penalty based on the race of the victim.

Now, we do not have to accept every conclusion reached by the General Accounting Office, but we agreed during the 1988 debate to have an unbiased authority take a look at this issue that many of us had raised over a period of some 10 years; let us get a definitive study about these various analyses. Let us use the latest computer technology to really review that.

Well, it was agreed at that time by both Republicans and Democrats to ask the GAO to report back to us on this controversial matter.

Now we have the GAO's finding. And now the opponents of the Racial Justice Act say, "Oh well this is something different. We will not accept it. We will not look at it. We will not regard it as authoritative. It is a flawed study."

You cannot get away from it. Every time you have a responsible review about the nature of the race of the victim or the defendant in capital punishment, it comes out this way time in and time out. Let us make sure that the RECORD includes some of this evidence:

Perhaps the best example, but by no means the only one, is the evidence before the Supreme Court in the 1987 case of McCleskey versus Kemp.

Warren McCleskey, the defendant in that case, was a black man convicted of killing a white police officer in Fulton County, GA, and he was sentenced to death.

In fact, between 1973 and 1980, 16—16—other defendants were convicted of killing police officers in Fulton County, but Warren McCleskey was the only one who received a death sentence. In only one other case was the death penalty sought, and in that case a defendant convicted of killing a black police officer received a life sentence instead.

In challenging his death sentence, McCleskey placed into evidence two studies conducted by Prof. David Baldus of the University of Iowa Law School.

From official State records, the two studies collected data on all the key factors in each of 2,400 homicide cases in Georgia between 1973 and 1979—information relating to the characteristics of the defendant and the victim, the circumstances of the crime, the strength of the evidence, and the mitigating and aggravating factors in each case.

The conclusions were striking: When the characteristics of the crime and the defendant were weighed, those who kill whites were 4.3 times more likely to receive the death penalty than killers of blacks. If Warren McCleskey had been white, or if his victim had been black, it is highly likely he would be alive today serving a life sentence instead of having been executed.

In the McCleskey case, the five members of the Court who voted to affirm the death sentence did not dispute the accuracy of the studies. The majority conceded that statistical evidence of the kind contained in the studies would be sufficient to prove intentional race discrimination in other areas, such as housing and job discrimination.

But the Justices concluded that evidence of widespread race discrimination in capital sentencing is best presented to the legislative bodies. They left the issue to Congress, and it is our responsibility to deal with it, not duck it.

The pattern of racial disparities in sentencing described in McCleskey is repeated in jurisdiction after jurisdiction around the country.

In Florida, a study published in the Stanford Law Review found that defendants convicted of killing whites were eight times more likely to receive a death sentence than those convicted of murdering blacks. Another study found that blacks who kill whites received the death penalty 22 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Georgia, blacks who kill whites received the death penalty 16.7 percent of the time, while whites who killed whites received the death penalty only 4.2 percent of the time.

In Illinois, that same study found that killers of whites were six times as likely to receive a death sentence as killers of blacks.

In Maryland, defendants convicted of murdering whites received the death sentence eight times more frequently than killers of blacks.

In Ohio, a study found that blacks who kill whites received the death penalty 25 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Texas, a 1985 study found that they were over four times more likely to do so. Blacks who kill whites received the death penalty 8.7 percent of the time, while whites who killed whites received the death penalty only 1.5 percent of the time.

Now, let us look at exactly what is in the House legislation. Let us take a moment and examine it. This is what it says:

No person shall be put to death, under color of State or Federal law, in the execution of a sentence that was imposed based on race.

Simple, clean, understandable language. Is there anybody in our society who would take a contrary position, that we ought to put people to death on the basis of race? There were such views at other times in our history. There were certain places where that was the rule, not the exception.

All the House bill says is:

No person shall be put to death, under color of State or Federal law, in the execution of a sentence that was imposed on the basis of race.

Simple. People will take that language and misrepresent or distort it. That is a typical technique in this body. But the American people should not be fooled.

The House provision continues:

An inference that race was the basis of the death sentence is established if valid evidence is presented demonstrating that at the time the death sentence was imposed race was a statistically significant factor in decisions to seek or impose the sentence of death in the jurisdiction in question.

Is that complicated? Is that language the courts do not understand? Of course it is not. We use that same concept, as the Senator from Delaware pointed out, with regard to employment, which was the basis of the civil rights bill last Congress. We use it with regard to housing, jury selection, and voting. We use it on every one of those civil rights laws; every one of them. Now we have the ultimate civil right: the right not to be put to death based on race. People say, "Oh, no. We cannot do that. No, no, no. We cannot do that on this issue. We just cannot do it. It is just not right."

Well, some of the opponents of the Racial Justice Act have been reluctant to embrace those other civil rights causes. But if we have as a body decided that discrimination is unacceptable in employment, in housing, in jury selection, and in voting rights, it is unacceptable in the application of the death penalty.

So now we go back to the House bill. If statistical evidence is presented to establish an inference that race was the basis of the sentence of death, the court shall determine the validity of the evidence, and if it provides the basis for the inference, they just review it. They just review the statistics that are provided. It is not terribly com-

plicated to find out if that statistical information is valid. The courts make that judgment every single day. Every judge does in this country. It does not put an undue burden on them.

The House bill says that if the inference was that race was the basis on which the death sentence was established, the death sentence may not be carried out unless the Government rebuts the inference by the preponderance of the evidence. That is what every law student learns in the first year; everyone understands what the preponderance of the evidence is. It is a low standard—lower than the standard included in the Racial Justice Act in previous years.

There are many factors that the Government might rely on to rebut the inference created by the statistics. Defendants sentenced to death may have more serious criminal records. The courts can take a look at that. Defendants sentenced to death may commit crimes with greater planning, cause larger numbers of deaths, or may have committed their crimes with greater cruelty. OK. Those are understandable factors. The victims of the defendants may have been law enforcement officers or were particularly vulnerable. Or the defendants sentenced to death were organizers or ringleaders of the conspiracy.

We can work those out, if the Senator from New York wants to work out these factors with greater specificity. They have been defined in some States. They have been upheld, and are beginning to have some impact.

Madam President, this would be important if there were only one racially tinged execution to be prevented. But in this legislation we have created 50 new capital offenses, and the House has 66 new capital offenses. Hundreds of more individuals are going to be executed. How much longer will it take us to learn about this issue? What is it? Why are people so hungry and thirsty to try to execute individuals without considering evidence of discrimination? Why are they unwilling to consider that factor here when they will consider it on jobs or housing and permit the courts to make that assessment? Why do they say no, no, we have to execute the individual? We cannot take the time. We cannot take the time.

All of us are concerned about the problems of violence in our society, and I yield to no one on that issue. But why cannot we, a society that should not, cannot, and must not be described as a bloodthirsty society, recognize what is happening and how the death penalty is being used? Why is it that the proponents of this amendment would deny the conference the opportunity to consider this? No. They will not do that. Special instructions to the conferees are certainly legal from the parliamentary point of view; but they are rarely utilized. Why is it that they

are so hungry to clear the way for executions in our society? But they will not take the extra step to ensure that race is not a factor.

I come from a part of the country where the death penalty was accused of being utilized on the basis of ethnicity as well as race. We had long debates and troublesome times over the Sacco-Vanzetti trial—these issues inflamed the ethnic tensions at that time.

I just wonder why it is that when we are talking about the ultimate right, which is the right to live—we would deny those individuals the opportunity to have the issues of race considered.

I am not making the argument about the wisdom of the death penalty, or about the number of innocent people who have been executed over the past century. To my regret, that issue has been basically resolved in this Senate and among the American people at this time. We are not making that argument.

I hope that when we vote on this amendment it will be roundly defeated. We can try to do something about the crime in our society and still be true to the goal of racial justice.

One of the reasons that I admire my friend and colleague from Delaware is that he is a supporter of the death penalty but understands that the application of the death penalty must be free from racial discrimination. I admire him for his courage in taking that position. I hope we will defeat this amendment next Wednesday.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, first, let me say that the House provision is obnoxious. It is indeed the antithesis of what the society should be about. Our justice system should be colorblind. There should be no place for discrimination of any kind.

Let me tell you something. I resent the implication that some come down here and say that, if anything, this is racial legislation. Since when do we say we are going to judge the guilt or innocence and what the Government's sentence should be on the basis of a person's race, color, or creed? It is preposterous. That is what is being done with this legislation.

Let us look at the law itself because I have not heard anybody refer to the law: Prohibition against the execution of sentences of death imposed on the basis of race. There should be absolute prohibition on any kind of thing like that. Discriminatory sentences of any kind on the basis of a person's color or race should be rejected; should be stamped out. We have no place for it.

But let me tell you what a mockery this legislation is. Let me tell you why. "Section C, relevant evidence"—this is the act itself. This is not the rhetoric that refers to the past. This talks about what this act will do now and in the future.

Evidence relevant to establish an inference that race was the basis of a death sentence may include that the death sentences were at the time pertinent under subsection B being imposed significantly more frequently in the jurisdiction in question; one, upon persons of one race than upon persons of another race.

Madam President, let me tell you what that section means. It says if you have more people of one race who have a sentence of death imposed upon them, that itself raises the inference that you have discrimination. That is wrong.

I thought we had a society where we looked at the actual deed. You have effectively, with the adoption of this legislation, said that unless you apply the death penalty in equal numbers—by the way, not in statistical accuracy—equal numbers of blacks, whites, Hispanics, Asians; where does it talk about that we look to see the guilt or innocence of a party?

By the way, under the Senate provision, we do take extraordinary lengths. Let me read to you what it says. The crime bill requires that the trial judge instruct the jury that they are not to consider race, and to return a certificate, wherever the death penalty is going to be applied, signed by each juror attesting to the fact that race was not involved in their judgment in the death penalty case.

I want to tell you, this business will set back the justice system and bring about anarchy. If this provision in the House bill becomes law, it creates an inference of racial bias if certain statistical differences in past sentencing can be shown. It is wrong. I have to tell you, we start with the death penalty and say that is how we are going to apply it on the basis of race, color, and creed. Statistics equal numbers, so why not for people with life sentences? Do you think it is going to be long before people say it should apply to the whole criminal justice system? And then we will have anarchy, not a system based upon the guilt or innocence or the deed that person may have undertaken.

It belittles a jury system and a system of justice that we have become proud of. Have there been abuses? Yes. But by simply going back and pointing to past abuses and discriminatory practices, that does not in any way—in any way—give us a better system. You do not correct past instances of racial bias by creating group-based justice, and that is what this bill does.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Madam President, I think even in the relatively brief period of time since the Senator from Washington introduced his amendment, the parameters of the debate have been quite considerably clarified.

At this point, the distinguished chairman of the Judiciary Committee

and the distinguished senior Senator from Massachusetts have made it very clear that they intend, at least, to deal very specifically with this amendment and that they oppose this amendment, rather than coming to an attempt to somehow or another change it and make less clear the direction of any vote which is ultimately taken on the amendment itself.

(Mr. BRYAN assumed the chair.)

Mr. GORTON. So the wind is blowing in a different direction, and I think from a more favorable direction, that we will have a vote on whether or not the Senate favors title IX of the House bill, without its retroactivity provisions in its present form, or in any form roughly similar to that in which it finds itself at the present time. That is healthy for the nature of this debate.

There are certain other statements which were made by the distinguished chairman of the Judiciary Committee with which I know both the Senator from New York and I agree. The chairman of the Judiciary Committee pointed out that if a sentence for robbery or for drunk driving—a sentence to jail—is found to have been imposed on the wrong person, we can always make up for it in some fashion or another. But if we impose capital punishment on someone not deserving of that sentence, someone not guilty, then we have made a mistake which cannot be rectified. Neither the Senator from New York, nor I, nor any other proponent of this amendment, in any way, disputes that proposition.

What we do point out, however, is that title IX has absolutely nothing to do with guilt or innocence, absolutely nothing to do with guilt or innocence. No one is going to be saved by title IX, who is innocent of the crime of which he is convicted. As a matter of fact, all of the facts—aggravating, mitigating, as well as those relating directly to guilt or innocence—are unchanged by any proceeding or any determination pursuant to title IX. So there is no difference on whether or not we wish to convict the not guilty, or even run the risk that a person not guilty will be found guilty and will be executed. In fact, one of the most emotional and perhaps occasionally valid arguments against capital punishment at all is that, in some circumstances, mistakes may be made as to matters of fact. Whatever the validity of that argument, it is irrelevant here today, because we are not talking about any factors which relate to guilt or innocence whatsoever in title IX of the House bill.

An area in which we perhaps have a greater degree of contention than this, however, is one which—and this Senator copied what the distinguished chairman of the Judiciary Committee said. I think I paraphrased it with great accuracy.

He said that we must acknowledge that the death penalty is not now im-

posed evenhandedly in all American States.

I find that to be an interesting statement, though not a statement for which the chairman of the Judiciary Committee came up with any evidence. It is an important statement, there is no question about it. If, in fact, the death penalty is not today imposed fairly or evenhandedly, I strongly suggest that those who oppose this amendment cite chapter and verse. In what jurisdictions is the death penalty today not imposed evenhandedly or unfairly? What are the names of individuals? After, I think, several hundred executions, what are the names of the individuals who were wrongly executed, who somehow or another were the victims of either passion and prejudice on the part of juries convicting them in the first place, or of racial bias in connection with their sentences in the second place? If we are to accept that proposition, we need more than the surprising statement that in spite of all of the appeals, in spite of the Supreme Court of the United States, in spite of habeas corpus action after habeas corpus action in every case of capital punishment, nonetheless, States are imposing this sentence unfairly.

This Senator finds that to be an astounding statement, given the protections which the Supreme Court of the United States itself has already placed on any capital punishment sentence.

This Senator finds it particularly strange that the distinguished chairman of the Judiciary Committee went out of his way to assure the Senator from New York that retroactivity would be taken out of title IX if, in fact, States have been imposing capital punishment unfairly. How in the world can they agree to say that all of those unfair sentences which have already been handed down will be carried out? I cannot see how he can make such an assurance if, at the same time, he says that right now, under present circumstances, capital punishment is being imposed unfairly.

To make that statement, it seems to me, one should be required to submit a very explicit outline to this body of the precise cases which have caused this title to be included and its importance to be so high.

The first section of the title, eloquently quoted by the distinguished senior Senator from Massachusetts, reads:

No person shall be put to death under color of State or Federal law in the execution of the sentence which was imposed based on race.

That is an eloquent and accurate statement. And, Mr. President, this is the law of the United States of America today. The Supreme Court of the United States has not, since capital punishment has been reinvented, found to be constitutional ever allowed capital punishment to be imposed based upon race.

Again, if any Member on the other side of this debate can cite a particular instance in which the Supreme Court of the United States or any Federal court of the United States has permitted the death penalty to be carried out on the basis of race, I think it very important for the Members of this body to be informed of that situation.

The first paragraph of title IX simply states the law as it exists today. The balance of title IX, however, does not state the status of the law today.

The Supreme Court of the United States has been asked to impose these quotas and to engage at looking at these statistics, and it has rejected that kind of defense. That is why we are here debating.

The House of Representatives wants to add to every proceeding leading up to an execution a set of factors which have never previously been included because they have nothing to do with the guilt or innocence of the defendant and nothing to do with the horrendous nature of the crime of which that defendant has been convicted. They have nothing to do with the individual as an individual. They are, in effect, saying that if one person gets off for one reason or another by reason of the sympathy of the jury, every other person under similar circumstances, if that person is of a different race, has to be excused from the death penalty as well. That is not justice. Justice is individual.

This proposal would totally overturn that doctrine and require justice not to be individualized but to be collectivized and in the language so general, so vague, that it will allow any person of any race to make a challenge based upon these sections.

In spite of what the distinguished chairman of the Judiciary Committee said, there is no restriction of rights under this Racial Justice Act to members of one race only. It is highly general. It applies to everyone.

My prosecuting attorneys and attorney general think it applies to Charles Campbell, the individual to whom I referred in my previous remarks. We cannot be certain of that. But what we can be certain of is that he will clearly make that claim and almost certainly have his sentence delayed as a result of any such claim.

This, Mr. President, is a radical change in American law from individual responsibility to collective responsibility, to a determination as to what ultimate sentences will be based on nothing that the individual has done himself but on the basis of various statistics about other individuals under other circumstances.

It totally reverses the direction which most of the people of the United States want to move with respect to justice, and I simply repeat those who believe that this kind of section ought to be included in the law have a duty,

it seems to this Senator, to come forth and say exactly and in what cases unfair or unjust sentences have been imposed to such an extent as to require so radical a change in the laws of the United States in a way which the Supreme Court of the United States has rejected, a Supreme Court which has been the bulwark of the protection against discrimination based on race under the 14th amendment to the Constitution of the United States.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

Mr. President, in the past week the world witnessed the historic elections in South Africa where, for the first time, blacks were allowed to vote alongside whites to choose the individuals who would represent them in the government. That election represented the dismantling, at long last, of the system of apartheid and the beginning of a nation where all individuals, no matter what race, can live together and be treated equally under the law.

America has made great strides in the past 30 years at doing just that. We have worked toward eliminating discrimination at the voting booth, in employment, in housing, and in schools.

But unfortunately, there are still situations in this country where a person's race truly makes a difference in how that person is treated under the law. One of those situations is in the administration of the death penalty.

The administration of the death penalty is truly one of the last vestiges of apartheid left in our system. In far too many jurisdictions, race is the primary factor—perhaps even the sole factor—in determining whether a defendant in a capital case will, in fact, be sentenced to death.

Now, whether anyone as an individual supports or opposes the death penalty, I think we can all agree that it should be imposed in a non-discriminatory manner. I think we can also agree that, in many parts of the country, that simply is not the case.

Consider the facts. The General Accounting Office recently evaluated 28 studies of the effect of race on capital sentencing and found: "A pattern of evidence indicating racial disparities in the charging, sentencing and imposition of the death penalty."

Take, for example, one judicial circuit in Georgia. Despite the fact that 65 percent of the murder victims in the jurisdiction were black, 85 percent of the cases in which the death penalty was sought have been cases in which the victim was white.

Or take a county in Florida. Blacks comprised 40 percent of the murder victims in the county. Yet, all 17 cases where the death penalty was sought between 1975 and 1987 involved white victims.

We have even seen this problem under the Federal death penalty adopt-

ed in 1988 for drug kingpins. Since that time, the death penalty has been sought against 36 defendants. Four of those defendants have been white, 4 have been hispanic, and 28—77 percent—have been black.

The fact is, in certain jurisdictions, a nonwhite person is more than four times as likely to receive a penalty of death for committing a heinous crime than a white person. In those same jurisdictions, defendants who have killed a white victim are far more likely to receive a penalty of death than those who have killed a non-white victim. This is not a matter of conjecture or opinion, it is a cold, hard, disgusting fact.

The House of Representatives has taken action to address this disparity by including the Racial Justice Act in their crime bill. I think the Senate should be commending the House of Representatives, not condemning them. The Racial Justice Act makes it unlawful to carry out a sentence of death that was imposed on the basis of the race of either the defendant or the victim.

In addition, the act will allow a defendant to challenge a death sentence by showing a pattern of racial bias in capital cases within the judicial circuit. The presumption can be met if a prosecutor shows, by a preponderance of the evidence, nonracial reasons for the penalties imposed in their courts. And the statistics must compare similar cases within the jurisdiction, and must take into account the aggravating factors in the cases being compared. The burden for collecting such data rests on the defendant.

I would like to address, for 1 minute, what the Racial Justice Act does not do. Despite the claims of some opponents, the Racial Justice Act does not eliminate the capital punishment. Instead, it merely prohibits continued racial discrimination in the administration of the death penalty. So long as death sentences are imposed in a non-discriminatory manner, they will not be affected under the bill.

In other words, this legislation will only affect those death sentences where, taking into account the brutality of the offenses, the prior records of the offenders and other nonracial characteristics, race is left as the determining factor in the imposition of the death penalty.

The only way this legislation could completely eliminate the death penalty is if every death penalty was imposed based on discriminatory factors.

Nor will the legislation invalidate the death sentences of every single inmate now sitting on death row. It is true that the legislation, as now written, applies retroactively. But Representative BROOKS has clearly stated his intention to modify the provision in conference so that it applies prospectively only.

Finally, I would like to address the argument that the Racial Justice Act will impose a quota system in the death penalty. Nothing could be further from the truth. If death sentences were handed out on the basis of quotas, then they would by definition be handed down on the basis of race. That—imposing death sentences on the basis of race—is exactly what this bill is designed to prevent.

Opponents of the Racial Justice Act like to point out the fact that the Supreme Court, in the case of McCleskey versus Kemp, held that courts could not accept evidence of discriminatory death sentencing patterns to prove the purposeful racial discrimination necessary to make out a claim under the 14th amendment. And that is true, the court did just that. But what opponents don't point out is that Justice Powell, at the end of his majority opinion, stated that evidence of discrimination in the death penalty was, and I quote, "Best presented to the legislative bodies," who could develop the appropriate solutions.

That is what the Racial Justice Act represents, the appropriate solution to the problem of discrimination in the imposition of the death penalty. Just as Congress has allowed the use of statistics to prove housing discrimination or employment discrimination or voting discrimination, the Racial Justice Act allows the use of statistics to prove discrimination in the handing down of death penalty sentences. Every civil rights law in modern times has allowed the use of statistics to prove discrimination. Shouldn't we in Congress extend that protection to those whose lives are quite literally on the line?

Mr. President, I know the conference on the crime bill is going to be a very difficult process. Not everything that we put in the bill in the Senate will stay in the bill. Not everything that was inserted in the House of Representatives will remain in the final bill. But it seems to me that if there is anything Congress must agree on, it is the requirement that death penalty sentences be handed down in an unbiased manner. That is what the Racial Justice Act is all about.

Mr. President, I voted for the crime bill which, among its other provisions, vastly expands the death penalty. I am a former Federal prosecutor. I come from a law enforcement family, and I am as concerned as any American about the violence in our society and people who commit heinous crimes. And I am as concerned as any American that punishment for violent crimes be appropriate for the severity of the act.

Despite all that, Mr. President, I have to ask the question this afternoon, how can anybody be against racial justice in the application of the death penalty? How is it possible for someone to say "I fully support killing

people based on their color?" How can anybody stand on this floor and say "It does not matter to me that there is a long history of inequitable application of the death penalty based on color and I am for that history. I do not want to recognize what the facts and the truth and the statistics clearly show us."

Mr. President, I am shocked. I have to restrain the emotion of my remarks this afternoon because the amendment offered by the Senator from New York is so shocking. I cannot believe that he would propose that we dispense with racial justice in the application of the death penalty. And that is what this amendment is about.

It is not about crime. Criminals who are sentenced to the death penalty in a fair and nondiscriminatory manner ought to get it. Frankly, I do not personally support the death penalty, even though I voted for this crime bill with all the new death penalties in it. But I think it is a fair statement to say that the issue we are debating today is not about crime, but is instead about racial justice.

Mr. President, I say to you that the sole issue raised by the amendment of the Senator from New York is whether we as a society are prepared to say that we are as opposed to racial discrimination in the application of the death penalty as we are to racial discrimination in housing, racial discrimination in public accommodation, racial discrimination in education, and racial discrimination in employment.

The Senator from Delaware was very eloquent in discussing what this amendment really does. All it says is we are going to apply the same rules when we decide to take someone's life as we do when dealing with housing discrimination issues, employment discrimination issues, and education discrimination issues. We are going to use the same rules.

This is not new. This is not rocket science. It says we have made a commitment to the elimination of apartheid in the United States.

Mr. President, between the Senator from Delaware and the Senator from Massachusetts I think the issue is clear. That is what this is about. This is not a vote about crime; this is a vote about color. This is not a vote about the death penalty; this is a vote about whether we are going to have apartheid in America or not.

Curiously, Mr. President, I was sitting before the debate started trying to make a list for myself. I am going to the inauguration of Nelson Mandela in South Africa next week, and I have to tell you, I cannot describe to you the pride and the hope I feel now that South Africa is leaving behind its history of apartheid and racial injustice and coming together to build a new South Africa. I am going to get to attend the inauguration of this great freedom fighter as President of South Africa.

But, Mr. President, I have to tell you it is really stunning to, on the one hand, make a list to go to South Africa, to see the dawn of a new day in South Africa, and then, on the other hand, to come here and listen to my colleague from New York saying it is perfectly OK to kill people because of their color. To hear my colleague from New York say we are not going to worry about racial discrimination in the application of the death penalty, that it does not bother us that the statistics from the GAO and everybody else who has even examined this issue positively state there is a disparate impact in the application of the death penalty based on color, based on race.

Mr. President, I have to almost suspend disbelief that I am going to South Africa to see a new day dawning, and I see someone here in the U.S. Senate say we are just going to ignore altogether reality; we are going to pretend this is not a problem, and we are not even going to extend to people—criminals albeit—who are subject to the death penalty the kind of protection against discrimination we extend to someone trying to rent an apartment.

Mr. President, I have to tell you it is beyond shocking. What does it say about us as a nation that South Africa, the last bastion of legalized apartheid, is turning the page forward, and we are turning the page back?

I just cannot understand how somebody can be for racial justice in the application of the death penalty and against title IX of the Racial Justice Act.

I would like to respond to my colleague from Washington State who said, "Well, I have never heard of racial discrimination in the application of the death penalty. Where did this come from? How did this novel idea arise?"

First off, Mr. President, it is counterintuitive for anybody, knowing what our history is and how far we have come in getting past that history, to say, "I am not aware of any inequitable or differential application of the death penalty in the United States of America. Show me some statistics. Give me some specifics. What are their names?"

Mr. President, here are some statistics about which there can be no argument. We can argue about opinion, but we cannot argue about facts. Our analysis, our evaluation of those facts may change, but the facts are what they are.

To begin, Mr. President, look at the fact that 33 of the 37 defendants charged under the 1988 Federal death penalty law are black or Hispanic. Eighty-nine percent of people charged with capital crimes under the Federal death penalty law since 1988 are black or Hispanic—in this country, not in South Africa. Eighty-nine percent are black or Hispanic, in a nation in which, by definition, people who are black or Hispanic are called minorities.

If these statistics are not enough for you, let us examine some others.

Janet Reno is a fine Attorney General, a person I absolutely support. But, Mr. President, in 10 of the cases in which the Justice Department has sought the death penalty since she has been Attorney General, all of them have been black, all 10 people.

Now, you could say for a moment, "Well, OK. Let's see. Maybe because the only criminals that we can find that ought to get the death penalty are black ones."

That, Mr. President, defies imagination. That, Mr. President, is the problem. That is why title IX was included in the House crime bill, to ensure that we at least get courts to examine these statistics and give people a chance to say, "Wait a minute. Hold on. The only people you could find to kill under this crime bill are black people or Hispanic people? Excuse me? Can we take another look at this? Can we see if, possibly, by some stretch of the imagination, my color and not the fact that I did something terrible might have something to do with this."

Mr. President, it seems to me that is a small concession to make to the history, to the statistics that look like this.

Let us talk about further statistics. My colleague from Washington says, "OK, give me some specifics."

Mr. President, 77 percent of the death penalties imposed in Georgia's middle district circuit have been against black defendants. Now, in Georgia, 40 percent of the population is black. There have been nine death sentences in total. Out of those nine sentences for the death penalty, seven of them have been black people. That is 77 percent.

I mean it almost defies the imagination that someone in this day and time could say, "Oh, I haven't got a clue that this might possibly be a problem in America; that we could conceivably have a racial differential in the application of the death penalty."

Some more statistics. Philadelphia—and my colleague from Pennsylvania is here, and I did not mean to hit on this, but this is one of the statistics I have in front of me. In Philadelphia, population about 20 percent African-American. Of the 26 death penalty sentences handed down by a single judge in that population, 92 percent of them were against African-Americans.

Do you want some more statistics? I do not want to just pick on the South. But Alabama's population is 25 percent African-American, and yet 43 percent of its 117 death row inmates are black; 43 percent.

More startling is the fact that 70 percent of all people executed in Georgia since the resumption of capital punishment in the 1980's have been black.

But, Mr. President, I think the really interesting statistic, and one that goes beyond whether or not people are

themselves picked on because of their color—and this puts another spin on it that the Racial Justice Act also tries to address—is that the single most important determinant of whether an individual gets the death penalty is not just the race of the criminal, the single most important determinant, Mr. President, is the race of the victim.

The race of the victim seems to play a larger role in the imposition of the death penalty than anything else. And so, let us use an example.

If my assistant is killed by an African-American criminal, he or she is more likely to get the death penalty than if that person kills me. Now, this does not make a whole lot of sense to me. But that is what the statistics show us; that the life of an African-American victim seems to be valued less in our court system than the life of a nonminority victim.

And so, we have the statistics, cutting both ways. On the one hand, the race of the criminal matters in the implication and imposition of the death penalty. But, guess what? The race of the victim also matters in the imposition of the death penalty.

Now, I know that this is one of those issues that can inflame passions in people. And people who support the death penalty and want to see the folks sitting on death row fry are saying, "Well, you know, we are a little nervous about this."

Senator KENNEDY and Senator BIDEN made it clear: Nationwide, there are about 3,000 people on death row right now. If you want to see those folks put to death, that will still happen under the Racial Justice Act. Guess what? This legislation is not going to stop those executions. This legislation, as Senator BIDEN just said, is not going to be applied retroactively. And so if you have a specific person in your State that you want to see fried, guess what? The sentence is going to be imposed and we are going to pretend that we did not have this problem when he was sentenced, or she, as the case may be. We are going to pretend that.

All that title IX of the House crime bill says is, "Wait a minute, since we are going to expand the death penalty and the crimes we can kill you over, we are going to see that you are treated fairly in terms of the issue of race."

Mr. President, I do not see how anybody can be against being fair on the issue of race. I cannot. I am, in fact, stunned that anybody would say I am for racial injustice in the imposition of the death penalty. And that is what this, the amendment of the Senator from New York, says. "It does not matter to me. It does not matter to me if we have racial injustice in the imposition of the death penalty. Because, guess what, I am so anxious to get those old, lethal injections going, boys, I do not want to stand back and see the switch not pulled for another second. I

have been waiting all these years to show that the death penalty works to protect the innocent in America. I am so eager for the imposition of the death penalty, by golly it does not matter to me if we fry another 33 black kids or Hispanic kids. It does not matter to me, Mr. President, because guess what—when we go forward and we expand the death penalties, we are going to get some more of them to fry."

I find that conclusion to be absolutely shocking. I cannot imagine that my colleagues are going to come down in favor of killing people based on color. I just cannot imagine that.

If we are talking about the crime, you know: "If you can't do the time, don't do the crime," I support that concept. Coming from a law enforcement family—I do not have a problem with people being punished for their acts. In fact, I voted for this crime bill in spite of the fact that it expands the death penalty. I do not have a problem with people having a sincerely held belief that the only way we are going to stop heinous crime and stop the violence and stop the murder is if we reimpose the death penalty. Lord knows, they have been campaigning on the issue for years.

Fine, so you won on that point. You won on that point. The death penalty is back in the law.

But how can you argue with making it fair? How can you argue with a racial justice act? How can you argue with statistics like this that say, "Guess what, we might have a problem and need to look at it. And guess what, we are going to put in a procedure that lets you look at it in the same way you look at housing discrimination, discrimination in employment, discrimination in education. If we are going to vastly expand the death penalty, we ought to have an opportunity to look at it the same way we do other kinds of discrimination." That is all that title IX does. So I have every hope that this issue can be worked out. It must be worked out. People who support the death penalty do not want to see it applied in a discriminatory way. People who support the death penalty do not want to see racial injustice in its application. And people who support the death penalty, I believe, will want to provide some mechanism for ensuring that the evil of racism does not infect this process. We do not want to be a society in which people go to their death because of their color and not what they did. We do not want to be a society like that. We want to be a society in which somebody of one race who commits a capital crime is going to be punished on the same basis as somebody of another race who committed that same crime. That is the essence of what we are trying to achieve as a country.

Unfortunately, that has not been our history. There is nobody in this room

or in this world, frankly, who does not know it. But we have come so far—we have come so far it just boggles the mind that we would turn the page back and say we are for racial injustice when it comes to the death penalty because we are so anxious to fry these people because they have been taking up too many tax dollars on death row.

That is what this amendment says. That is what this amendment says. I have never supported the death penalty, even when I was in the State legislature. I just do not. I just have a problem with the whole idea of the State executing somebody. But I certainly understand, given the cries for crime control out of my community, why the death penalty was expanded in this legislation. Do you know what? Because of the community policing and the prevention efforts and other benefits in there, I said, OK, I will hold my nose on the death penalty part because, guess what, there is a racial justice act eventually going to be part of this.

We had a commitment it was going to be part of it when the amendments went on here in the Senate. I said to myself, "I know it is going to be OK. I know there is a problem now, but it is going to be OK because the people in this Congress are committed to fairness. The people in this Congress stand up for racial justice. And the people in this Congress do not want to send a signal to the States, to the prosecutors all over this country, that it is OK to prosecute differently based on the race of the perpetrator or it is OK to prosecute differently based on the race of the victim."

The people of this Congress should know better, care more, have better sense and certainly higher morality. And even though they may support a death penalty—and we may disagree about that—on one thing we must be together. This is the United States of America, this is not the old South Africa. And we have turned the page in terms of racial discrimination. We are overcoming discrimination, overcoming America's system of apartheid. We have not gotten there entirely. It would be dishonest to suggest that we have. But we are trying and we are moving in the right direction. Then on something as profound as putting somebody to death, we are going to take three steps back? I do not think so.

Mr. President, I will provide a copy for the RECORD of this report for the edification of any of my colleagues who want to see it: "Racial Disparities in Federal Death Penalty Prosecutions, 1988 to 1994." It is from the House side. I ask unanimous consent it be printed in the RECORD.

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

[Staff Report by the Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, 103d Congress, 2d Session, March 1994]

RACIAL DISPARITIES IN FEDERAL DEATH PENALTY PROSECUTIONS 1988-94

"Twenty years have passed since this Court declared that the death penalty must be imposed fairly, and with reasonable consistency, or not at all, and, despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice, and mistake."—Justice Harry A. Blackmun, Feb. 22, 1994¹

SUMMARY

Racial minorities are being prosecuted under federal death penalty law far beyond their proportion in the general population or the population of criminal offenders. Analysis of prosecutions under the federal death penalty provisions of the Anti-Drug Abuse Act of 1988² reveals that 89 percent of the defendants selected for capital prosecution have been either African-American or Mexican-American. Moreover, the number of prosecutions under this Act has been increasing over the past two years with no decline in the racial disparities. All ten of the recently approved federal capital prosecutions have been against black defendants. This pattern of inequality adds to the mounting evidence that race continues to play an unacceptable part in the application of capital punishment in America today. It confirms Justice Blackmun's recent conclusion that "the death penalty experiment has failed."

THE FEDERAL DEATH PENALTY

Since the Supreme Court's 1972 decision in *Furman v. Georgia*,³ the death penalty has been almost exclusively a state prerogative. Congress has so far not adopted the general sentencing procedures that would reinstate the federal death penalty. No Federal executions have been carried out since 1963 and, until very recently, prosecutions under federal death penalty law were rare. But that began to change over the past few years, and can be expected to change dramatically if the House adopts pending legislation to restore generally—and expand—the federal death penalty.

In 1988, President Reagan signed the Anti-Drug Abuse Act. This legislation included a provision, sometimes referred to as the "drug kingpin" death penalty, which created an enforceable federal death penalty for murders committed by those involved in certain drug trafficking activities. The death penalty provisions were added to the "continuing criminal enterprise" statute first enacted in 1984, 21 U.S.C. §848. The drug trafficking "enterprise" can consist of as few as five individuals, and even a low-ranking "foot soldier" in the organization can be charged with the death penalty if involved in a killing.

As the first enforceable federal death penalty adopted after *Furman*, §848 offers a forewarning as to how a general federal death penalty might be applied. This report, prepared with the assistance of the Death Penalty Information Center in Washington, D.C. and with case data from the Federal Death Penalty Resource Counsel Project, examines the application of §848.

Three-quarters of those convicted of participating in a drug enterprise under the general provisions of §848 have been white and

only about 24 percent of the defendants have been black.⁴ However, of those chosen for death penalty prosecutions under this section, just the opposite is true: 78 percent of the defendants have been black and only 11 percent of the defendants have been white. Although the number of homicide cases in the pool that the U.S. Attorneys are choosing from is not known (the Justice Department has not responded to Congressional inquiries for that data), the almost exclusive selection of minority defendants for the death penalty, and the sharp contrast between capital and noncapital prosecutions under §848, indicate a degree of racial bias in the imposition of the federal death penalty that exceeds even pre-Furman patterns.

Federal regulations require that local U.S. Attorneys obtain the personal written authorization of the Attorney General of the United States before proceeding with a capital prosecution. So far, former Attorneys General Thornburgh and Barr, and present Attorney General Reno have approved capital prosecutions against a total of 37 defendants under the 1988 "kingpin" law. Twenty-nine of the defendants have been black and 4 have been Hispanic. All ten of the defendants approved by Attorney General Reno for capital prosecution have been black. Judging by the death row populations of the states, no other jurisdiction comes close to this nearly 90 percent minority prosecution rate.⁵

PACE OF PROSECUTIONS INCREASING

The pace of these prosecutions has been substantially increasing over the past two years. Although widely touted during the 1988 election year as a "tough" response to drug crime, there were only seven defendants prosecuted under this Act in the first three years after its passage and only one death sentence handed down. However, in 1992 alone, capital prosecutions against fourteen defendants were announced and another five death sentences resulted from these cases. Since January, 1993, sixteen more prosecutions have been announced.⁶

The underlying crimes for which these defendants are being prosecuted are not excusable because the offenders are members of minorities. But the statistics raise the question of why these cases were chosen out of the large number of drug-related homicides over the past five years. By way of comparison, the proportion of African-Americans admitted to federal prison for all crimes has remained fairly constant between 21 percent and 27 percent during the 1980s, while whites accounted for approximately 75 percent of new federal prisoners.⁷ Yet, when it comes to the federal death penalty, the scales dramatically tip the other way.

The federal government employed the death penalty for a variety of crimes prior to the 1972 *Furman* decision. But the racial breakdown was also just the opposite from current death penalty prosecutions. Between 1930 and 1972, 85 percent of those executed under federal law were white and 9 percent were black. The dramatic racial turnaround under the drug kingpin law clearly requires remedial action.

Although challenged at a Congressional hearing to provide an explanation for such racial disparities, and asked by the Chairman of this Subcommittee for data on potentially capital cases referred to Washington for approval by federal prosecutors, the Justice Department has offered no response.⁸

It is worth noting that some of the death penalty prosecutions under §848 have been against defendants who do not seem to fit the expected "drug kingpin" profile. In a number of cases, the U.S. Attorneys have

sought the death penalty against young inner-city drug gang members and relatively small-time drug traffickers.⁹ In other cases, the death penalty was returned against those directly involved in a murder, while the bosses who ordered the killings were given lesser sentences.¹⁰

BACKGROUND ON RACE AND THE DEATH PENALTY

Throughout American history, the death penalty has fallen disproportionately on racial minorities. For example, since 1930 nearly 90 percent of those executed for the crime of rape in this country were African-Americans.¹¹ Currently, about 50 percent of those on the nation's death rows are from minority populations representing 20 percent of the country's population.

In 1972, the United States Supreme Court overturned existing death penalty statutes in part because of the danger that those being selected to die were chosen out of racial prejudice. As the late Justice Douglas said in his concurrence overturning the death penalty:

"[T]he discretion of judges and juries in imposing the death penalty enables the penalty to be selectively applied, feeding prejudices against the accused if he is poor and despised, and lacking political clout, or if he is a member of a suspect and unpopular minority, and saving those who, by social position, may be in a more protected position."¹²

Following the *Furman* decision, legislatures adopted death sentencing procedures that were supposed to eliminate the influence of race from the death sentencing process. However, evidence of racial discrimination in the application of capital punishment continues. Nearly 40 percent of those executed since 1976 have been black, even though blacks constitute only 12 percent of the population. And in almost every death penalty case, the race of the victim is white. Last year alone, 89 percent of the death sentences carried out involved white victims, even though 50 percent of the homicides in this country have black victims.¹³ Of the 229 executions that have occurred since the death penalty was reinstated, only one has involved a white defendant for the murder of a black person.

Race of the victim discrimination was singled out by the U.S. General Accounting Office in its report "Death Penalty Sentencing" which concluded that studies showed:

"[The] race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found more likely to be sentenced to death than those who murdered blacks."¹⁴

This record of racial injustice played a significant part in Justice Harry Blackmun's recent decision to oppose the death penalty in every case. "Even under the most sophisticated death penalty statutes," said Blackmun, "race continues to play a major role in determining who shall live and who shall die."¹⁵

CONCLUSION

Race continues to plague the application of the death penalty in the United States. On the state level, racial disparities are most obvious in the predominant selection of cases involving white victims. On the federal level, cases selected have almost exclusively involved minority defendants.

Under our system, the federal government has long assumed the role of protecting against racially biased application of the law. But under the only active federal death penalty statute, the federal record of racial disparity has been even worse than that of

Footnotes at end of article.

the states. So far, the number of cases is relatively small compared to state capital prosecutions. However, the numbers are increasing, and under legislation currently being considered in Congress, the federal government would play a much wider role in death penalty prosecutions.

FOOTNOTES

¹Callins v. Collins, No. 93-7054 (1994) (Blackmun, J., dissenting) (Supreme Court denial of review).

²21 U.S.C. 848(e)-(q).

³408 U.S. 238 (1972).

⁴U.S. Dept. of Justice, Bureau of Justice Statistics, Special Report: Prosecuting Criminal Enterprises, at 6, Table 10 (convictions 1987-90) (1993).

⁵See NAACP Legal Defense Fund, Death Row, U.S.A., January 1994 (death rows by state with racial breakdowns).

⁶Prosecutions against 10 defendants were approved by Attorney General Reno, including at least one in 1994. Prosecutions against 6 other defendants were approved in the previous Administration, but were not announced until June, 1993.

⁷Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics, 1991, at table 6.78, p. 644 (1992).

⁸On October 21, 1993, Rep. Melvin Watt (D-NC) asked then Deputy Attorney General Philip Heymann for an explanation of the racial disparities in capital prosecutions during the course of a House Judiciary Subcommittee hearing on the Administration's crime bill. Mr. Heymann promised a reply in two weeks. To date, Rep. Watt has received no response to his inquiry. Death Penalty Information Center phone conversation with Rep. Watt's office, Feb. 28, 1994.

During the same hearing, Rep. Craig Washington (D-Tex.) remarked to Mr. Heymann that "if some redneck county in Texas had come up with figures like that, you'd been down there wanting to know why." See Federal Death Penalty Update, Newsletter of Federal Death Penalty Resource Counsel Project, January, 1994.

⁹See, e.g., United States v. Tipton et al., 3-92-CR68 (E.D. Va.) (prosecution of four young black inner-city gang members in Richmond, Va.); United States v. Bilal Pretlow, No. 90-CR-238 (D.N.J.) (a young black New Jersey gang member who committed suicide during his trial); United States v. Chandler, 996 F.2d 1073 (11th Cir. 1993) (prosecution of rural Alabama marijuana grower in murder-for-hire scheme).

¹⁰See, e.g., United States v. Hutching et al., No. CR-032-S (E.C. Okl.) (two "managers" of the drug enterprise received life sentences for murder while lower level defendant who was present at the murder was sentenced to death); United States v. Michael Murray, Cr. No. 1: CR-92-200 (M.D. Pa.) (Dept. of Justice reportedly declined to approve the U.S. Attorney's request to authorize the death penalty against the gang leader, Jonathan Bradley, whom the indictment alleges ordered the killing. A death sentence is being sought against Murray who was 19 years old at the time of the incident.). Information obtained from the Federal Death Penalty Resource Counsel Project report, Feb. 15, 1994.

¹¹U.S. Dept. of Justice, Bureau of Justice Statistics, Capital Punishment, 1981 (1982).

¹²Furman v. Georgia, 92 S. Ct. 2726, 2735 (1972) (Douglas, J., concurring).

¹³See, e.g., S. LaFraniere, FBI Finds Major Increase in Juvenile Violence in Past Decade, Washington Post, Aug. 30, 1992, at A13 (half of U.S. murder victims are black).

¹⁴U.S. General Accounting Office, Death Penalty Sentencing 5 (Feb. 1990) (emphasis added).

¹⁵Callins v. Collins, No. 93-7054 (1994) (Blackmun, J., dissenting).

APPENDIX—FEDERAL DEATH PENALTY PROSECUTIONS, 1988-94¹

Following enactment of the first modern federal death penalty statute on November 18, 1988, 21 U.S.C. §848(e)-(q) (the so-called "drug kingpin" murder provision), the Bush and Clinton Administrations have approved death penalty prosecutions under §848 against 37 defendants. Of these, four defendants were white, four were Hispanic, and twenty-nine were black. All 10 of the defendants approved for capital prosecution by At-

torney General Reno, and all 15 defendants now awaiting federal death penalty trials or currently on trial, are African-American.

FEDERAL CAPITAL CASES TRIED TO DATE

The federal death penalty cases brought to trial during 1989-1994 by the Bush and Clinton Administrations are listed below:

A white Alabama marijuana grower named Ronald Chandler, was sentenced to death for the murder for hire of a subordinate in his drug ring. Chandler's convictions and death sentence were affirmed by a panel of the Eleventh Circuit July 19, 1993; a petition for writ of certiorari is now pending before the United States Supreme Court. Claiming innocence, Chandler refused a pretrial plea bargain offer for life without possibility of parole. *United States v. CHANDLER*, 996 F.2d 1073 (11th Cir. 1993).

Three of four young black inner-city gang members in Richmond, Virginia, were sentenced to death on February 16, 1993, for their roles in eleven crack-related murders. *United States v. Tipton et al.*, 3-92-CR68 (E.D. Va.). The trial of a fourth defendant, Vernon Thomas, was severed. On April 23, 1993, moments before a scheduled hearing on Mr. Thomas's motion to bar the death penalty due to his mental retardation, the government withdrew its request for the death penalty. Mr. Thomas was ultimately convicted and sentenced to life imprisonment.

A Hispanic drug distributor was sentenced to death by a jury on August 2, 1993 in Brownsville, Texas, in connection with the murders of three other drug traffickers in the Brownsville area. *United States v. Juan Raul Garza*, No. CR 93-0009 (S.D. Tex.). Attorney General Barr authorized the prosecution to seek the death penalty in December, 1992. Mr. Garza's appeal is pending before the U.S. Court of Appeals for the 5th Circuit.

Two Hispanic defendants in Texas were sentenced to life imprisonment and forty years, respectively, for the marijuana-related murder of a state police officer after a joint trial. The sentencing jury found no facts legally warranting the death penalty. *United States v. Reynaldo & Baldemar Villarreal*, No. 9:91CR4 (E.D. Tex. 1991), *aff'd*, 963 F.2d 725 (5th Cir.), *cert. denied*, 113 S.Ct. 353 (1992).

Two black Chicago gang members received life sentences for cocaine-related murders after separate trials. The Government had offered one defendant, but not the other, a plea bargain prior to trial. *United States v. Alexander Cooper & Anthony Davis*, No. 89-CR-0580 (N.D. Ill. 1991).

A white Mafia contract killer received a life sentence from a Brooklyn, New York jury after being convicted of eight murders, three of which qualified as capital crimes under 21 U.S.C. §848. *United States v. Pitera*, 5 F.3d 624 (2d Cir. 1993).

A young black New Jersey gang member committed suicide during his federal capital trial. *United States v. Bilal Pretlow*, No. 90-CR-238 (D.N.J.).

One Hispanic and two white defendants were tried jointly in connection with the drug-related kidnap/murder of a Muskogee, Oklahoma auto dealership employee. *United States v. Hutching et al.*, No. CR-032-S (E.D. Okl.). The two capitally-charged "managers" of the drug enterprise received life sentences from the jury, while the lowest-level defendant, John McCullah (who, unlike the bosses, had been present at the killing) was sentenced to death on March 23, 1993.

FEDERAL CAPITAL PROSECUTIONS NOT YET TRIED

Capital prosecutions initiated since early 1992 which are still pending (either as capital

or noncapital cases) in federal district courts involve indictments charging:

Two black New Orleans inner-city gang members, in connection with an allegedly drug-related murder. *United States v. Green & Brown*, E.D. La. No. 92-46. On November 24, 1992, the Government dropped its request for the death penalty in this case.

One black Tampa, Florida drug distributor, for having allegedly ordered a murder in retaliation for the theft of drugs. *United States v. Mathias*, (M.D. Fla. No. 91-301-CR-T-17(A)). Trial is set in this case for February 2, 1994.

One black Atlanta drug distributor in connection with three murders. *United States v. Williams*, No. 1:92-CR-142 (N.D.Ga.). No trial date is set as yet.

Two black crack cocaine dealers in Macon, Georgia, in connection with the murders of two other crack dealers. *United States v. Tony Chatfield and Arleigh Carrington*, (M.D. Ga. No. 92-82MAC-WDC). Attorney General Barr authorized this death prosecution in his last week in office. On December 6, 1993, the government dropped its request for the death penalty against these two defendants.

United States v. Reginald Brown et al., (E.D. Mich. Cr. No. 92-81127). This case reportedly involved six death authorizations against members of a cocaine distribution organization alleged to be responsible for a total of twelve murders over a 4-year period. The initial authorization occurred during the Bush Administration, but the authorizations were not announced until June, 1993. Only three of the six defendants against whom the death penalty has been authorized are currently in custody. One defendant, Terrance Brown, has been found dead, apparently a homicide victim.

The Federal Death Penalty Resource Counsel Project is aware of 7 cases, involving 16 defendants, in which the death penalty is reported to have been authorized by Attorney General Reno or announced since she took office. All 16 defendants are African-American. Three of the cases have been brought in jurisdictions (New York, Michigan, and the District of Columbia) which do not have capital punishment statutes. The cases are:

United States v. Darryl Johnson, (W.D.N.Y. Cr. No. 92-159-C-S), involving two alleged cocaine-related killings by a Buffalo, New York group. Trial is not anticipated before the fall of 1994.

United States v. Wayne Anthony Perry (D.C.D.C. No. 92-CR-474), an alleged hitman for a D.C. cocaine distribution ring; eight homicide counts. Trial is set for February 8, 1994.

United States v. Michael Murray, (M.D.Pa. Cr. No. 1:CR-92-200), involves the killing of a Harrisburg, Pennsylvania drug dealer by a gang headed by one Jonathan Bradley. DOJ reportedly declined to approve the U.S. Attorney's request to authorize the death penalty against Bradley, who allegedly ordered the killing, and against another participant in the shooting, Emmanuel S. Harrison.

United States v. Edward Alexander Mack et al., (S.D. Fla. 93-0252-CR-Ungaro-Benages), involves two drug-related murders in the course of a Miami drug trafficking operation. Three defendants are facing the death penalty in this case; trial is not anticipated until the latter part of 1994. Attorney General Reno authorized this capital prosecution in early January 1994.

United States v. Jean Claude Oscar et al., (E.D.Va. 93 CR 131) involves three capitally charged defendants and two crack-related murders in Norfolk, Va. Attorney General Reno authorized this capital prosecution in November 1993.

¹Case data provided by the Federal Death Penalty Resource Counsel Project, Columbia, SC.

United States v. Todd Moore, (E.D. Va. 1994), the prosecution of this black defendant in Norfolk, Va. was announced March 8, 1994.

Ms. MOSELEY-BRAUN. Mr. President, I think maybe sometimes people do not have the perspective to think about how initiatives here in the Senate may have a ripple effect out in the rest of the world. Vaclav Havel—I am fond of quoting the former President of Czechoslovakia—talks about what he calls the butterfly effect. He said it is the notion that everything is so—and I am quoting as best I can without a copy—but it is the notion that everything in this world is so interconnected that the wave of a butterfly wing can unleash a typhoon of change in another part of the world.

So I really call on my colleague, the Senator from New York, to take a look, a serious look, at what he is doing here. His motivation may be we do not want to hold up a process that we have been fighting for so long. If he is anxious on that score, I am sure he can be accommodated by whatever happens. But what he is doing here with this amendment is wrong. This amendment is a vote in favor of the worst elements—the worst elements in our society. And to talk about the butterfly effect—if anything, this amendment has a butterfly effect I think that will shame—and I do mean shame—all of America. We have, I think, an obligation to be better, to be more. At a time when there is an inauguration of a President of South Africa and the first multiracial election there, for us in America to take a step backward on so highly visible and highly emotionally charged a matter as the imposition of a sentence of death, I think would be most unfortunate and would have a negative effect, a regrettable effect on a lot of fronts that we would not want to see.

So, while this seems like a small, almost technical amendment, I say to my colleagues and I say to the Senator from New York, take a good look at what this really means and what it portends for our society as a whole to stand up and say we are for racial injustice in the administration of the death penalty. It says a lot more about what we should not be and where we used to be than it does about where we are going to be, where we can be, and what we can be.

I hope that while the technicalities of the amendment having to do with retroactivity can be worked out in conference—Senator BIDEN has made a commitment on that score—that we can reach a consensus, reach some kind of agreement so as to meet the concerns that some of the many Members who are supporters of the death penalty may have.

At the same time to take racial justice out of the crime bill, I think, makes the crime bill say things about America that none of us want it to say.

I thank you and I yield the floor. Mr. SPECTER addressed the Chair. The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I believe that the focus of the American judicial system is on the individual, and I am convinced that the appropriate standard for the American criminal justice system is to focus on the individual, the charge which has been leveled against the individual, the nature of the offense—if, as and when proved—and the background of the individual. Sentencing is not a matter for statistical determination because I do not believe that statistics really bear on the underlying meaning or equities of the case.

In my experience as an assistant district attorney and then as district attorney of the city of Philadelphia, the total of which was more than 12 years, I became convinced that the death penalty was an effective deterrent against violent crime.

I saw many cases where professional burglars would not carry weapons for fear that a killing would result in the course of a burglary and that individual would face a first-degree felony murder charge.

Similarly, I saw cases where young hoodlums would not carry guns on robberies because they, too, feared that a killing might result in the course of the robbery and there would be a first-degree murder charge.

In the early sixties, when the death penalty was being carried out, Mr. President, I believe that it did have a deterrent effect on violent crime. But what has happened as of this year, 1994, with some 2,800 individuals on death row and 38 applications of the death penalty last year, is that there has been a serious erosion of the deterrent effect of capital punishment.

I agree totally with the Senator from Illinois that there has to be racial justice in America. That is the cornerstone of our system. When I was district attorney of Philadelphia, I refused to allow my assistants to question jurors on any item that related in any way, shape, or form to race, and had an office policy against striking African-Americans from juries on peremptory challenges.

For those who do not know, a peremptory challenge is a challenge that can be made by either side against any potential juror without any cause shown. Under Pennsylvania law, there are 20 peremptory challenges available.

Long before the Supreme Court of the United States ruled that it was unconstitutional to strike jurors on the basis of being African-American, or any race, I adopted a policy in my office to prohibit that.

There have been necessarily and appropriately very substantial restrictions on the application of the death penalty.

In 1972, in the case captioned *Furman versus Georgia*, the Supreme Court of the United States struck down the death penalties in all States on the proposition that the death penalty could be constitutionally imposed only if there was consideration by the jury of aggravating circumstances and mitigating circumstances. It could not be left to the unchanneled discretion of the jury, to any generalized principle or any possibility of speculation. Instead, there had to be a specific enumeration of what constituted the aggravating circumstances, the cold-heartedness, the callousness, the act of the killing, the background and the record of the defendant, and on the mitigating circumstances, for example any impairment of mental acuity or any background of other impairment had to be considered.

We have made substantial strides on the adequacy of counsel since the 1960's. I think adequate trial is an indispensable element in a fair and just application of any criminal sanction.

But if death penalty cases turn on a statistical analysis—and there are many statistics which are available on this subject and many of the statistics which are quoted are erroneous—for example, Philadelphia does not have an African-American population of 20 percent, it is more than double that. To pick out a single judge and say that 92 percent of the death penalties handed down by that judge are against minorities is not really a telling factual matter as to what kind of cases that one judge had.

When you take a look at crime in America today, there is no need for any extended discussion about the seriousness of crime in this country. There is no serious need for a discussion of the imperative nature of the Congress acting on this subject. The Congress has indicated its will on the Senate side with more than \$22 billion and on the House side with some \$28 billion to combat crime.

There is a consensus in America, not only reflected in the votes in the Congress, with more than 70 percent of this body in favor of the death penalty, but in the percentage of the American people who believe that the death penalty is an effective deterrent.

So much of the debate on this statistical analysis—and I do not call it the Racial Justice Act because that is another illustration where Senators who introduce bills and put titles on bills which argue a characterization or argue a conclusion. I take second place in this body and on this planet to no one in terms of my commitment to racial justice. If there is ever any element of a question about racial justice, I am among the first to question it.

But what this proposal does is to say that there has to be some finding where there is a disproportionate share of one group or another that raises a

question about the fairness as to what has gone on in the trial. I submit, Mr. President, that is not sensible or logical or in accordance with our American tradition that each individual should be judged on his or her own, and that each case should be judged on its own merits and what happened under the particular factual circumstances and what is the background of the individual defendant and victim.

Only in this way, focusing on the facts of each individual case can we have a fair judicial system in America.

We have rejected racial quotas on all categories—from admission of Jewish students to law schools and medical schools to an arbitrary definition as to how many of one group or another will be entitled to jobs, because Americans are opposed to the quota system and we are opposed to controlling people's lives by statistics.

We are committed to a principle of individualized justice, and I think that is the only way that the system can work.

I became convinced about the deterrent effect of capital punishment on many, many cases which I saw as a prosecuting attorney, and one is worth a moment or two. It was a case that I handled in the Supreme Court of the Commonwealth of Pennsylvania back in the early sixties, and it involved three young hoodlums named Williams, Cater, and Rivers, ages 19, 18, and 17. The two younger men, Rivers and Cater, saw a gun that Williams had and Cater and Rivers said: "We're not going along on this robbery if you carry a gun."

How do we know that? We know that from the confessions of all three shortly after the incident occurred.

Williams put the gun in the drawer, slammed it shut and, as they all left, unbeknownst to Cater and Rivers, Williams pulled the gun out, stuck it in his pocket and they went to a grocery store in north Philadelphia for a robbery. And there was a scuffle, and Williams pulled the gun and murdered the druggist. All three of those men were sentenced to death. I argued the case in the Supreme Court of Pennsylvania which upheld the death penalty.

Ultimately, the two younger men, Cater and Rivers, had their death sentences commuted, that is, changed. I was district attorney at the time of the commutations, having been elected in 1965, and I took the position that they ought not to receive the death penalty even though as a matter of law they were equally guilty with Williams, having been coconspirators in the event. But it was my view that they did not have the same degree of culpability or intent that Williams did.

One thing about criminal law that people need to understand, is that if a number of people join together in an offense and have a conspiracy, each one of them is liable for everything that

the other one does. So that if you are in a robbery/murder and you do not pull the trigger, you are still liable for the murder. And if you are in a robbery/murder and you went along on the judgment that there would not be any gun taken along but one was taken, you are still equally responsible.

While I support the death penalty, I have long believed that it has to be scrupulously, meticulously and carefully applied. In a day long before Furman versus Georgia, long before the kind of focus that is present today, my sense was that there ought not to be the death penalty for Cater and Rivers because they did not know that the gun was being taken along, just like I felt as an intuitive matter that African-Americans ought not be stricken from juries by peremptory challenges because of their race.

Mr. President, I think what this disagreement really focuses on is those who are for the death penalty and those who are against the death penalty. I appreciate the conscientious and moral scruples of those who oppose the death penalty, and I understand their considerations and I respect them. But there has been a judgment made in the pending crime bill for the death penalty, and there has been a judgment made by 37 States in the United States to have the death penalty carried out. I believe that it is an effective deterrent, and I think it ought to be carried out again in a very, very selective number of cases.

During my days as district attorney of Philadelphia, with the 500 homicide cases which we had a year, I would not allow an assistant to ask for the death penalty in any case without my own personal in-depth review to see what ought to be done.

Mr. President, the reality is that the Congress has not moved with real vigor in the whole field of death penalty application because we have stripped from this bill the so-called habeas corpus reform, and that is the reform which would focus on the Federal court appeals which involve tremendous delay. At the present time, the average case takes 9 years after the death penalty has been imposed before it is carried out, and some cases last as long as 17 years.

I have introduced legislation which I brought to the floor to provide a procedure which would safeguard the rights of the defendants but would eliminate technicalities in habeas corpus procedures so that a constitutionally determined and imposed death penalty would be imposed promptly and in a meaningful way, because no deterrent is meaningful unless it is swift or certain. Regrettably, the Senate rejected that approach because many on one side did not want the death penalty at all, and many on the other side opposed my amendment because they did not like its provisions as to what is called

retroactivity. That is where you take a new rule where it is a fundamental rule and apply it to pending cases.

I am at an absolute loss as to how we could have any just provision of law on the death penalty which would not be retroactive. The arguments have been made in the Chamber today that this statistical provision under debate will not be retroactive. That is the kind of compromise which appears to me to be totally unjustified. When you are talking about the death penalty, if there is some principle of law which precludes its application to any case, a case in the future, it is just unconscionable not to have it apply to cases which are pending, if it is a meaningful principle of law.

I suggest, Mr. President, that the willingness to have this statistical proposal apply only in the future, prospectively, is more than a compromise. It is really a concession that these cases really ought to be judged on their individual merits and not on any statistical analysis.

So for these reasons, Mr. President, being firmly committed to individualized justice in this country, I believe that we should move ahead in a rational way, utilizing every legitimate weapon at the disposal of law enforcement, one of which is the death penalty, as sanctioned in some 37 States—seeing to it that there is adequate counsel, that there is an effective day in court for all the issues to be raised and decided, and that appropriate death sentences are carried out where the act and the actor warrant it, without any complex statistical analysis which really does not bear on what happened in any case and which would destroy a very fundamental principle of American justice which is individualized justice.

Mr. METZENBAUM. Mr. President, a number of my colleagues have spoken this morning in favor of the Racial Justice Act which was included in the House version of the crime bill.

Whether you favor or oppose the death penalty, all fair and right thinking people believe that a person's race should not determine whether someone is sentenced to death by the State. But despite our desire for a fair judicial system, the evidence that the death penalty is applied in this country in a racist manner is overwhelming.

A 1990 GAO report documents a long standing pattern of racial discrimination in the charging, sentencing, and imposition of the death penalty. This discrimination takes two forms. One kind is based on the race of the victim, and the other is based on the race of the defendant. The report stated that since 1976, when the Supreme Court allowed the death penalty to be re-instituted, 85 percent of the executions involved the killing of a white person.

Only 11 percent of the executions involved the killing of an African-Amer-

ican and these only occurred where the defendant was also black. During this period only one white person has been executed for killing an African-American. This GAO report reflects what is an unfortunate fact of life in America. Our Criminal Justice System does not value the life of an African-American as highly as it values that of a white.

On the Federal level, a recently released report by the House.

Subcommittee on Civil and Constitutional Rights tracks prosecutions under the Federal death penalty provisions of the Anti-Drug Abuse Act of 1988. The report reveals that 89 percent of the defendants selected for capital prosecution have either been African- or Mexican-Americans. Increasingly, all 10 of the defendants most recently approved for Federal capital prosecutions have been black. What does this say about our sense of justice about the quality of justice in America? The Racial Justice Act will help to eliminate racial discrimination in capital cases. It allows defendants to challenge only their death sentence, and not the underlying conviction. In other words, it does not have to do with whether the defendant is guilty or not guilty. It just gives the defendant the right to challenge the death sentence itself.

To obtain relief under the act defendants must offer evidence of two things. The first is statistical evidence of a consistent pattern of racially biased sentences in death penalty cases. The second is that their own death sentence fits this discriminatory pattern.

The defendant and not the State bears the burden of collecting the statistical evidence. This evidence must compare the sentences in similar cases and take into account any aggravating factors. For example, an African-American defendant cannot get relief under the act by simply showing that blacks get the death penalty more frequently than whites. Rather, the defendant must show that blacks get the death penalty significantly more frequently than whites for the same type of offenses and aggravating circumstances. If the court finds that there was discrimination in imposing a death sentence, the defendant would either be resentenced to death, but under a non-discriminatory scheme or sentenced to life imprisonment.

In an attempt to defeat the Racial Justice Act, some of its opponents have used inflammatory rhetoric and claimed that the act amounts to a quota bill. Clearly, the Racial Justice Act does not require compliance by the adoption of racial quotas. Rather, it urges States and prosecutors to eliminate the use of race in capital cases by adopting nonracial standards for bringing death penalty cases.

The Racial Justice Act will help to ensure that similar crimes receive similar sentences. I urge my colleagues to support it.

I would like to point out, Mr. President, that over a period of years, many of us on this floor have opposed capital punishment, many of us have felt very strongly about it, in addition to other reasons, the fact that capital punishment has been so unfairly meted out to African-Americans as compared to whites. Realistically speaking, there is no question about it. The evidence is irrefutable that blacks have paid a higher penalty with respect to the death sentence than have whites.

It is not fair. It is not right. This is a country that prides itself in its sense of justice. And I think that if we really intend to be just, then it is imperative that we support inclusion of the Racial Justice Act in this legislation.

Mr. HATFIELD. Mr. President, my position on the death penalty is well known. But, even if I were an ardent supporter of death sentences, I would be extremely concerned that the Government apply this punishment in an evenhanded manner. This is the least that we must demand, regardless of our position on the death penalty. This is why I oppose the sense of the Senate amendment calling for deletion of the Racial Justice Act during conference committee action on the crime bill.

Each time that we discuss death penalty issues, we hear stories of brutal cold blooded murders. These are horrible crimes and should be punished severely. Spending one's life in prison without possibility of release is severe. But, this is not the issue today.

If we must have this gruesome State sponsored killing—and I do not concede that we must have it—the very least we can do, is ensure that the punishment is not being used in a racially discriminatory manner. In fact, I believe that we might take an even broader approach. I believe that the death penalty has been applied disproportionately upon the poor of all races because they do not have the resources to adequately defend themselves. Perhaps on another occasion we will examine whether discrimination based upon economics also should be considered in death penalty cases.

This issue cuts to the heart of one of the fundamental reasons that the death penalty has been questioned by those who are very experienced in its application. Why do some people get killed by the State for committing the same crime that causes others to receive prison terms? How can we make sense of this?

Justice Blackmun's recent description of the death penalty as "fraught with arbitrariness, discrimination, caprice, and mistake" has become well publicized for good reason. He has struggled with these issues personally on the Highest Court in the land for 24 years.

According to a recent House subcommittee report, 89 percent of death

prosecutions under the Anti-Drug Abuse Act of 1988 have been against African-Americans or Mexican-Americans. The last 10 Federal death prosecutions have been against black defendants. In addition, a GAO report in 1990 showed serious racial disparities in death sentencing.

These frightening statistics do not necessarily prove discrimination. They do, however, cry out for an explanation. While raw numbers of prosecutions brought against a particular race do not prove discrimination, comparisons of factually similar cases can prove it. This is the statistical proof required under the Racial Justice Act title of the House crime bill.

Allowing proof of discrimination in death penalty cases does not eliminate the death penalty. And, it will not impose a quota system. It only attempts to ensure that we will not allow the State to kill based upon race. The imposition of death is a decision that cannot be undone. The least we can do is make sure that race is not a factor in making the horrible choice to ask for the death of another human being.

Mr. President, I yield the floor and in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. PELL assumed the chair.)

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.

UNANIMOUS-CONSENT AGREEMENT

Mr. BRYAN. Mr. President, I ask unanimous consent that at 4:30 p.m. on Wednesday, May 11, the Senate resume consideration of S. 1935, with 30 minutes, as provided for under a previous unanimous-consent agreement, remaining for debate on the D'Amato amendment, No. 1685, relating to racial justice; that at 5 p.m. Wednesday, without any intervening action, the Senate vote on or in relation to the D'Amato amendment; that upon disposition of that amendment, and without intervening action, the committee substitute, as amended, be agreed to; that the bill be read a third time, and the Senate vote on passage of S. 1935.

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

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

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. 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.

GATT CONCERNS

Mr. PRESSLER. Mr. President, I wish to raise further concerns about the new GATT agreement soon to be addressed by the Senate.

Mr. President, I have spoken on the Senate floor once before about the new GATT agreement that the United States recently signed. I am very worried that we are agreeing to something which could put us at a trade disadvantage. At first glance, the new GATT agreement looks good. Indeed, I stand here as a free trader. I believe in free trade as long as it is on an equal basis. If other countries will allow our products to go into their countries, we should allow their products to come here on an equal basis.

So frequently some people think that free trade is just access to the U.S. market, and that when our products go there, they are inspected and re-inspected or face other trade barriers that keep our products out.

I believe the American farmer, the American worker, and American business can compete anywhere in the world on a fair playing field. But under this GATT Treaty a 125-nation council will be established where each country will have one vote. Most of the countries in the world are dictatorships, very frankly. They are not democracies. Many of them are kleptocracies; that is, leaders steal from their own people to enrich themselves. That is what we are dealing with. We do not have a family of nations in this world that are democracies. We do not have a family of nations in this world where human rights are widely respected.

So the United States is 1 vote out of 120. I am afraid that trade policy could be imposed upon the United States, or assessments will be imposed upon our taxpayers. The final result will be unfair trade for the developed nations.

The GATT Treaty is not set up like the United Nations where you have a Security Council of major powers who can stop something from going through. In fact, the really important issues in the United Nations are not voted on by all the countries in the General Assembly. They are decided by the so-called "Security Council," the five most important powers. That is not the case in this new GATT Treaty.

I would say that in 5 or 10 years down the road, we will regret having agreed to this GATT agreement.

The full consequences of this agreement are just beginning to come to light. Congressional interest in the WTO is growing daily. Many questions and concerns are being raised. Unfortunately, there appear to be more questions than answers.

I have many concerns about the proposed WTO. What impact on U.S. laws

will this organization have? What will be its budget? How many taxpayer dollars will be spent on the WTO? Who will the WTO, with its unelected bureaucrats, be answerable to?

There are many questions to be answered before we vote on legislation to commit the United States to participating in this entity. I have joined my colleague Senator HELMS in requesting that the Senate Foreign Relations Committee hold a hearing on the WTO as soon as possible. Mr. President, I ask unanimous consent that a copy of that request be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. The World Trade Organization is one concern arising from the new GATT agreement. Though it could be argued that the WTO is created by treaty, it is not being presented as a treaty. I think it should be a treaty so we would have to have 60 votes here in the Senate to confirm it. However, it is being submitted as an agreement, which means it will only need 51 votes.

Another concern is the likely impact of the new agreement on U.S. agriculture. International trade expansion is the key to the future of U.S. agriculture. We must open more world markets to U.S. farmers and ranchers.

The goal of the latest round of GATT negotiations, the Uruguay round, was to reduce tariffs and import barriers. For the first time, the GATT will cover agricultural trade. The potential impact of the new agreement on agriculture is a major concern of mine.

Last Congress, and again in this Congress, I introduced a resolution to establish as U.S. Senate policy that meaningful reforms with respect to agricultural subsidies must be achieved in the new GATT.

I ask unanimous consent that a copy of Senate Resolution 12, and my opening statement on it, appear at the end of my remarks.

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

(See exhibit 2.)

Mr. PRESSLER. Mr. President, I also have some real problems with how the new GATT agreement deals with the use of agricultural subsidies. Allowing other countries, like the European Union [EU], to continue their protectionist agricultural subsidy programs means that South Dakota farmers and ranchers would continue to face unfair foreign competition, as would farmers and ranchers throughout the country.

The United States has substantially reduced its agricultural subsidies over the past 10 years, while the EU has increased subsidies. This has cost U.S. farmers and ranchers billions of dollars in lost exports and thousands of jobs. Every farmer and rancher in South Dakota knows that higher grain, dairy,

and meat prices depend on better access to foreign markets. We must keep pressure on the EU to make major reductions in its export subsidies.

Mr. President, it may not be well known, but the United States has reduced its agricultural subsidies on a 5-year plan. We have had two 5-year farm bills since I have been here in the Senate that have reduced each year the level of subsidy, and we would do it faster if the Europeans would match.

This Nation's largest farm organization, the Farm Bureau, is for eliminating subsidies entirely. But it means Europe must also reduce those—our competitors—and they must also reduce their export subsidies, because Europe has a practice of taking their surplus grain, or whatever they have, and whatever they do not need, they undersell the United States with export subsidies. That is not fair to our ranchers and farmers.

I pay tribute to Australia and New Zealand, who have reduced their agricultural subsidies faster than anybody else, and they have been paying a price. The Canadians say they are doing so, but they have transportation subsidies for wheat and unfair pricing tactics that has caused many problems for U.S. wheat farmers. The point is that our agricultural industry is willing to do its share in reducing subsidies to get to free trade, but the Europeans—especially the French and Germans—their governments have not been willing to do that. We should keep that in mind.

I am a free trader. Historical experience has demonstrated that the free trade of goods between countries promotes prosperity and economic growth for all. It is not just agriculture, but also manufacturing, and services, and other things.

Many countries say they practice free trade when, in reality, they do not. The United States has one of the most open markets in the world. Yet, many of our products do not receive reciprocal treatment in foreign countries.

Earlier this week, the Journal of Commerce reported that the new GATT agreement will not change distortions of the world market caused by heavy farm subsidies.

I ask unanimous consent to have this article printed in the RECORD at this time.

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

[From the Commerce Journal, May 3, 1994]
FARM SUBSIDIES EXPECTED TO SURVIVE GATT PACT

(By Tara Patel)

PARIS.—The global accord on agriculture struck as part of the Uruguay Round world-trade pact will not change distortions on the world market caused by heavy farm subsidies, according to trade experts attending a conference last week in Paris.

Agriculture was among the most difficult areas of last year's trade negotiations under the auspices of the General Agreement on Tariffs and Trade.

Although a compromise was finally reached, trade experts, negotiators and academics who gathered last week in Paris to analyze the "New World Trading System" at a conference sponsored by the Organization for Economic Cooperation and Development generally agreed the new trade pact will do little to eliminate heavy government intervention in agriculture.

"The farm trade deal was oversold," said one trade expert who asked not to be named.

Another observer concluded, "If governments were allowed a free-for-all (on farm policy), things would get worse, but the Uruguay Round has merely put a halt to the more aberrant behavior."

In the area of market access, the participants identified a major problem in the high level of initial tariffs of many countries resulting from their translation of 1988-90 quotas into tariffs.

Experts agreed that these tariffs, sometimes several times higher than the prices of the goods, will do little toward liberalizing the farm trade even after being reduced by the required 15%.

Another problem area, according to trade officials, is the special safeguard section in the agreement. Experts said they expect the higher-than-normal tariffs that can be charged under this provision, and can be triggered by either a surge in imports or a fall in the market price, to be applied often if not most of the time.

Furthermore, one official said, the provisions can even be shipment specific in some cases, making the tariffs potentially discriminatory.

Another shortcoming is that governments will be allowed to keep protective tariffs on "sensitive" products.

Experts said the biggest impact of the farm trade deal will be felt from new constraints on export subsidies. But most conceded even those provisions will not eliminate heavy state subsidies in some areas.

One estimate said subsidies will only have to be one-fifth lower by 2000 than in the late 1980s to comply with the agreement. The impact also is expected to be lessened by the fact that some countries already have undertaken reform. Problems with implementation are also expected in countries with high rates of inflation or wide fluctuations of exchange rates.

Mr. PRESSLER. Mr. President, the Senate needs to take note of this situation. The United States made significant concessions in limiting the future use of agricultural subsidies under the agreement. In fact, the administration is claiming that U.S. agriculture is the big winner in the agreement. As a result, it is looking for budget cuts in agriculture to help pay for the new agreement.

We are learning that while the United States has agreed to significant cutbacks in the use of agriculture subsidies, the rest of the world will be allowed to continue the status quo. As the article notes, the farm trade deal has been oversold.

How to pay for GATT is another major concern. The House needs to find \$13.9 billion in budget offsets over the next 5 years, and the Senate needs to find \$40 billion in offsets over the next 10 years to make up for the lower revenues resulting from GATT tariff reductions.

Everyone seems to be looking principally at agriculture to find most of these savings. Mr. President, it has not yet been proven that agriculture will reap the gains that have been claimed. I am not prepared to accept major budget cutbacks in agriculture programs until the claimed significant agriculture gains are demonstrated.

Concern over this issue is widespread among major agricultural groups. A broad coalition of agriculture groups recently wrote to President Clinton to say they could not support legislation implementing the proposed new agreement if U.S. agriculture is asked to bear a disproportionate share of the new agreement. The letter was signed by 22 major agriculture groups.

I ask unanimous consent that a Farm Bureau News article be printed in the RECORD at the end of my remarks.

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

(See exhibit 3.)

Mr. PRESSLER. Mr. President, that letter tells it all. The Senate should not agree to implement any trade agreement that does not benefit American agriculture. The jury is still out on how this agreement affects U.S. agriculture.

Mr. President, other issues need to be addressed, such as permissive subsidies on research and development; the impact on intellectual property rights; and the degree of access for the U.S. motion picture industry to European Union markets. I will address these in later speeches outlining my concerns with the new GATT agreement.

So, Mr. President, in conclusion, let me say that I think the significance of these GATT agreements are being overlooked by the Senate and by the United States. I do not know why they are not a treaty, or why they are not an executive agreement. But the only way the Senate can slow them down or stop them is by not passing the implementing legislation, and that is an unfortunate situation to be in. But it may well be that the GATT trade agreement will be one of the worst things for the United States, because we are turning over our trade policy to a 120-nation world trade organization of which we are only one vote, and there is no Security Council or anything else. We are not going in with a group of nice guys so-to-speak. Of these 120 nations, over half of them are dictatorships, and they have totally different values than we do, and they want to take advantage of the United States if they can.

Once the WTO is created, then we have to pay our dues to the organization. The U.S. will have to accept trade decisions of the WTO or face trade restrictions, retaliations, or other actions on U.S. trade.

This will not only affect agriculture, but it will affect manufacturing more, and goods and services. It is really a major decision in trade for this country.

Many years ago, as a young lawyer, I worked in the State Department, in the legal adviser's office on GATT matters. I have followed GATT closely over the years. It has been, generally speaking, a good organization. But we have never before turned over such power to a world trade organization. We have never before, in any of the international organizations we are in, given so much authority over the sovereignty of the United States to a WTO, a world trade organization. And we have never before agreed to allow the other side to keep their subsidies so much, whereas we have cut ours back.

So, once again, the United States is being the good guy. Our workers and our farmers and our manufacturers cannot have domestic subsidies, but the people they compete against can. Our workers and farmers and businessmen cannot have an export subsidy, but others are allowed to have it in this GATT agreement, this General Agreement on Trade and Tariffs.

I see this as something that the Senate should be alarmed about and the country should be alarmed about. I am glad that some people have come forward and started to talk about it. But this is the sleeper issue of the year, and if we pass this thing, everything will be all right for a year or two, because the initial rounds have been agreed to. But in 2 or 3 years, we are going to regret it a great deal.

I am giving a series of speeches on the Senate floor—and this is my second one—to try to alert people and groups as to what is going on.

Mr. President, I hope America wakes up on the GATT trade agreement.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, May 4, 1994.

Hon. CLAIBORNE PELL,
Chairman, Foreign Relations Committee, U.S.
Senate, Washington, DC.

DEAR CLAI: The Senate soon will consider legislation to implement the General Agreement on Tariffs and Trade (GATT). Among other things, this new trade agreement creates the World Trade Organization.

Various aspects of the WTO raise some profound questions—for example, will the sovereignty of the United States be affected and, if so, in what ways and to what degree? And how much funding will the United States be required to contribute to the WTO?

These are important questions that must be discussed before the Senate considers implementing legislation.

Since the Foreign Relations Committee has jurisdiction over international organizations, we urge that you schedule hearings on the World Trade Organization as soon as possible. It goes without saying that we will gladly work with you in assembling witnesses for the hearings.

Kindest regards.

Sincerely,

Senator JESSE HELMS,
Senator LARRY PRESSLER.

EXHIBIT 2

SENATE RESOLUTION 12—RELATIVE TO GATT NEGOTIATIONS

Mr. PRESSLER (for himself, Mr. Heflin, and Mr. Wallop) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 12

Whereas in 1986, negotiations on an international agreement to reform the General Agreement on Tariffs and Trade (hereafter in this resolution referred to as "GATT") began in Punta del Este, Uruguay, with a targeted conclusion date of December 1990;

Whereas the United States and other major agricultural exporting nations insisted from the start on significant reductions in the subsidy programs operated by the European Community under its Common Agricultural Policy;

Whereas in December 1990, after the European Community decided against reducing the subsidy programs of its Common Agricultural Policy, no international agricultural subsidy reduction agreement was reached;

Whereas in November 1991, the European Community indicated some willingness to reduce its export subsidies during the GATT negotiations;

Whereas in November 1992, the European Community agreed to certain reductions in its export subsidies;

Whereas American agriculture has a long tradition of supporting international efforts to achieve more open markets and fairer rules governing world agricultural trade;

Whereas the support of United States farmers and ranchers for multilateral and other trade negotiations depends on the success of the Uruguay Round GATT negotiations in achieving agricultural subsidy reductions in the European Community; and

Whereas any agreement under the GATT that is not supported by American farmers and ranchers would not be acceptable to the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that any agreement regarding proposed changes to the GATT must—

(1) achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market;

(2) achieve new and expanded foreign market opportunities for United States farm products;

(3) ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community;

(4) not limit the United States ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future; and

(5) achieve a sound agreement governing sanitary and phytosanitary regulations.

Mr. PRESSLER. Mr. President, during the 102d Congress I introduced a resolution to establish U.S. Senate policy that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations. Today, I join several of my colleagues in reintroducing that resolution.

By meaningful, we mean that any new GATT Agreement must ensure fair trade opportunities for American farmers and ranchers. Growth in exports is the key to a better future for U.S. agriculture. We must expand world market opportunities for U.S. farmers and ranchers.

A new agreement also would shape significantly the future economic growth of the world's developing and lesser developed countries. The concessions afforded those countries could determine their future economic growth and potential for development. This could be significant for the United States, since 40 percent of U.S. agricultural trade is with the world's developing and lesser developed countries. Some of the largest consumers of U.S. farm products once were economically less-developed countries.

Mr. President, the Uruguay round of GATT negotiations to establish new trading rules in agriculture have been focused on three areas: Internal support, market access, and export competition. The arduous negotiations of the past 6 years have resulted in certain agreements being reached, and now the talks are entering their final stretch. If we are to have a successful conclusion to the Uruguay round, the United States must continue to insist that measurable improvements be made in each of these areas.

The Uruguay round originally was scheduled to be concluded in December 1990. At that time, the United States was calling on the European Community [EC] to reduce its domestic agricultural subsidies by 75 percent and its export subsidies by 90 percent over a 10-year period. This demand marked a retreat from the original U.S. position of total elimination of all agricultural subsidies. Still, the EC balked and walked away from the negotiations.

In December 1991, efforts again were made to reach a consensus agreement. Though the United States continued to insist on its modified position, discussion centered on a 36-percent reduction in export subsidies and a 20-percent reduction in domestic subsidies over a 6-year period. Expectations were high and many believed that a breakthrough was near. I was concerned that the United States might back down on some demands simply to reach a new agreement. Fortunately, that did not occur.

Mr. President, at that time, I wrote the President and the U.S. Trade Representative urging them not to back down from our demands that Europe cease to practice agricultural protectionism. No consensus was reached, and GATT Director General Arthur Dunkel Proposed a draft final agreement embracing a 36-percent reduction in export subsidies and 20-percent reduction in domestic subsidies over a 6-year period. The so-called Dunkel proposal is now the center of negotiations on agricultural trade in the Uruguay round.

The recent threat of United States retaliation to counter the European Community's GATT-illegal oilseed regime forced some movement on the part of the European Community. The agreements made in November 1992 offered renewed hope for concluding the talks. However, since November, concerns over market access in the European Community for United States agricultural products have been raised. In fact, close examination of the agreements reached to date could actually result in fewer agriculture exports to the EC. Mr. President, this cannot be allowed to happen. I will oppose any GATT rules that hurt American farmers and ranchers.

According to industry sources, elimination of EC agricultural supports, such as variable levies and export subsidies, could boost U.S. farm exports in all markets between \$4 and \$5 billion, while at the same time reduce U.S. imports about \$2 billion. Among key commodities, U.S. grain exports could rise about \$1.8 billion, with imports dropping \$22 mil-

lion. Meat and egg exports could increase \$1.3 billion, while imports could fall almost \$2.4 billion.

Mr. President, the effect of such gains would be substantial. Every billion dollars' worth of agricultural exports means 26,000 new jobs here in the United States.

Allowing the EC to continue its protectionist agricultural subsidy programs means that South Dakota farmers and ranchers would continue to face unfair foreign competition. Every farmer and rancher in South Dakota knows that higher grain, dairy, and meat prices depend on better access to foreign markets. EC export subsidies deprive our farmers and ranchers of billions of dollars in foreign sales.

A new GATT Agreement that meaningfully addresses the problem of EC agricultural subsidies would increase the U.S. share of world export markets in grains and meats. Such an agreement likely would result in little change in Government supports and higher market prices for most U.S. commodities. World prices for most agricultural commodities likely would be higher than under a continuation of current policy. Reducing export subsidies and import barriers would increase world demand. U.S. taxpayers, and U.S. grain, oilseed, and livestock producers, would benefit from meaningful GATT reforms.

Mr. President, the Dunkel proposal submitted in December 1991 does not go far enough. U.S. farmers and ranchers currently are forced to compete on an uneven playing field. It would remain uneven under the Dunkel proposal. Therefore, our negotiators must work to level this playing field by insisting on further concessions from the EC.

The drama of the negotiation process will continue and any final agreement probably will be reached in an 11th-hour deal. Unless a significant reduction in agricultural subsidies—at both the export and domestic levels—is achieved, the Uruguay round of GATT negotiations will be doomed to failure.

EXHIBIT 3

[From the American Farm Bureau Federation, Apr. 18, 1994]

FARM GROUPS OPPOSE AG CUTS TO FINANCE GATT PACT

The Uruguay Round world trade agreement was formally signed last week by more than 100 member nations in Marrakesh, Morocco. But a coalition of farm groups, including Farm Bureau, is concerned that the cost of the agreement could fall unfairly on U.S. agriculture.

In a letter to President Clinton, the groups said that if U.S. agriculture is asked to bear a disproportionate share of the cost of the General Agreement on Tariffs and Trade, they could not support legislation implementing the proposed agreement.

Some estimates show that by reducing tariffs on imports, the agreement could reduce U.S. government revenues by \$14-\$18 billion. Such estimates, the groups noted, are highly subjective and fail to consider the potential for increased revenues due to expanding trade and increased economic activity, which help create jobs and an expanded tax base.

"It is our understanding the administration has under consideration various proposals, including requiring significant reductions in current farm and related programs, to help offset a major proportion of such revenue losses," the letter said. "This is despite the fact that tariff revenue losses from agricultural imports account for only about 5 percent or less of the estimated total."

The administration has repeatedly assured farm organizations that the new GATT agreement would not require any further reduction in domestic income and price-support programs, the groups said.

"In meeting after meeting, we were repeatedly assured that the new GATT agreement would not require any further reduction in domestic income and price-support programs," the letter said. At the same time, the administration emphasized its commitment to fully use its authority under GATT to maintain U.S. agriculture's ability to compete internationally.

The coalition is concerned, however, that payment for the GATT agreement will fall disproportionately on the agricultural sector, which already has seen significant spending cuts in recent years.

Under the negotiated GATT agreement, tariffs in participating countries would be reduced on a wide range of products. But while the agreement requires countries to reduce their use of export subsidies, it allows them to maintain—or even increase—their support for certain non-trade-distorting ("green box") programs. The coalition urged the president to shift current funding from reduced or disallowed programs to those that are permitted.

Agricultural support programs considered in the "green box category" include market development and promotion, export credit, food aid and other related programs. The budget currently under consideration would significantly reduce many of these programs, even though they are permitted by GATT.

"Unless these concerns are addressed, it is hard to envision how U.S. agriculture stands to gain as a result of the new GATT agreement," the letter said.

The GATT agreement was negotiated over a seven-year period. Before it can take effect, most participating countries must bring their own domestic laws into compliance with the GATT agreement. The U.S. Congress may take up this implementing legislation later this year.

The coalition includes the following organizations: American Farm Bureau Federation; American Meat Institute; American Sheep Industry Association; Coalition For Food Aid; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Corn Growers Association; National Cotton Council; National Council of Farmer Cooperatives; National Farmers Union; National Grange; National Milk Producers Association; National Pork Producers Council; National Potato Council; National Sunflower Association; National Turkey Federation; Rice Millers Association; United Fresh Fruit and Vegetable Association; and U.S. Rice Producers Group.

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

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

NATIONAL ENVIRONMENTAL TECHNOLOGY ACT OF 1993

The PRESIDING OFFICER. The offering of amendments to S. 1935 has

concluded for this day. Therefore, under the previous order, the Senate will now proceed to the consideration of S. 978, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 978) to establish programs to promote environmental technology, and for other purposes, which had been reported from the Committee on Environment and Public Works with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "National Environmental Technology Act of 1993".

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

Sec. 3. Definitions.

TITLE I—NATIONAL ENVIRONMENTAL TECHNOLOGY PANEL

Sec. 101. Establishment.

Sec. 102. Membership.

Sec. 103. National Environmental Technology Strategy.

Sec. 104. Coordination of budget requests for environmental technology.

Sec. 105. Report to Congress.

Sec. 106. Termination.

TITLE II—BUREAU OF ENVIRONMENTAL TECHNOLOGIES; CLEARINGHOUSE

Subtitle A—Bureau of Environmental Technologies

Sec. 201. Establishment.

Sec. 202. Reports.

Sec. 203. Environmental technology export promotion.

Subtitle B—Environmental Technology Clearinghouse

Sec. 211. Establishment.

TITLE III—ENVIRONMENTAL INNOVATION RESEARCH PROGRAM; TECHNOLOGY TESTING

Subtitle A—Environmental Innovation Research Program

Sec. 301. Environmental innovation research program.

Sec. 302. Guidelines and regulations of the environmental innovation research program.

Subtitle B—Innovative Technology Testing

Sec. 311. Program.

TITLE IV—ADDITIONAL PROGRAMS

Subtitle A—Verification of Environmental Technologies

Sec. 401. Program.

Subtitle B—Environmental Technology Advisory Council

Sec. 411. Establishment.

Sec. 412. Report by the Comptroller General.

Subtitle C—Coordination With National Institute of Standards and Technology

Sec. 421. Coordination with National Institute of Standards and Technology.

Sec. 422. Coordination with other federally supported extension programs.

Sec. 423. Statutory construction.

SEC. 2. FINDINGS AND PURPOSES.

(a) *FINDINGS.*—Congress finds that—

(1) environmental problems facing the world pose a threat to the environmental and economic security of the United States and other nations;

(2) promoting a sound economy while maintaining a healthy environment is among the ur-

gent public policy challenges of the United States;

(3) the development and utilization of environmental technologies will enhance both global environmental security and the economic standing of the United States in the world marketplace;

(4) the growing worldwide demand for environmentally sound products and processes, and for cost-effective environmental cleanup and pollution control technologies, presents significant business opportunities;

(5) innovative environmental technologies face barriers to commercialization and utilization, and are often slow to be adopted;

(6) advances in source reduction, environmental cleanup, and pollution control technologies could significantly reduce Federal Government and private cleanup expenditures, improve cleanup results, and help prevent future contamination;

(7) the development and implementation of effective public and private partnership arrangements will help promote successful technology development programs;

(8) a coordinated, interagency strategy for environmental technology will greatly facilitate the development of critical environmental technology that can respond to environmental programs and create jobs and new sources of income; and

(9) successful Federal Government programs to foster the development and utilization of environmental technology depend on coordination and cooperation among agencies involved in environmental protection and agencies involved in technology development.

(b) *PURPOSES.*—The purposes of this Act are—

(1) to further environmental protection, spur the creation of jobs, and enhance the ability of domestic companies to compete in the international marketplace by facilitating the development and utilization of environmental technologies;

(2) to encourage the development and utilization of environmental technologies that prevent pollution;

(3) to help overcome market barriers that hinder the successful commercialization of environmental technologies; and

(4) to coordinate Federal Government policies, actions, and budgets with respect to environmental technologies.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) *ADMINISTRATOR.*—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) *BUREAU.*—The term "Bureau" means the Bureau of Environmental Technologies established under section 201.

(3) *COVERED FEDERAL AGENCY.*—The term "covered Federal agency" means a Federal agency for which, for a fiscal year, an amount greater than \$50,000,000 is made available for environmental cleanup.

(4) *CRITICAL ENVIRONMENTAL TECHNOLOGY.*—The term "critical environmental technology" means environmental technology that—

(A) embodies a significant technical advance;

(B) has the potential to bring about large, cost-effective reductions in risk to human health or the environment;

(C) is broadly applicable at the precommercial stage; and

(D) if adopted, is reasonably expected to result in a favorable ratio of social to private returns.

(5) *DIRECTOR.*—The term "Director" means the Director of the Bureau established under section 201.

(6) *ENVIRONMENTAL INNOVATION RESEARCH.*—The term "environmental innovation research" means research related to the development, application, or commercialization of environmental technology.

(7) **ENVIRONMENTAL TECHNOLOGY.**—The term "environmental technology" means an advanced or improved technology, product, process, or service that reduces environmental risks by protecting or enhancing the environment through source reduction, design or process changes, pollution control, or environmental remediation.

(8) **FUNDING AGREEMENT.**—The term "funding agreement" means a contract, cooperative agreement, grant agreement, patent agreement, royalty agreement, license agreement, equity agreement, or other appropriate legal agreement between the head of a covered Federal agency and a private business concern, government, academic or nongovernment entities to provide funding and support to carry out environmental innovation research.

(9) **SMALL BUSINESS CONCERN.**—The term "small business concern" means a business concern that is recognized as a small business concern under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(10) **SOURCE REDUCTION.**—The term "source reduction" has the same meaning as is provided for the term in section 6603(5) of the Pollution Prevention Act of 1990 (42 U.S.C. 13102(5)).

TITLE I—NATIONAL ENVIRONMENTAL TECHNOLOGY PANEL

SEC. 101. ESTABLISHMENT.

There is authorized to be established, within the Office of Science and Technology Policy of the Executive Office of the President, a National Environmental Technology Panel (referred to in this title as the "Panel"), to operate as a panel of the Federal Coordinating Council for Science, Engineering, and Technology. The Panel shall be responsible for coordinating environmental technology programs within the Federal Government and the development of a National Environmental Technology Strategy.

SEC. 102. MEMBERSHIP.

The Panel shall consist of the heads of agencies with substantial investment or interest in the development and utilization of environmental technology or the designees of the heads (or a combination of heads of agencies and designees). The Director of the Office of Science and Technology Policy, shall appoint the Chairperson of the Panel (referred to in this title as the "Chairperson").

SEC. 103. NATIONAL ENVIRONMENTAL TECHNOLOGY STRATEGY.

(a) **DEVELOPMENT.**—Not later than 1 year after the date of establishment of the Panel, the President, with advice from the Panel, shall develop a National Environmental Technology Strategy (referred to in this section as a "Strategy"). The Strategy shall—

(1) identify areas that would benefit from the development of critical environmental technology;

(2) prioritize the areas identified under paragraph (1) based on trends in global and domestic environmental threats and the potential for environmental and economic benefits;

(3) recommend effective public and private partnership arrangements for the development and utilization of environmental technologies;

(4) recommend approaches to encourage the commercialization and utilization of environmental technologies, with special attention to small business concerns; and

(5) identify economic, regulatory, and other barriers to, and incentives for, the development, utilization, and export of environmental technologies, and recommend appropriate actions in response to the identification.

(b) **REVISION OF STRATEGY.**—The Panel shall review and, if appropriate, recommend that the President revise the Strategy not less frequently than once every 3 years.

(c) **COORDINATION WITH OTHER GROUPS.**—

(1) **IN GENERAL.**—The Panel shall, to the extent practicable, consult with public and private organizations involved in technology development and commercialization, and organizations involved in making recommendations for converting research on military applications to civilian uses.

(2) **TECHNICAL SUPPORT.**—The Chairperson may request technical and policy assistance from members of the Panel and other organizations, including the Academies of Science and Engineering.

SEC. 104. COORDINATION OF BUDGET REQUESTS FOR ENVIRONMENTAL TECHNOLOGY.

(a) **IN GENERAL.**—The head of each Federal department or agency shall, as part of the annual request of the department or agency for appropriations pursuant to section 1108 of title 31, United States Code, submit a report to the Office of Management and Budget and the Chairperson that—

(1) identifies the activities of the department or agency that promote, develop, or support environmental technology; and

(2) states that portion of the request of the department or agency for appropriations that will be allocated to activities that promote, develop, or support environmental technology.

(b) **REVIEW AND REPORT.**—Beginning with the first budget cycle after the Strategy under section 103 is completed—

(1) the Director of the Office of Management and Budget and the Chairperson shall review the report of each department and agency submitted under subsection (a), in light of the goals, priorities, and responsibilities of the department or agency as may be set forth in the Strategy; and

(2) the annual budget submitted by the President pursuant to section 1105 of title 31, United States Code, shall include a statement indicating those portions of the annual budget of each department and agency that relate to activities covered by the Strategy.

SEC. 105. REPORT TO CONGRESS.

Not later than 1 year after the date of establishment of the Panel, and every 3 years thereafter, the Chairperson shall submit a report to Congress that includes a summary of all Panel activities.

SEC. 106. TERMINATION.

The authority provided by this title shall terminate on the date that is 7 years after the date of enactment of this Act.

TITLE II—BUREAU OF ENVIRONMENTAL TECHNOLOGIES; CLEARINGHOUSE

Subtitle A—Bureau of Environmental Technologies

SEC. 201. ESTABLISHMENT.

(a) **IN GENERAL.**—There is established, within the Environmental Protection Agency, the Bureau of Environmental Technologies which shall be headed by a Director.

(b) **FUNCTIONS.**—The Director shall—

(1) in cooperation with the heads of other agencies, support and assist the development of process or products, oriented research, development, and demonstration of environmental technology at the precommercial stage by industrial, academic, governmental, and nongovernmental entities;

(2) using information that is either in the public domain or voluntarily submitted, track on a continuing basis the research and development being conducted on environmental technologies by private industry in the United States;

(3) in cooperation with the heads of other agencies, develop and promote the transfer of environmental technologies and mechanisms to address international environmental problems;

(4) develop and maintain a clearinghouse, as established under subtitle B, to provide informa-

tion to private and public concerns that develop, apply, or export environmental technology;

(5) advise other officials, as appropriate, within the Environmental Protection Agency and within other Federal departments and agencies, concerning programs, strategies, and regulatory reforms for promoting the development and utilization of environmental technology;

(6) to the extent allowable by law, in cooperation with the Administrator or the head of any other Federal agency that the Director determines to be appropriate, facilitate the availability of an initial market for environmental technologies, including development of recommendations for changes in Federal procurement guidelines;

(7) in coordination with the Secretary of Defense, provide advice and assistance to regional technology centers and similar community-based alliances that are supporting a transition from defense technology research, development and production to environmental technology research, development and production, including—

(A) ensuring that the centers and alliances have ready access to the technology clearinghouse established under subtitle B; and

(B) on a regular basis, informing the centers and alliances of Federal Government environmental technology development program needs and opportunities;

(8) consult with the Panel authorized under title I; and

(9) coordinate the activities of the Bureau with the activities undertaken pursuant to title III.

(c) COOPERATIVE AGREEMENTS AND FUNDING AGREEMENTS.—

(1) **IN GENERAL.**—In carrying out the functions of the Bureau under this subtitle, the Director may enter into a cooperative agreement or funding agreement with—

(A) a department or agency of the United States;

(B) a unit of State or local government;

(C) an educational institution;

(D) nonprofit research centers; or

(E) a company that is incorporated in the United States or has a parent company that is incorporated in the United States or is incorporated in a country that the Secretary of Commerce determines affords—

(i) to all foreign and domestic companies opportunities similar to the opportunities afforded under this subsection; or

(ii) adequate and effective protection for the intellectual property rights of all foreign and domestic companies.

(2) **LIMITATION.**—A grant, loan, or loan guarantee made pursuant to this section shall be limited to no more than 5 years.

(d) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), the Federal share of the cost of a project conducted under this section may not exceed 50 percent.

(2) **SMALL BUSINESS CONCERNS.**—Except as provided in paragraph (3), the Federal share of the cost of a project conducted pursuant to a cooperative agreement or funding agreement entered into with a small business concern under this section may not exceed 75 percent.

(3) **INCREASED FEDERAL SHARE.**—The Federal share of the cost of a project conducted under this section may exceed the limitations under paragraphs (1) and (2) if the Director finds that—

(A) the project is for the development of critical environmental technology that the Panel determines pursuant to title I to be of high priority; and

(B) the Director determines that the applicant would be financially unable to meet the matching requirements of paragraphs (1) or (2).

(e) PROGRAM REQUIREMENTS.—**(1) SELECTION CRITERIA.—**

(A) **IN GENERAL.**—Not later than 180 days after the date of establishment of the Bureau, the Director shall publish in the Federal Register proposed criteria, and not later than 1 year after the date of establishment of the Bureau, following a public comment period, final criteria, for the selection of recipients of funding agreements under this section.

(B) **CRITERIA.**—The selection criteria under subparagraph (A) shall—

(i) include requirements outlining business plans;

(ii) give special consideration to the needs of small business concerns; and

(iii) be consistent with the source-reduction hierarchy established in section 6602(b) of the Pollution Prevention Act of 1990 (42 U.S.C. 13101(b)).

(C) **CONSIDERATION.**—In determining whether to enter into a funding agreement with a joint venture, the Director may consider whether the members of the joint venture have provided for the appropriate participation of small business concerns in the joint venture.

(D) **SET-ASIDE FOR SMALL BUSINESS.**—Not less than 25 percent of the funds made available under this section shall be made available to fund the Federal share of the cost of projects conducted pursuant to cooperative agreements or funding agreements entered into with small business concerns.

(2) **ADMINISTRATION OF PROGRAM FUNDS.**—In cooperation with the heads of other agencies, the Director is authorized to—

(A) determine categories of projects to be funded by the Bureau;

(B) issue solicitations for projects to be funded by the Bureau;

(C) receive and evaluate proposals resulting from solicitations;

(D) select participants for funding agreements of the Bureau;

(E) administer the funding agreements of the Bureau; and

(F) make payments to recipients of funding agreements on the basis of progress toward, or completion of, the funding agreement requirements.

(3) CONSULTATION.—

(A) **IN GENERAL.**—The Director shall, as appropriate, consult with experts in the Federal Government, the private sector, academia, and nonprofit groups before making offers for participation in funding agreements.

(B) **CONFIDENTIALITY.**—The Director shall ensure that the confidentiality of all proposals submitted under subparagraph (A) is protected at all times (including when consulting with experts under this paragraph).

(4) **FINANCIAL REPORTING AND AUDITING.**—The Director, in consultation with the chief financial officer of the Environmental Protection Agency, shall establish appropriate financial reporting and auditing procedures for the Bureau.

(5) **DISSEMINATION OF RESEARCH RESULTS.**—The Director shall provide for the dissemination of nonproprietary research results of the projects supported by the Bureau including the dissemination of results through the clearinghouse established under subtitle B.

(6) CONFIDENTIAL INFORMATION.—

(A) **INTELLECTUAL PROPERTY.**—Except as provided in subparagraph (B), trade secrets or confidential business information or information classified for reasons of national security may not be disclosed by an officer or employee of the United States acting under any provision of this Act. The information shall not be subject to disclosure under section 552 of title 5, United States Code.

(B) **EXCEPTION.**—Confidential business information may be disclosed in accordance with a

written agreement between the owner or developer of the information and the Director.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) **IN GENERAL.**—There are authorized to be appropriated to carry out this section—

(A) \$36,000,000 for fiscal year 1994;

(B) \$80,000,000 for fiscal year 1995; and

(C) \$120,000,000 for fiscal year 1996.

(2) **LIMITATION ON USE.**—Of amounts appropriated to carry out this section, not more than 10 percent for fiscal year 1994, and 5 percent for each year thereafter, may be used to pay for administrative expenses of the Bureau.

(3) **FEDERAL COOPERATIVE AGREEMENTS.**—The Director may allocate a significant percentage of the amounts made available to the Bureau for the purpose of entering into cooperative agreements for funding environmental technology development projects with other departments or agencies of the United States.

SEC. 202. REPORTS.

(a) **IN GENERAL.**—The Director shall, not less frequently than every 3 years, and at such other times as the Director considers to be appropriate, submit a report to Congress describing—

(1) the activities of the Bureau, including descriptions and funding levels of all projects developed with assistance from the Bureau;

(2) the implementation and operation of the environmental innovation research programs under subtitle A of title III; and

(3) the manner and extent to which technologies developed with assistance from the Bureau have been commercialized and used.

(b) **RECOMMENDATIONS.**—A report submitted under this section may include recommendations for program improvements.

SEC. 203. ENVIRONMENTAL TECHNOLOGY EXPORT PROMOTION.

In cooperation and consultation with the Secretary of Commerce and the heads of other agencies involved in export promotion as appropriate, the Director may—

(1) collect and disseminate through the clearinghouse established under subtitle B, information useful for promoting the export of environmental technology, including information concerning—

(A) sources of financial assistance;

(B) sources of technical assistance; and

(C) the environmental needs of foreign countries; and

(2) consult with the heads of other Federal agencies to facilitate the export of environmental technologies and recommend appropriate administrative actions for promoting the export of environmental technology.

Subtitle B—Environmental Technology Clearinghouse**SEC. 211. ESTABLISHMENT.**

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Director shall establish an operational electronic database to serve as a clearinghouse for the collection and dissemination of nonproprietary information on environmental technology, including—

(1) descriptions of environmental technologies developed, tested, or verified under the programs established under this Act; and

(2) information compiled under section 203.

(b) **ACCESS TO CLEARINGHOUSE.**—The clearinghouse shall be made available through an electronic data system (such as a computer bulletin board) and in paper report format, and shall be publicly available at reasonable cost.

(c) **COMPATIBILITY.**—The clearinghouse established under this section shall be compatible with data systems used by the Manufacturing Technology Centers administered by the National Institute of Standards and Technology of the Department of Commerce and, to the extent practicable, shall be integrated into the data systems.

(d) **ADMINISTRATION.**—The data stored in the clearinghouse shall be updated continuously as new information is made available, but not less often than annually.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,500,000 for each of fiscal years 1994 through 1997.

TITLE III—ENVIRONMENTAL INNOVATION RESEARCH PROGRAM; TECHNOLOGY TESTING**Subtitle A—Environmental Innovation Research Program****SEC. 301. ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.**

(a) **ESTABLISHMENT.**—The head of each covered Federal agency shall establish an environmental innovation research program for the development and commercialization of environmental technology to promote the cleanup, abatement, and source reduction activities of the agency.

(b) FUNDING.—**(1) IN GENERAL.—**

(A) **SET-ASIDE.**—For each fiscal year, the head of each covered Federal agency shall, notwithstanding any other provision of law—

(i) set aside not less than 1.25 percent of the amount of funds appropriated to the head of the covered agency for the following purposes:

(I) with respect to the Secretary of Energy, funds appropriated for environmental restoration and waste management;

(II) with respect to the Secretary of Defense, funds made available for environmental restoration;

(III) with respect to the Secretary of the Interior, funds appropriated for environmental cleanup; and

(IV) with respect to the Administrator of the Environmental Protection Agency, funds appropriated from the Superfund pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(ii) reserve the amount set aside under clause (i) for awards to private concerns or other entities, through a uniform process (as described in subsection (d)) for the development and commercialization of environmental technology as set forth in subparagraph (B).

(B) **USE OF SET-ASIDE FUNDS.**—The funds set aside under subparagraph (A)(i) shall be used to fund the development of environmental technology that contributes to the program objectives for which the funds were initially made available.

(C) WAIVER.—

(i) **IN GENERAL.**—The head of a covered Federal agency may waive the requirements of this paragraph in full or part if—

(1) unforeseen emergency circumstances require the covered Federal agency to redirect funds for technology development to other purposes; and

(2) the head of the covered Federal agency has redirected all technology development funds (other than funds set aside pursuant to subparagraph (A)) available to the covered Federal agency from the amounts specified in subparagraph (A)(i) to address the unforeseen emergency circumstances.

(ii) **REPORT.**—If the head of a covered agency waives a provision of this paragraph pursuant to clause (i), the head of the covered Federal agency shall provide a report that explains the reasons for the waiver to Congress.

(2) **CONSTRUCTION.**—Nothing in this Act shall be construed, interpreted, or applied to limit the amount of funds that a covered Federal agency may spend on the research, development, or commercialization of environmental technology.

(c) **DUTIES OF HEADS OF COVERED FEDERAL AGENCIES.**—In carrying out an environmental

innovation research program established under this section, the head of each covered Federal agency shall, in accordance with the requirements of this section—

(1) certify annually to the Director the amount of agency funds set aside in accordance with subsection (b)(1);

(2) in carrying out the program established under this section, consider the needs of small business concerns for the development and utilization of environmental technology; and

(3) submit an annual report on the environmental innovation research program to the Bureau and the Office of Science and Technology Policy of the Executive Office of the President. The report shall include an accounting of the number and amount of awards made under the environmental innovation research program, classified by categories of projects.

(d) PHASES OF ENVIRONMENTAL INNOVATION RESEARCH PROGRAMS.—The head of each covered Federal agency shall carry out an environmental innovation research program consisting of the following 3 phases:

(1)(A) A first phase for determining, insofar as practicable, the scientific and technical merit and feasibility of proposals that are submitted pursuant to environmental innovation research program solicitations and appear to have commercial potential.

(B) With respect to the first phase, the head of the covered Federal agency may enter into funding agreements with governmental, industrial, academic, and other nongovernmental entities, each of which shall be in an amount not to exceed \$250,000 to support the initial development of proposed environmental technologies.

(2)(A) A second phase to fund the further development of environmental technologies funded under subparagraph (B) that meet particular program needs, and with respect to which awards shall be made on the basis of the scientific and technical merit and feasibility of each proposal, as evidenced by the first phase (as described in paragraph (1)), taking into consideration, among other considerations, the commercial potential of each proposal, as evidenced by—

(i) the record of the private concern or other entity of successfully commercializing technologies, products or processes developed as a result of environmental innovation research or other research;

(ii) the existence of funding commitments, from the private sector or sources other than the environmental innovation research programs, to fund the further development of the environmental technology;

(iii) the existence of funding commitments from the private sector or sources other than the environmental innovation research programs for the third phase of research to be conducted pursuant to paragraph (3)(A); and

(iv) the presence of other indicators of the commercial potential of the environmental technology.

(B) With respect to the second phase, the head of the covered Federal agency may enter into funding agreements with private concerns or other entities, each of which shall be in an amount not to exceed \$750,000, unless the head of the covered Federal agency finds that additional funding is necessary and appropriate.

(3)(A) If appropriate, a third phase, in which—

(i) environmental innovation research funding is used to continue development activity that has demonstrated outstanding commercial potential in the second phase of the environmental innovation research program and merits further environmental innovation research funding;

(ii) awards from funding sources other than the environmental innovation research programs are used for the continuation of research or re-

search and development that has been competitively selected using peer review or scientific review criteria; or

(iii) commercial applications of research or research and development funded by environmental innovation research programs are funded by non-Federal sources of funds or, for environmental technologies intended for use by the Federal Government, by Federal funding sources other than environmental innovation research programs.

(B) With respect to a research and development project funded under subparagraph (A)(i), the Federal share shall not exceed 50 percent of the total cost of the project.

(C) With respect to the assistance provided under this paragraph, the covered Federal agency may assist the private concern or other entity in pursuing funding or procurement from other Federal programs and in pursuing financial and technical assistance for the export of technology developed under the environmental innovation research program, including providing the information gathered under section 203.

(D) The head of the covered Federal agency may, in lieu of the 3-phase process established under this subsection, fund proposals for the development of certain technologies through an alternative competitive process, on the basis of a written finding that—

(i) the proposed technology is at a stage in development comparable to the stage in development of technologies that would emerge from the second phase of the process established under this section; and

(ii) employing the first 2 phases of the process established under this section would be inappropriate.

(E) With respect to a development project funded under subparagraph (D)—

(i) awards shall be based on scientific and technical merit and demonstrated outstanding commercial potential;

(ii) the Federal share shall not exceed 50 percent; and

(iii) the head of the covered Federal agency shall notify the Congress in writing of the award and provide a copy of the written finding made under subparagraph (D).

(e) TESTING ENVIRONMENTAL TECHNOLOGY.—Funding agreements authorized under paragraphs (2) and (3)(A)(i) of subsection (d) may make available, if appropriate, funds to test environmental technology in the program established under section 311.

SEC. 302. GUIDELINES AND REGULATIONS OF THE ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.

(a) GUIDELINES.—Not later than 180 days after the date of establishment of the Bureau under title II, the Director shall issue guidelines for environmental innovation research conducted by covered Federal agencies pursuant to this subtitle.

(b) CONTENTS.—The guidelines issued by the Director shall, at a minimum, provide for—

(1) simplified, standardized, and timely solicitations of project proposals; and

(2) to the extent feasible, standardized application procedures with the procedures established under title II, including the submission of business plans.

(c) REGULATIONS.—The head of each covered Federal agency may, on the basis of the guidelines issued under subsection (a), issue such regulations as are necessary to ensure that the environmental innovation research program of the covered Federal agency meets the requirements of the guidelines.

Subtitle B—Innovative Technology Testing SEC. 311. PROGRAM.

(a) ESTABLISHMENT.—In consultation with the heads of other appropriate Federal departments and agencies, the Administrator is authorized to

establish a program for testing environmental technology at federally owned facilities and sites including listed sites—

(1) on the National Priorities List established under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

(2) in the inventory of Federal agency hazardous waste facilities under section 3016 of the Solid Waste Disposal Act (42 U.S.C. 6937), collectively referred to in this section as "applicable sites".

(b) DESCRIPTION.—As part of the program established under this section, the Administrator may—

(1) enter into cooperative agreements with other Federal departments and agencies for the purpose of testing environmental technology at applicable sites;

(2) solicit and accept applications to test an environmental technology suitable for prevention, control, or remediation of contamination at applicable sites, subject to the guidelines established under subsection (c);

(3) in consultation and cooperation with representatives of other Federal departments and agencies, State and local governments, industry consortia, and other groups interested in control, prevention, and remediation of contamination at an applicable site, manage and oversee testing and evaluation of environmental technology at the site, subject to the guidelines established under subsection (c);

(4) document the performance and cost characteristics of an environmental technology tested at an applicable site;

(5) list and disseminate, through the clearinghouse established under section 211, nonproprietary information regarding the performance and cost characteristics of environmental technology that has been tested at 1 or more applicable sites and has been determined to be effective by the appropriate criteria in the guidelines established under subsection (c); and

(6) to the extent feasible, incorporate Environmental Protection Agency programs in existence on the date of enactment of this Act that facilitate testing of environmental technology at applicable sites, including the alternative or innovative treatment technology research and demonstration program established under section 311(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(b)).

(c) GUIDELINES.—The Administrator may, after notice and opportunity for comment, issue guidelines for the operation of the program established under this section. The guidelines shall include—

(1) an initial listing of applicable sites potentially available for testing of environmental technology categorized by site characteristics, including production processes and technologies and, in the case of contaminated sites requiring remediation, site geology and site contaminants;

(2) criteria for designating the eligibility of applicants to the program established under this section;

(3) the application procedures for applicants designated under paragraph (2) desiring to apply for testing of environmental technology at an applicable site, including—

(A) provisions for sharing the costs of testing with applicants that limit the Federal share to not more than 50 percent of the total cost of testing; and

(B) provisions that provide special consideration to the needs of small business concerns;

(4) criteria for verification of the efficacy of tested environmental technologies;

(5) specific procedures for the management and oversight of testing at applicable sites, including procedures for consultation or entering

into cooperative agreements with other Federal departments and agencies responsible for the management or remediation of applicable sites and affected entities; and

(6) criteria for determining whether and to what extent legal authorities should be used to indemnify successful applicants to the program established under this section.

(d) **LISTING OF TESTED TECHNOLOGY.**—In the case of a technology tested under the program established under this section, the Administrator shall publish the test results, cost information, and a general description of the tested environmental technology, and disseminate the information through the clearinghouse established under section 211.

(e) **AUDIT.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall audit the performance of the program established under this section and report the results of the audit to Congress, including—

(A) the number of sites where environmental technologies have been tested, classified by the type of problem remedied and the technology tested;

(B) the number of environmental technologies tested that have subsequently become commercially viable;

(C) the number of sites for which environmental technologies tested have been selected for additional applications;

(D) the cost in terms of labor and contract funds expended by the agency on the program; and

(E) the estimated number of jobs and increased income associated with the development and commercialization of the environmental technologies tested.

(2) **REPORT.**—The results of the audit conducted under this subsection shall be included as part of the report required under section 412.

(f) **FUNDING.**—Testing conducted under this section shall be eligible for funding under section 301 pursuant to the guidelines established under subsection (c).

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$15,000,000 for each of fiscal years 1994 through 1997 to carry out this section.

TITLE IV—ADDITIONAL PROGRAMS

Subtitle A—Verification of Environmental Technologies

SEC. 401. PROGRAM.

(a) **ESTABLISHMENT.**—The Administrator is authorized to establish a program to verify, evaluate, and disseminate performance and cost information on environmental technologies appropriate for meeting the performance criteria of regulations issued as performance standards under laws that the Administrator determines are appropriate, collectively referred to in this section as "applicable regulations".

(b) **FUNCTIONS.**—As part of the program established under this section, the Administrator may—

(1) accept applications from the public to verify and evaluate cost and performance characteristics of environmental technology;

(2) develop appropriate protocols to verify the quality and credibility of cost and performance data submitted by applicants;

(3) evaluate cost and performance data for environmental technology relative to applicable regulations, subject to the guidelines established under subsection (c); and

(4) list and disseminate information regarding environmental technology verified and evaluated under the guidelines established under subsection (c) through the clearinghouse established under section 211.

(c) **GUIDELINES.**—

(1) **IN GENERAL.**—The Administrator may, after notice and opportunity for comment, issue

guidelines for the operation of the program established under this section.

(2) **DESCRIPTION.**—The guidelines may include—

(A) the criteria for designating the eligibility of applicants to the program established under this section;

(B) application requirements and procedures for submitting data for verification;

(C) general criteria for the evaluation of environmental technologies, including an evaluation, with respect to each technology evaluated, of the ability of the technology to—

(i) meet the performance criteria of any applicable regulation under tested conditions with additional source reduction, control, or remediation benefits as compared to the technology evaluated to establish the applicable regulation;

(ii) meet the performance criteria of any applicable regulation under tested conditions at a comparable or lower cost than the estimated cost of the technology evaluated to establish the applicable regulation; or

(iii) constitute a significant advance in the development of environmental technology with broad applicability;

(D) a schedule of fees for applications to cover the costs of the program, including—

(i) lower fees for each applicant designated as a small business concern, nonprofit group, institution of higher education, or State or local government entity; and

(ii) lower fees for applications to verify environmental technology that provides source reduction; and

(E) such other provisions as the Administrator may consider appropriate.

(d) **REPORTING OF TECHNOLOGY.**—

(1) **IN GENERAL.**—In the case of a technology that the Administrator evaluates in accordance with the guidelines established under subsection (c), the Administrator may publish the results of the evaluation and a nonproprietary description of the evaluated technology and disseminate the information through the clearinghouse established under section 211.

(2) **SIGNIFICANT ADVANCES.**—The Administrator may establish a list of technologies verified under the program established by this section that represent significant advances as compared to then current available technology.

(e) **ADMINISTRATION.**—

(1) **USE OF FEES.**—All fees collected by the Administrator through the operation of the program established under this section shall, subject to appropriations, be used to support the operation of the program.

(2) **EVALUATION DEADLINE.**—All evaluations conducted under the program established under this section shall be completed, and the applicant notified of the results, not later than 180 days after the receipt of a complete application.

(f) **NO REVISION OF REGULATIONS.**—Nothing in this Act shall be construed, interpreted, or applied in any manner to revise any regulation or release a person subject to any regulation from the duty to comply with the regulation.

(g) **JUDICIAL REVIEW.**—

(1) **DECISIONS TO LIST OR NOT LIST.**—The verification or evaluation of a technology under the program established under this section shall not—

(A) constitute a final action by the Administrator; and

(B) be subject to judicial review.

(2) **FAILURE TO COMPLY.**—If a technology verified, evaluated and listed pursuant to the program established under this section fails to result in compliance with any applicable regulation, the verification, evaluation and listing shall not constitute a defense in an enforcement action or citizen suit and shall not create a cause of action against the Environmental Protection Agency.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,000,000 for each of the fiscal years 1994 through 1997 to carry out this section.

Subtitle B—Environmental Technology Advisory Council

SEC. 411. ESTABLISHMENT.

(a) **ESTABLISHMENT.**—The Director may establish the Environmental Technology Advisory Council (referred to in this section as the "Advisory Council") as a subgroup within an appropriate advisory committee in existence on the date of enactment of this Act that has a charter approved under the Federal Advisory Committee Act (5 U.S.C. App. 2).

(b) **MEMBERSHIP.**—The Director may appoint the members of the Advisory Council. The individuals appointed as members of the Advisory Council shall—

(1) be eminent in the fields of business, research, new product development, engineering, labor, education, management consulting, environment, source reduction, or international relations;

(2) be selected solely on the basis of established records of distinguished service; and

(3) not be employees of the Federal Government.

(c) **DUTIES.**—The Advisory Council may—

(1) review and make recommendations regarding general policy for the Bureau, and the organization, budget, and programs of the Bureau within the framework of national policies set forth by the President and Congress;

(2) review guidelines and regulations of the environmental innovation research program established under title III;

(3) on the basis of the reviews conducted under paragraphs (1) and (2), make recommendations to the Administrator, the Director, and the head of each covered Federal agency regarding the organization and effectiveness of the Bureau and environmental innovation research programs established under title III;

(4) consult with the Panel authorized under title I in the development of the National Environmental Technology Strategy;

(5) make recommendations for administrative and legislative actions to stimulate environmental technology innovation;

(6) make recommendations to the Director to improve the effective dissemination by the clearinghouse of research information and results; and

(7) make recommendations to the Director regarding administrative actions to promote the export of environmental technologies.

SEC. 412. REPORT BY THE COMPTROLLER GENERAL.

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report concerning the implementation of the programs established under titles II and III and this title. The report shall include a description of the research conducted under the programs, the estimated environmental and economic benefits resulting from the programs, and the cost of the programs.

Subtitle C—Coordination With National Institute of Standards and Technology

SEC. 421. COORDINATION WITH NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) **AGREEMENTS.**—Not later than 180 days after the date of enactment of this Act, the Administrator and the Secretary of Commerce shall enter into such agreements as are necessary to permit the Environmental Protection Agency to provide technical assistance and support to the Manufacturing Technology Centers administered by the National Institute of Standards and Technology of the Department of Commerce.

(b) ASSISTANCE.—The assistance shall include—

(1) the preparation of environmental assistance packages for small business concerns generally and, if appropriate, for specific small business sectors, including information on—

(A) environmental compliance requirements and methods for achieving compliance;

(B) new environmental technologies;

(C) alternatives for source reduction that are generally applicable to the small business sectors; and

(D) guidance for identifying and applying opportunities for source reduction at individual facilities;

(2) providing technical assistance to small business concerns seeking to act on the information provided under paragraph (1);

(3) coordinating with the National Institute of Standards and Technology to identify those small business sectors that need improvement in environmental compliance or in developing methods for source reduction; and

(4) developing and carrying out an action plan for providing assistance to improve the environmental performance of small business sectors in need of improvement.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000 for each of fiscal years 1994 through 1997 to carry out this section.

SEC. 422. COORDINATION WITH OTHER FEDERALLY SUPPORTED EXTENSION PROGRAMS.

The Administrator may coordinate with—

(1) small business development centers (established pursuant to section 21 of the Small Business Act (15 U.S.C. 648)); and

(2) as appropriate, other small business and agricultural extension programs and centers, to provide environmental assistance to small business concerns.

SEC. 423. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed, interpreted, or applied in any manner to affect the obligation or duty of any Federal agency to comply with all applicable environmental laws and requirements.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 1686

(Purpose: To provide a complete substitute)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. KERRY, Mr. CHAFEE, Mr. WOFFORD, Mr. MOYNIHAN, Mr. LAUTENBERG, Mrs. BOXER, Mr. REID, Mr. METZENBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. SARBANES, Mr. PELL, Mr. DODD, and Mrs. MURRAY, proposes an amendment numbered 1686.

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

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

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

Mr. BAUCUS. Mr. President, we now have before us the National Environmental Technology Act.

Mr. President, the National Environmental Technology Act is designed to

protect the environment and create jobs.

Let me say that again. It is designed to protect the environment and create jobs. It does not favor the environment at the expense of the economy, or vice versa.

Instead, the bill embodies the concept that, as we head into the 21st century, environmental progress and economic progress are mutually reinforcing goals.

We have not always thought this way. In fact, in the years that I have been in the Senate, I have heard more than my share of complaints that protecting the environment destroys jobs and inhibits economic growth.

This does not have to be the case. It does not have to be a zero sum game. Economic progress and environmental progress do not have to be at odds. In fact, we cannot have one without the other.

The National Commission on the Environment, chaired by Russell Train, recently put it this way:

Economic and environmental well-being must be pursued simultaneously if either is to be achieved. Economic growth cannot be sustained if it continues to undermine the healthy functioning of the Earth's natural systems or to exhaust natural resources. By the same token, only healthy economies can generate the resources necessary for investments in environmental protection.

That is Russell Train, former head of EPA several years ago.

To put it another way, we must pursue a long-term strategy of sustainable development. This does not mean living in tents in the forest. It means achieving economic progress in a way that protects the environment and, by doing so, broadly improves the prospects for future generations.

The linchpin is technology. By the year 2050, both population, and per capita output in the world are expected to more than double. As a result, the level of worldwide economic activity will be five times greater than it is today. That is just a little more than 50 years from now.

That level is sustainable only if we make major improvements in the way that we produce goods and services.

In his book, "Preparing for the 21st Century," Prof. Paul Kennedy compares our situation to that of 18th century Europe. Malthus had predicted that escalating population growth would lead to perpetual famine. The prediction was wrong Kennedy says, because it did not account for "humankind's capacity to develop new resources through technology."

Professor Kennedy also says, our own ability to avoid an environmental catastrophe will be determined, in large part, by our ability to develop environmental technology.

Bruce Smart, who was a senior Commerce Department official in the Reagan administration, takes it one step further. He estimates that we

eventually must reduce the environmental impact of each unit of industrial production by more than 80 percent. That is right: 80 percent.

This is where environmental technology comes in. Environmental technology does not just mean a new black box at the end of a pipe. Environmental technology means the broad application of science to the entire production process. It means new ways to make products that waste less; new products that run cleaner. It means pollution prevention. It means life-cycle planning. It means, in short, a new way of thinking.

Environmental technology makes good economic sense. After all, pollution is waste; increasingly, we see evidence that thinking green helps keep a company in the black.

But there is another dimension to it. An international dimension. There is a global trend towards stricter environmental protection. In Eastern Europe, Asia, all over the world.

Companies that get ahead of the curve, and develop environmental technology will have the edge in an international market that already has reached \$300 billion and is growing by 10 percent a year.

A few years ago, I was in Rio for the Earth Summit. There, alongside the meetings of ministers and heads of state, was an environmental technology exposition. There was a huge arena filled with displays of pollution control and monitoring equipment from around the world. Yet, when I looked for the American companies, I could find only 20 or so. The Japanese were everywhere. So were the Germans. But the Americans, for all practical purposes, were invisible.

This does not make any sense. America's market is the world's largest. We produce and use more environmental technology than any other country in the world.

We simply cannot afford to give away another important manufacturing sector. We have to develop policies that help American companies become the unchallenged leaders in environmental technology.

The National Environmental Technology Act is designed to take a major step in this direction.

The bill, which I introduced with Senators LIEBERMAN, MIKULSKI and others, has five key elements.

First, the bill requires the Federal Government to get its own act together.

The Federal Government spends about \$4 billion a year on what we would consider to be environmental technology. But there is no coherent strategy for spending the money. Nobody looks at the big picture. Nobody considers whether we are spending the money in a coordinated way, so that it will pay the best long-term dividend for our environment and our economy.

Mr. President, before we consider spending more on environmental technology, we need to be sure we are getting the best bang for our buck.

The bill will do just that. It requires the Federal Government to develop a national strategy for environmental technology, and review agency budgets in light of the strategy.

Second, the bill stimulates research and development.

The Federal Government spends billions to clean up contaminated Federal facilities. We all know that. We have heard so much about Superfund. But little of this money is spent to develop new clean-up technologies. The bill changes that. A small portion of the money the Government now spends on cleanup will be earmarked for innovative new technologies that have the potential to make cleanup efforts faster and cheaper.

Third, the bill establishes an office at the EPA to help develop cutting-edge technology that otherwise may not get off the ground. This office will work with other technology programs in the Defense, Energy, and Commerce Departments to form partnerships with private companies developing the most promising innovations in environmental technologies. I underline the word "partnerships" because this is a pattern of partnerships, public and private, that have worked well in the past.

Fourth, the bill reduces market barriers. As it now stands, small companies that develop innovative environmental technologies may have a hard time penetrating the market. The environmental managers of large companies tend to be conservative. They are, appropriately, reluctant to try a new technology that may not meet the applicable environmental standards. So they stick with the same old black box.

To address this problem, that is to shake things up a bit to encourage new innovative technologies the bill sets up a voluntary verification program. A company that develops an innovative new technology can ask EPA to verify that the technology meets the applicable environmental standards.

This will give environmental managers more confidence in innovative technologies, and help small companies break into new markets.

Fifth, the bill establishes a new outreach program to help small business find environmental technology that suits their needs.

Mr. President, this bill is just a first step. We need to do a lot more. In particular we need to change the way we think about out environmental laws. In some cases, we need to move away from what is commonly known as "command and control" regulations and give companies more flexibility, and encourage them to be more innovative. The Clean Water Act, which the Senate will soon consider, does just

that as does the Safe Drinking Water Act, which the Senate is about to consider.

But the National Environmental Technology Act is an important first step. It will help us protect the environment. There is no doubt about that. It will help create jobs. There is no doubt about that either, and it will help us prepare for the challenges of the 21st century, something that we Americans must urgently prepare ourselves for.

I urge all Americans as well as all Senators to support this bill.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Thank you, Mr. President.

Mr. President, first to start with, I thank the distinguished chairman of the Environment Committee, the senior Senator from Montana, Senator BAUCUS, and also Senator LIEBERMAN for their leadership in bringing this bill, which is S. 978, which is called the National Environmental Technology Act, to the floor today.

In the Environment Committee we held two hearings on this subject last year and actually reported this bill out of the committee last October. Since that time the Environment Committee staff has worked closely with the staffs of the Energy Committee and also the Armed Services Committee to address many of the jurisdictional problems that were raised when this bill first came onto the Senate calendar.

The bill we have before us today, of which I am pleased to be a cosponsor, is a substitute for the original bill that we brought out of committee, as I say, last October. This bill reflects the changes that were made pursuant to the conversations with the Energy and with the Armed Services Committee.

Mr. President, the chairman has outlined what is in this bill and I will not belabor the point, but I would like to make a couple of remarks.

What this bill does is to take an important step to encourage the coordination and the development of environmental technologies. That is the name of the bill and that is what it does. The focus, I might say, is not solely dealing with trying to clean up pollution. In a very real sense, it is to prevent pollution. And, obviously, if we can do that, we are many steps ahead. Furthermore, by pollution prevention, we have a great opportunity to save the Federal Government a good deal of money in the long run.

This bill has four goals. I will just tick them off: coordination, funding, market barrier reduction, and technology transfer.

Today—and the chairman mentioned this in his remarks—there are a number of Federal agencies that are literally spending billions of dollars on environmental technology. They do this every year. But the problem is

there is no coordination or, if there is any coordination, very little of it. What this legislation would do is to change that.

We direct the President to develop an interagency environmental technology strategy. If we are going to spend all this money, let us have some concept of what we are trying to do. The strategy would establish a research agenda and define the roles of the various Federal agencies. After all, the Department of Energy clearly has a role, EPA clearly has a role, the Defense Department has a role. And what this legislation would do is to recommend, and only recommend—this is not to dictate anything, it is to recommend—the actions that are necessary to promote environmental technology. That is what the strategy is designed for.

This bill would also authorize an environmental technology initiative at EPA. As everyone knows, perhaps, the President last year called upon the EPA to develop a multiyear technology strategy or program. Currently, EPA is supporting some 73 different environmental technology projects at a cost of \$36 million. But literally that is just money that is appropriated. There is no authorization for that. This legislation envisions an authorizing framework being set up so we will have a better idea of where EPA is going to go with the money that it spends in this technology innovation.

The primary purpose of the initiative remains the formation of cost-sharing partnerships with different Federal agencies and with the private sector. In the current market—that is in the private market—there just is not anything there to foster technology innovation. Why has this come about? Well, it comes about because all too often there are specs listed as to what is sought for the environmental cleanup and it is such a risky area that those who are going into it are very, very leery of plunging off into a new technology that is an untested technology.

So what we are trying to do here is to encourage the use of some of these technologies that are in but have not been tested. So what this legislation does is call for the establishment of a verification program, a way of marketing these different types of environmental technologies.

One of the big areas that this legislation hopefully would deal with is in those Superfund sites, the hazardous waste sites that exist across our country. So what it does, it requires the EPA to allocate 1.25 percent of the Superfund money—this would be subject to appropriations—for the development of environmental technology that contributes to the objectives of the Superfund program.

We spend a lot of money on Superfund, but I think we all agree that it just plain is not working satisfactorily. And the techniques that we

are using are the techniques that were there when we started this program some 7 years ago. We just have to develop different technologies than currently exist or we are going to be spinning our wheels and spending literally billions of dollars for rather modest achievements.

So, again, these partnerships with those who have developed these technologies are on a 50-50 basis. It is not the Federal Government going in and paying 100 percent of these new technologies, it is a 50-50 basis.

This bill also strengthens and enhances an existing EPA program by authorizing the testing of these new technologies at Federal facilities. And we have plenty of those which are currently listed on the major Superfund list which is called the Superfund national priority list.

Finally, the bill addresses an issue which is very important to our Nation and that is to help small business with the tools necessary to deal with environmental compliance.

A typical case would be up in our State, where we have these electric jewelry platers, where they are plating jewelry and the wastes from that have presented a terrible problem for this industry to deal with. So that is a small industry. These are all very, very small independently owned businesses. Under this legislation, small business would be given a hand in addressing these pollution problems that the businesses deal with, not, again, with the Federal Government paying all the money.

I held a small business and the environment workshop in Rhode Island last November. This was one of the problems that the small businesses raised. They wanted to deal with these environmental regulations, but just found they could not afford the technology that is necessary to develop to deal with these problems.

That is addressed here in this legislation. It authorizes EPA to set aside 25 percent funding for small business concerns. And, in addition, the EPA is directed to provide environmental technical assistance and support to small business through the existing agency which is the National Institute of Standards which has manufacturing technology centers.

So, Mr. President, the bill before us today addresses two major concerns to the American people. First, the need for a strong economy. We all want that and we think we can have a strong economy and still have a clean environment, as the chairman mentioned in his opening remarks. The second point echoes that and that is to have a healthy environment. We want to pass on this country of ours in better shape, and hopefully the world likewise, in better shape than we found it from an environmental point of view.

Innovative environmental technologies we believe will save America

millions in tax dollars. We believe it will increase exports, because the demand for these technologies across the world in the developed nations and, indeed, in the underdeveloped nations to help wrestle with these problems they have and how to solve them creates a tremendous opportunity for exports from this country when we have developed the technology here.

We believe it will help create jobs and help ensure the protection of our limited natural resources. The question certainly is not whether we need an environmental strategy but how will it be structured and implemented. We believe that S. 978 provides the framework for going forward on this.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I first thank my very good friend, the Senator from Rhode Island [Mr. CHAFEE]. He has worked very hard on this legislation. He supports it very strongly, obviously. He is a very good colleague to work with as ranking member of the committee. I just wanted to take the time to thank him for his very hard work.

I also thank the Senator from Connecticut, [Mr. LIEBERMAN]. A large part of this bill exists because of Senator LIEBERMAN's efforts. He has been a very strong advocate of greater American competitiveness generally, particularly greater environmental technology competitiveness. The citizens of Connecticut should know they have a very good Senator in Senator LIEBERMAN. He has done a great job.

I must say the same for Senator MIKULSKI, the Senator from Maryland. She has talked to me on several occasions about the need for this bill. She, too, sees how we Americans must work more vigilantly to promote environmental technology.

I have an anecdote to pass on here which I think somewhat illustrates the need for this legislation. Last summer I was in Japan, and I scheduled a meeting with one of the Vice Ministers of MITI. I was all armed to talk about trade differences between our two countries. A framework agreement was not yet agreed to, obviously, but there were a lot of trade tensions between our two countries.

I sat down with the Vice Minister, and the first question he asked me—was the only question he asked me—was: What are the provisions of the bill you introduced, the Environmental Technology Act? He was very interested in the provisions of a bill I introduced, this bill, early last summer. It was introduced about 2 months before I met him. He said to me, "This is probably one of the most important efforts you can undertake." He wanted to know all the provisions of it, the details of it.

I confess, Mr. President, I was not well prepared to discuss all the provi-

sions of this bill because I assumed we were going to talk about trade. After all, he is the Vice Minister in charge of trade. It just became very apparent to me, if the vice minister of MITI is very interested in the National Environmental Technology Act, and that is really all he wanted to talk about, then maybe we are onto something here. In talking to other officials in other countries, one can glean that they, too, in their countries are pushing environmental technology.

A little later, after visiting the Vice Minister of MITI, I was in China. I spent over an hour with the second daughter of Deng Xiaoping, Deng Nan. She for that hour talked to me about one subject and one subject only. She had a whole sheaf of papers on environmental problems in China. She would list the areas where China is slipping greater than in other areas, whether it is air, water, or waste. All she cared about were environmental problems in China.

Another man I met with, one of the major Ministers in China, gave probably the most comprehensive, most articulate, most thoughtful presentation I have ever heard from anyone on any subject on environmental problems in China. He would list each of the areas where they are making progress and where they are slipping. He admitted to me—in fact, he volunteered to me—that China is, overall, experiencing a loss in addressing environmental problems. It is a tremendous problem they have. As China grows to deal with the problems of the late 20th century and the 21st century, grappling with rapid economic growth, especially in the south and western provinces, they were struggling to deal with the explosion in environmental problems let alone infrastructure problems. There is a major opportunity for the United States to market these environmental technologies not only in China but other countries of the world.

I strongly urge us as a country, after we adopt this bill, to work very aggressively to maintain American pre-eminence in this area.

Mr. President, I might say the President of the United States sent me a letter strongly supporting this bill. He has been a leader in pushing environmental technology as has, certainly, I must say, the Vice President. I know of no one who is a more ardent advocate and more perceptive advocate of the need to pursue this area than our Vice President. I ask unanimous consent to have that letter from the President printed in the RECORD along with many letters here from groups that support this legislation: Environmental Business Council, Environmental Defense Fund, the World Wildlife Fund, the Hazardous Waste Action Coalition, Microelectronics and Computer Technology Corp., the National Roundtable of State Pollution Prevention Pro-

grams—I have a long list here. I will not burden the Senate by reading all of the names. But there are many letters in support. I ask unanimous consent they, too, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, March 4, 1994.

Hon. MAX BAUCUS,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Over the past month's, the Administration has worked with the Committee on Environment and Public Works on S. 978, the National Environmental Technology Act of 1993, which you introduced to promote development and use of "green" technologies. I am pleased that we have been able to work together with you and your colleagues to refine the legislation, and understand that you hope to take this revised version of the bill to the Senate floor soon. I support your proposed substitute as a legislative framework for the Environmental Protection Agency's contribution to the Administration's overall strategy for promoting environmental technologies. I look forward to working with you and other members of Congress through the remainder of the legislative process to come to agreement on environmental technologies legislation that can be quickly enacted and implemented.

The development and deployment of environmental technologies are an essential part of the Administration's commitment to creating jobs and strengthening the economy while restoring and protecting the environment. I want to thank you and the other co-sponsors of S. 978 for your leadership in this area. Working together, I believe we can achieve our common environmental and economic goals.

Sincerely,

BILL CLINTON.

ENVIRONMENTAL BUSINESS COUNCIL
OF THE UNITED STATES, INC.,
Washington, DC, March 14, 1994.

Senator MAX BAUCUS,
U.S. Senate, Committee on Environment and Public Works, Washington, DC.

DEAR SENATOR BAUCUS: I am pleased to endorse your bill S. 978, National Environmental Technology Act of 1994, on behalf of the Environmental Business Council of the United States, Inc. (EBC-US).

This legislation, supported by the Clinton/Gore Administration, will substantially assist in the development of innovative environmental technology in the United States and materially aid in the diffusion of this technology globally.

S. 978 is a vital piece of the effort to bolster the US environmental industry domestically as a prelude to export. Additionally, S. 978 provides the authority to the US Environmental Protection Agency for its Environmental Technology Initiative, a key program to form working partnerships between government and the private sector for innovative environmental technologies.

On behalf of our member companies and institutions, I want to thank you for your leadership on this important legislation.

Sincerely,

DONALD L. CONNORS,
President.

ENVIRONMENTAL DEFENSE FUND,
New York, NY, March 11, 1994.

Hon. MAX BAUCUS,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BAUCUS: I am writing in support of your proposed substitute for S. 978, the National Environmental Technology Act of 1993, which you introduced to promote environmentally-superior technologies. I am particularly pleased with the special attention the bill gives to promoting source reduction technologies, which as you know, hold the most promise for cost-effective protection of human health and the environment.

Thank you and the other co-sponsors of S.978 for your leadership in this important area. We look forward to working with you and other members of Congress as this bill moves through the legislative process.

Yours truly,

FRED KRUPP.

WORLD WILDLIFE FUND,
Washington, DC, March 23, 1994.

Hon. MAX BAUCUS,
Chairman, Environment and Public Works Committee, Washington, DC

DEAR CHAIRMAN BAUCUS: I am writing in support of the floor substitute for the "National Environmental Technology Act of 1994" (S. 978). We at World Wildlife Fund feel that S. 978 does an excellent job of providing the fundamental structure needed to promote environmental technologies.

The §401 validation program is an excellent way to encourage cleaner, more effective and less costly technologies by allowing any vendor to apply for verification, and then making information regarding all such verified technologies readily available to industries, consumers, and those who draft regulations and permits.

We appreciate your understanding and acknowledgement of the important role that pollution prevention planning can play in building in a healthy and environmentally sustainable economy. While many laws allow for changes in products and processes as a means of meeting standards, historically these laws have not made preventive measures a priority, nor have they encouraged the use of preventive measures instead of end-of-the-pipe solutions. If the United States is to remain an international industrial leader, our country must develop and deploy a wide array of new, efficient, and environmentally sound technologies. We feel that S. 978 can provide the economic and technical assistance necessary to help U.S. companies map their way through seemingly rough and previously uncharted waters.

Thank you for introducing this extremely important piece of legislation. We know that you and many of your colleagues have long been proponents of pollution prevention measures, and we are pleased to help you in your efforts.

Sincerely,

FRANCES H. IRWIN,
Director,
Pollution Prevention Programs.

HAZARDOUS WASTE
ACTION COALITION,
Washington, DC, March 10, 1994.

Re: Senate Bill S. 978, The National Environmental Technology Act of 1994 (NETA).

Hon. MAX BAUCUS,
Chairman, Senate Committee on Environment and Public Works, Hart Senate Building, Washington, DC.

DEAR SENATOR BAUCUS: The Hazardous Waste Action Coalition (HWAC), an associa-

tion of over 110 leading engineering and science firms practicing in hazardous waste management, strongly supports the proposed National Environmental Technology Act of 1994, Senate Bill S. 978. This bill links growth in environmental technology development to the economic future of the United States and to the health of the global environment. HWAC commends your leadership on this critical environmental and economic issue.

HWAC member firms employ over 75,000 trained and experienced hazardous waste professionals in over 500 offices nationwide and provide over 75% of the hazardous waste consulting services in this country. Our member firms have made significant commitments and investments into innovative cleanup technology research and development, and they continue to build expertise as environmental technology "developers," "testers" and "implementers."

Since NETA was originally proposed on May 18, 1993, President Clinton has voiced his support for and commitment to increasing the export of U.S. environmental technologies. Through your leadership, NETA crystallizes this vision into a plan of action. HWAC is particularly pleased with the emphasis placed on government-industry partnerships in the revised bill. Additionally, Subtitle B of Title IV, Technical Assistance to Small Business in Coordination with Existing Programs, helps small businesses to comply with complex environmental requirements and constructively addresses the difficulties encountered by small businesses in applying new environmental technologies to achieve their source reduction and environmental compliance needs.

Finally, HWAC believes that coordinating research, development and testing (RD&T) efforts government-wide will greatly enhance the effectiveness of tax dollars spent on environmental technology RD&T. The EPA-lead approach outlined in S. 978 offers the best opportunity to maximize investment into environmental technology RD&T. Other nations encourage RD&T to an extent that allows their industries to effectively compete in the global marketplace. Under your aegis, NETA establishes the framework for reducing the existing trade imbalance with other countries.

Sincerely,

FRANK S. WALLER,
President, HWAC, Chairman,
Woodward-Clyde Group, Inc.

MICROELECTRONICS AND
COMPUTER TECHNOLOGY CORP.,
Washington, DC., March 11, 1994.

Hon. MAX BAUCUS,
Chairman, Committee on Environment and Public Works, Dirksen Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for your proposed substitute for S. 978, the National Environmental Technology Act of 1993.

I am aware of many instances in which individual firms or groups of companies are unable, for reasons of market risk, cost, etc., to develop, test, commercialize, or implement promising environmental technologies. This is true even though industry is increasingly aware that consumer preferences, domestic regulation, foreign environmental legislation and other factors are demanding "greener" products and processes, and creating new markets for environmental technologies. Your bill provides a means through which the private sector can join with the Government to overcome existing barriers

and seize promising opportunities. By so doing, the proposed legislation can make an important contribution to the development of environmental technology in the U.S., to the benefit of both our environment and our economy.

It has been a pleasure working with you and your staff in the development of S. 978, and I look forward to further collaboration.

Sincerely,

Dr. CRAIG I FIELDS.

NATIONAL ROUNDTABLE OF STATE
POLLUTION PREVENTION PROGRAMS,

March 9, 1994.

Hon. MAX BAUCUS,

Chairman, Committee on Environment and Public Works, Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Board of Directors of the National Roundtable of State Pollution Prevention Programs fully supports S. 978's initiatives to develop cleaner technologies and broader deployment of existing technologies which prevent or reduce the generation of pollution. The Roundtable's Board of Directors believes the bill will put in valuable programs directed at making our Nation's technology base more environmentally advanced through pollution prevention.

The National Roundtable is the largest organization in the United States dedicated solely to the purpose of eliminating or reducing the generation of waste from industrial operations. Our 80 member offices, representing nearly every state, plus dozens of counties and cities, have successfully assisted thousands of businesses in implementing source reduction technologies.

The Roundtable believes it can provide "hands on" experience in implementing the development of a national strategy, management of a national clearinghouse, disseminating information, and providing technical assistance directly to small businesses. Improvements in the use of technology and raw materials can reduce waste generation and the associated costs of waste treatment and disposal to small businesses. We provide a service American businesses can take to the bank—and the environment benefits in the process.

Thank you for the opportunity to comment on S. 978. I would be pleased to discuss how the National Roundtable can participate in implementing this legislation, and to answer any questions you might have.

Sincerely,

JAMES LOUNSBURY,

Illinois Department of Energy and Natural Resources, and Executive Director of the National Roundtable.

NATIONAL ASSOCIATION
OF METAL FINISHERS,

Washington, DC, March 17, 1994.

Re: Senate Bill 978.

Hon. MAX BAUCUS,

Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: In May of 1993, the National Association of Metal Finishers testified before the Environment and Public Works Committee regarding the "National Environmental Technology Act of 1993", S. 978. At that time the Association joined other business sector witnesses in pointing out issues that might impede opportunities for development of environmental technologies, especially those related to or encouraging small business participation.

The Association has recently had the opportunity to review the discussion draft amendment in the nature of a substitute

that we understand will be offered during floor debate of this bill. This review along with conversations with Environment and Public Works Committee staff has reinforced our view that S. 978 could provide our industry and other small business economic sectors with opportunities to both increase environmental protection and business opportunities. The Association is especially pleased to note that small business provisions have been maintained and strengthened throughout the bill.

The National Association of Metal Finishers therefore wishes to express its support for S. 978, especially those portions designed to encourage participation of small businesses in the development, and just as importantly, the deployment of innovative, cost effective environmental technologies. As we did in May, NAMF notes that the provisions of this legislation should be implemented in a fashion that augments the successful commercial relationships in our industrial sector and others that have provided an unmatched record of technical and industrial innovations over the years.

Second, while any certainty and objective "verification" data on environmental technologies will potentially be welcomed by technology users, we stress and strongly support provisions in Title IV of the legislation that make it clear that "listing" or verification will not imply or compel standards or technology changes in existing regulatory programs other than through normal statutory or regulatory evaluation and standards review processes. The debate and the provisions should make clear that "listing" will not create de factor technological or regulatory benchmarks, that the verification evaluations will inherently be limited in scope not intended to demonstrate technologies for industrial categories or regulatory standards.

NAMF appreciates the fact that this legislation by the Congress of the true future of environmental policy based on alternatives to command and control regulation, including innovation, clean technologies and incentives for business and technology driven solutions to environmental problems. As a related task, the Association suggests that the "Environmental Technology Strategy" envisioned by the bill should make a priority of its legislative charge to " * * * identify, * * * regulatory and other barriers to, and incentives for, development, utilization * * * of environmental technologies."

We hope that our comments have added constructive elements to this initiative. This industry has taken and intends to take many other steps to insure that our basic manufacturing process utilizes and is a part of environmental technology development and deployment.

Please contact NAMF for any further information or assistance that we may be able to provide. The Association looks forward to further cooperation with the Congress on this vital subject.

Sincerely,

WILLIAM A. SONNTAG, Jr.,
Director, Government Relations.

INSTITUTE OF CLEAN AIR COMPANIES,
Washington, DC, March 18, 1994.

Hon. MAX BAUCUS,

Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Institute of Clean Air Companies, Inc., on behalf of the U.S. air pollution control industry, is pleased to endorse your bill, the "National

Environmental Technology Act of 1994," (S. 978).

As you know, the Institute represents suppliers of the full range of air pollution controls and emission monitoring devices for all types of stationary sources and emissions. These controls include technologies to prevent pollution in the first place, and post-combustion controls ranging from biofilters to selective catalytic reduction systems.

Recent government reports co-sponsored by ICAC show that implementation of the Clean Air Act Amendments of 1990 is creating tens of thousands of well-paid, high-tech jobs in the U.S. And our industry is currently generating a trade surplus, albeit a small one, with great potential for export growth.

S. 978 recognizes the compatibility of clean air and a healthy economy. It will spur development of innovative air pollution clean-up and prevention technologies, thereby helping to meet environmental goals as well as the needs of regulated industry for cost-effective control options.

The Institute is especially for the careful attention you and your staff gave to our viewpoints in drafting your bill. We look forward to continuing our good working relationship, and applaud your leadership on this important legislation.

Sincerely,

JEFFREY C. SMITH,
Executive Director.

SAFETY-KLEEN,
Elgin, IL, April 18, 1994.

Senator MAX BAUCUS,

U.S. Senate Committee on Environment and Public Works, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Safety-Kleen, a Fortune 500 corporation, is the world's largest recycler of contaminated industrial and automotive fluids, as well as the largest refiner of used oil. We are proud to have built a sales and service system able to reach some 50,000 business facilities around the world, the majority of which are small businesses. Our goal is to continue to build and improve upon this system, aggressively promoting technologies and services which offer pollution prevention benefits.

We have been following closely progress in Congress on S. 978, the Environmental Technologies Act of 1994 and endorse rapid action by the Congress. We do not favor unnecessary government intervention in the marketplace. There are several reasons, however, why this legislation is constructive. The U.S. Environmental Protection Agency programs have fostered development of environmental enterprises which represent products and services second to none in the world. At the same time, the environmental industry is by its nature heavily regulated and we face a complex array of permitting and other government programs at the federal, state and international level. Moreover, the industry is not adequately recognized as an important commercial sector in its own right so that it can be understood and evaluated as industries with their own SIC codes are. Because of these realities, it is important that Congress endorse focusing regulations, technology research and trade promotion programs so that they are likely to meet real market needs. It is clearly appropriate for Congressional policy to maximize the prospect that U.S. firms can continue to develop and to project their comparative advantage in environmental technologies and services into export markets.

As we see the world environmental market grow in size of \$300 billion or more, the goal

must be no less than securing undisputed world pre-eminence for the United States in environmental technology and services. This can be achieved not through government direction, but through constructive focusing of diverse activities in ways such as those set forth in S. 978. The by-product will be growth in U.S. jobs and exports as well as continued development of technologies that provide an environment for U.S. corporate initiative and leadership. The right kind of legislative focus can help environmental industries and manufacturing companies who want to improve their productivity and competitiveness through cleaner manufacturing technologies and management systems. Without creating new agencies or major programs, S. 978 offers a vehicle to help companies that deal in a heavily regulated environment more effectively to develop and market new technologies. The research and verification provisions can provide a potentially valuable vehicle for ensuring that the expertise in many key agencies is appropriately brought to bear and strategically deployed to guide entrepreneurs and investors in developing cleaner technologies.

In short, this can be a particularly productive legislative output at a time when the future success of environmental protection and sustainable development programs depends on U.S. corporate leadership. I would be pleased to discuss specific issues or questions with you at your convenience. Thank you for your continued leadership in this important area.

Sincerely,

HANK HABICHT,
Senior Vice President.

3M ENVIRONMENTAL ENGINEERING
AND POLLUTION CONTROL,
St. Paul, MN, March 18, 1994.

Hon. MAX BAUCUS,
Chairman, Committee on the Environment and
Public Works, U.S. Senate, Washington,
DC.

DEAR MR. CHAIRMAN: On behalf of 3M, I would like to add our support to your proposed substitute for the National Environmental Technology Act, S. 978. Your proposal is a critical step in the path that will lead America to a sustainable future. No matter what actions are taken by Congress or American industry, without a strong foundation of environmentally responsible technology, we will never achieve our goal of an environmentally sustainable future.

We at 3M are proud of the environmental accomplishments which our employees have achieved in the past and are confident that their future actions will enable us to attain our future goals of "zero releases" and sustainable growth. The development and implementation of environmentally responsible technologies has brought us to where we are today and will carry us to an even higher level of environmental performance in the future.

The strong support and coordinated effort from the Federal Government that is created through your legislation will substantially enhance and augment the significant environmental technology efforts that are currently being put forth by American industry.

There are a few minor enhancements that we believe would strengthen this legislation and place it in more direct alignment with the path that is being followed by American industry. Our comments are attached.

I and my staff stand ready to work with you and your Committee in moving this critically needed legislation into reality. If there is anything that we can do to support

your efforts or if you have questions or need additional information, please contact me at your convenience.

With warmest regards,
DR. ROBERT P. BRINGER,
Staff Vice President.

UNION CARBIDE CORP.,
Danbury, CT

Hon. MAX BAUCUS,
Chairman, Committee on Environment and Public
Works, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BAUCUS: On behalf of Union Carbide Corporation, I am writing in support of the basic concepts embodied in S. 978, The National Environmental Technology Act of 1994. This bill would, for example, provide a funding avenue to pursue innovative technology that could have application to our remediation of waste sites. Also, the ability to learn from the experiences of others has a great deal of appeal.

Union Carbide's key corporate values include Technology Excellence, and Health, Safety and Environmental Excellence. The fulfillment of these values often incorporates the development of world-leading chemicals and plastics process technologies which offer superior energy efficiency and environmental performance when compared to other competing processes. Our latest generations of process technology have been designed for enhanced safety and environmental performance. These attributes are of significant commercial advantage in the global marketplace.

A case in point is our UNIPOL® process for making polyethylene plastic resins. This technology has revolutionized the entire plastics industry, and enabled the United States to become the world leader in the \$30 billion worldwide polyethylene industry. UNIPOL® also represents a major improvement in environmental and safety performance over conventional technology. Since its introduction, it has resulted in energy, operating, and raw material cost savings of nearly \$7 billion. It uses less energy, produces virtually no hazardous wastes, reduces emissions to the environment, operates at lower, thus safer, temperatures and pressures and produces a superior product. Union Carbide's President and Chief Operating Officer, Dr. William H. Joyce, recently received a National Medal of Technology from President Clinton for his pioneering work in developing and commercializing UNIPOL®. It is, we believe, a classic example of "design for environment."

It is important that the definition of "environmental technology" recognize the drive to integrate environmental performance into the design of products and processes. Under the definition in the proposed substitute amendment, we are not sure that an example like UNIPOL® could qualify for development support. While enhanced safety and environmental performance is integral to our advanced process technology, it is not necessarily the "primary purpose." Performance for the intended use, product quality, and cost are often the primary reasons why a process technology exists. Yet it may yield significant added value by virtue of its environmental characteristics. We believe that the definition from the bill as originally reported by the Committee is more helpful in spurring development of process technology with inherently superior safety and environmental performance.

We applaud your interest in promoting further development of environmental technology. Good ideas indeed do not reach the market because of insufficient funding. We

hope that the Senate can approve a bill that truly accomplishes the vision that we share with you.

Sincerely,
RON VAN MYNEN,
Vice President,
Health, Safety, and Environment.

Ms. MIKULSKI. Mr. President, over 2 years ago, I made a pledge to Maryland residents. My pledge was to continue the fight for jobs today and jobs tomorrow. Today I stand to support the passage of the National Environmental Technologies Act or NETA, of which I am an original cosponsor. I urge my colleagues to pass this important piece of legislation and take another step toward creating the jobs of tomorrow.

With the passage of the National Environmental Technology Act, we will create an important catalyst for public-private partnerships to develop environmental technologies that will produce new products. Products that will mean jobs today and jobs tomorrow.

The potential in environmental technologies is endless. New technologies to clean up Superfund sites. Products developed without the use of lead. New products made from recyclable goods. The list goes on and on.

Almost every report in the environmental technology area says this market is ready to explode with growth. Right now it's estimated at \$200 billion. It's expected that market will be over \$300 billion by the year 2000. It's estimated there are 1.7 million jobs worldwide in the environmental industry right now. Imagine what that will mean for future jobs if the industry grows by \$100 billion.

But Mr. President, we are falling far behind our competitors. I don't want to see another country steal this opportunity. And you know that's what they are trying to do.

The European Community has already set up agencies to study the technological future. Germany spends 23 percent of its R&D budget environmentally. And Japan is spending over \$4 billion to develop its environmental research.

It's time for the United States to take a leadership position. By passing this bill, we can get out in front. That's why I originally introduced this bill in the last Congress, and why I was so pleased to join with Senator BAUCUS, chairman of the Environment and Public Works Committee, and Senator LIEBERMAN, to reintroduce this legislation.

I don't want this country to import ideas from abroad. I want this country to become the Jolly Green Giant of the 21st century. I want it to export American ideas, American technologies, and American products. We need to do this now.

Mr. WELLSTONE. Mr. President, I rise in strong support of S. 978, the National Environmental Technologies Act. The bill will assist and promote

the further development of key environmental technologies. It is a crucial step forward both for the sake of our economy and for the environment. Environmentally sound business is an important growth sector in my State and throughout the country. The Federal Government can play a positive role in promoting this sector, especially by assisting the development of critical environmental technologies. I would like to commend Chairman BAUCUS for his leadership in bringing this bill to the floor. I hope it will pass and can be signed into law by the President this year.

I am especially pleased that we have been able to clarify the important role of small businesses in this bill. The minimum allocation now in the bill for small firms' participation in the research and development partnerships that are authorized in title II represents a necessary acknowledgement of the leading role that small businesses already are playing in the environmental technology sector. On behalf of myself and a number of other members of the Small Business Committee—Chairman BUMPERS and Senators LAUTENBERG, MOSELEY-BRAUN, and HEFLIN—who joined me during the past week in urging this special emphasis on small business participation, I thank the chairman for his cooperation in working out the small-business language.

There is no question that there is a dual role for the Federal Government in ensuring that continued economic growth occurs in a manner that is consistent with protection of the environment:

Government must regulate prudently to prevent environmental degradation; and Government can also play an important role in guiding the development of clean technologies, clean ways of doing business.

Experience shows us that markets by themselves do not promote sustainable development.

This bill puts the United States on the right path toward promoting environmentally sound business in the following ways:

First, it will seek to coordinate the Federal Government's budget, policies and activities related to environmental technologies; second, it will provide seed money to fund private sector research and development of innovative environmental technologies; third, it will reduce market barriers to the development and utilization of environmental technologies; and fourth, it will collect and disseminate information regarding environmental technologies.

Mr. President, I believe the major role for small businesses that is now guaranteed in the bill is key both to the environmental and to the economic goals of the bill. We know that it is small firms that are generating the majority of new ideas and new jobs

throughout the economy. But small firms also are clearly on the cutting edge of this particular field of environmental technology. The rate of innovation by small firms in the environmental technology sector far exceeds that of large firms.

Robert Sussman, Deputy Administrator of EPA, testified during the Environment and Public Works Committee's hearing on this bill to the importance of assisting small businesses. He said:

(T)his is a sector where innovation has been driven historically by small companies that are not well financed and need support from the investment community. Unfortunately, the venture capitalists have been reluctant, with some exceptions, to commit resources to the development of new technologies. This is one of the reasons why Government assistance at the R&D and pre-commercialization stage could be useful in this area perhaps to a greater extent than in some other sectors.

My staff discussed this bill with Toby Dayton, who is development director for the Minnesota Environmental Initiative. The initiative is a nonprofit educational organization dedicated to bringing business, government and citizens groups together to help solve environmental problems, in part through the development of environmentally related products and services.

The initiative is currently working with 106 companies to promote the energy-efficiency and renewable-energies industry. One hundred of those firms are small or medium-sized and have averaged more than 30 percent annual growth during the past 2 years. Mr. Dayton said the following:

Small firms are key to the environmental technology industry, and, in fact, that is where the majority of growth is coming from. An allocation for small businesses in the environmental technologies bill would be important to making sure they get an opportunity to participate.

Mr. President, I ask unanimous consent that I be able to include in the RECORD letters I have received from Ralph Nader's Government Purchasing Project, from Co-op America, from the Ozone-Safe Cooling Association, and from Minnesota Project Innovation, Inc. Each of these organizations testifies to the importance of a minimum allocation for small business participation in the projects funded by this bill.

I would also like to quote from a letter I received from Donald Cook, who is president of Glass Aggregate manufacturing and Engineering Co. of Faribault, MN—a company that recycles rejected glass in my State. Mr. Cook was not writing to me with regard to this particular bill, but he urged Federal Government assistance to small businesses in the field of environmental technology. Here is what he wrote: "We are finding that research and development costs are very expensive, but at the same time, if we do not, do these tests, we cannot market our

product. So we are struggling at finding agencies and other businesses to help assist us in development of our product." I think that not only the partnership created in title II of the bill, but also the technology transfer provisions that appear later in the bill, will help address the problem pointed out in Mr. Cook's appeal.

Unfortunately, small firms very often are unaware of or face obstacles to participating in Federal technology programs, even when they are the most natural constituency for those programs. That is why my colleagues from the Small Business Committee and I felt it was vital to guarantee that small businesses, which are at the forefront of environmental technology, be guaranteed a major role in this new program through an explicit minimum allocation for small business participation in partnerships with the Environmental Protection Agency [EPA] during the pre-commercialization research and development phase of environmental technology promotion.

Finally, Mr. President, as chairman of the Small Business Committee's Subcommittee on Rural Economy and Family Farming, I want to make clear that I believe small rural enterprises seeking to add value to our renewable resources in ways that are consistent with environmental protection are key to the future of sustainable development in rural America. I hope that this bill can benefit many such firms, and I intend to closely monitor its implementation to see that it does.

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

GOVERNMENT PURCHASING PROJECT,
Washington, DC, May 2, 1994.

Re National Environmental Technologies Act, S. 978.

Senator PAUL WELLSTONE,
Hart Building, Washington, DC.

DEAR SENATOR WELLSTONE: The Government Purchasing Project studies the effect of government procurement on the environment. We believe that environmentally responsible procurement can reduce solid waste, conserve energy and prevent pollution while saving taxpayers' dollars and leveraging new technologies.

We are repeatedly contacted by desperate small businesses seeking help in obtaining funds or technical assistance for launching their cutting edge, environmentally responsible products and processes which are still in the precommercial stage. There is an amazing lack of federal and private funds available for these entities, considering that most significant inventions come from small businesses. As a result, society suffers because significant inventions and improvements in existing products take many additional decades to reach commercial markets or never do.

With the current high costs of doing research and introducing new products and the concentration of markets in a few large companies, it is the rare invention that is ever commercialized. A 25 percent small business set aside in S. 978 provides a little federal assistance to a sector that is ignored in most federal legislation. Without a specific small

business set aside, the federal funds appropriated for S. 978 will go to large businesses.

We appreciate your interest in helping small businesses assume their rightful position in government programs encouraging the development of environmental technologies.

Sincerely,

ELEANOR J. LEWIS,
Director.

CO-OP AMERICA,
May 3, 1994

Re National Environmental Technologies Act, S. 978.

Senator PAUL WELLSTONE,
Hart Building, Washington, DC.

DEAR SENATOR WELLSTONE: Co-op America is a national nonprofit network of over 1,200 small socially and environmentally concerned businesses. These businesses provide economic security and jobs for over 16,000 people and produce \$1.2 billion of revenue every year. Small business, according to Dun and Bradstreet, will provide most of the jobs in the future; 60% of the jobs will be provided by businesses with fewer than 20 employees.

As the largest network of small socially and environmentally concerned businesses, Co-op America would like to emphasize to you how important it is that the National Environmental Technologies Act include at least a 25% set aside for small business (50% would be even better). Innovation often springs from the very smallest businesses.

A good example of environmental innovation by a small business is Ecoprint. (Ecoprint's annual gross earnings are \$850,000.) With a small grant from the EPA, Ecoprint created nontoxic printing inks. These same inks are now beginning to be used industry-wide.

Another example is the Aveda Corporation, which began as a very small company. The idea behind Aveda was to manufacture cosmetics without artificial preservatives and petrochemical products. Everyone said that it couldn't be done. Now Aveda has a very successful line of cosmetic products . . . and an innovative technology which can be reproduced.

As you can imagine, as the largest nonprofit network of small socially and environmentally concerned businesses, Co-op America is constantly contacted by small businesses seeking assistance. What these businesses are most often seeking is funding—usually for an innovative environmental product.

Please don't forget that the telephone—one of the most innovative technologies invented this century—came out of a small business—it consisted of two people and a dog.

Thank you for supporting a small business set aside in S. 978.

Sincerely,

ALISA GRAVITZ,
Executive Director.

OZONE SAFE COOLING ASSOCIATION,
Washington, DC.

Hon. PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATOR WELLSTONE: As Executive Director of the Ozone Safe Cooling Association (OSCA), I'm writing in support of S. 978, the National Environmental Technology Act (NETA). I'm pleased to learn that a minimum allocation for small business has now been included in the managers amendment to be considered by the Senate.

As I previously expressed, a guaranteed role for small business is essential to the economic and environmental goals of NETA.

Without a small business set-aside, NETA could amount to little more than a vehicle for handouts to the large corporations, that have caused many of today's environmental problems.

Stimulating development and commercialization of environmental technology and products (ET&Ps) is a vital ingredient to the economic and environmental goals of NETA. Small businesses are already a driving force behind this movement and need to be an integral part of NETA.

Small businesses are more than inventors working out of a garage; they include thousands of taxpaying companies and even multimillion-dollar enterprises, with scores of employees. They are also more innovative and cost-effective at developing ET&Ps than the muscle-bound industry giants.

The Ozone Safe Cooling Association represents firms like these that face incredible, often senseless obstacles, despite offering tangible and immediate environmental and economic benefits.

I'd like to thank you for your efforts on behalf of our members and other small business that actively seek a guaranteed opportunity to contribute to America's environmental and economic advancement.

Sincerely,

JAMES F. MATTIL,
Executive Director.

MINNESOTA PROJECT INNOVATION, INC.,
Minneapolis, MN, May 6, 1994.

Senator PAUL WELLSTONE,
MARIE MULLER,
Hart Senate Office Building, Washington, DC.

DEAR MS. MULLER: I am supportive of S. 978 Environmental Technology Act and specifically the amendment to set aside funds for small environmental technology businesses.

As the executive director of Minnesota Project Innovation, Inc. (MPI), I have encountered numerous clients in the environmental technology area who have difficulty obtaining the necessary financing to grow their companies. Typically the companies are involved with high-risk technology, which precludes them from either debt or equity financing opportunities.

The provisions of this bill enable our clients additional opportunities to obtain critical funding and technical assistance. At the same time, it will encourage a unique business initiation that will foster the development of additional environmental technologies.

Please let me know if I can be of additional assistance.

Sincerely,

RANDALL D. OLSON,
Executive Director.

AMENDMENT NO. 1688

(Purpose: To add a proposed new safeguard)

Mr. BAUCUS. Mr. President, I send an amendment to the desk on behalf of Senator KERREY of Nebraska and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. KERREY, proposes an amendment numbered 1688.

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

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

The amendment is as follows:

Annual report including specific benchmarks on the success of the program:

On page 13 on line 6 delete all through line 9 and replace with the following:

"(A) description of the research, development and testing conducted under programs authorized pursuant to Title II, Title III, and Title IV of this Act;

(B) resources and staff devoted to the programs listed under paragraph (A); and

(C) estimated environmental and economic benefits resulting from the programs listed under paragraph (A) and the cost of the programs."

Mr. BAUCUS. Mr. President, this amendment adds additional safeguards to this bill as well as additional benchmarks to evaluate performance of the program. I think it is a good amendment and will enhance both the spirit and effect of this bill. I compliment the Senator from Nebraska for his improvements.

This amendment, as I understand it, has been cleared on the other side as well.

I urge the adoption of the amendment.

Mr. KERREY. I am generally supportive of this bill. But, I am concerned that someone should be minding the store here. I want to make sure that there are appropriate safeguards to ensure that the money authorized by this legislation is spent wisely and well.

Mr. BAUCUS. I agree wholeheartedly that adequate safeguards are necessary to make certain that the monies spent on envirotech research and development produce results, and do not just disappear into a black hole. In fact, the bill contains many checks and balances so that the Government will be sure to get out as much as it puts into this program.

First, private matching funds are required for partnerships with non-Federal entities. In most cases, the private partner must match the Government 50-50. Private matching is a strong incentive for technology developers to have ideas with real promise.

Second, the funding provisions of the bill are subject to a merit-based competitive procedure for selection of all awards of Government funds.

Third, the bill requires peer review so that EPA will consult with non-Federal experts in the course of its work. EPA will involve experts from the private sector and academia.

Fourth, there is a limit on the duration of grants and loans by the Federal Government for any one technology—partnerships with single companies are limited to 3 years and with joint ventures are limited to 5 years.

Fifth, EPA must report to the Congress on its activities, and its financial and human resources on an annual basis.

Thus, I believe that there are many safeguards in the bill to ensure that funds are spent and are not wasted.

Mr. KERREY. I have an amendment that would provide further safeguards

beyond those you outlined a moment ago. My amendment would require that in the annual report to Congress, EPA must discuss specific benchmarks of success of the program. EPA must tell us precisely what research and development projects they funded, how much financial and human resources were devoted to the various programs authorized in this bill, and most importantly, the estimated economic and environmental benefits and costs of the various programs authorized in this bill. I think this will be a very useful yardstick for future evaluation of this program.

Mr. BAUCUS. I am familiar with the Senator's amendment. I believe it strengthens the bill in a very concrete way. The Senator knows that I believe strongly that there must be quantifiable measures of success for the Government. I understand that the Senator's amendment has been cleared by both sides. I am happy to include it in the bill. And I thank the Senator for his contribution to this legislation.

Mr. KERREY. I thank the Senator for working with me to shore up the accountability of the Federal Government in this bill. I think this legislation is extremely important to the future of the U.S. economy and the environment.

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

The amendment (No. 1688) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, will the Senator from Montana yield for a question to clarify the definition of environmental technology in section 3?

Mr. BAUCUS. Certainly.

Mr. JOHNSTON. I am concerned that the definition of environmental technology might be interpreted too broadly, specifically, that the definition might be used to encompass technologies developed by the Department of Energy. What is the Senator's understanding of the meaning of the term environmental technology?

Mr. BAUCUS. I would be happy to explain the meaning of the term environmental technology.

The scope of the definition of environmental technology is limited by requiring that a technology have as its primary purpose the reduction of environmental risks by protecting or enhancing human health and the environment through one of three ways—pollution control, environmental remediation, or design and process changes that result in source reduction or recycling. Furthermore, the technology must be identified and listed in the multiagency strategy called for under title I.

So, would nuclear fusion be considered an environmental technology because, compared to coal burning, it would protect and enhance the environment by reducing air pollution? No, because the primary purpose of fusion is to produce energy and not to reduce environmental risks. An important benefit, and perhaps a motivating force, is that fusion would result in a cleaner environment by reducing the amount of pollutants in the air. But for purposes of this legislation, fusion would not be covered by this definition because its primary purpose is not environmental protection.

Some of the nonenergy technologies developed by the Department of Energy, however, would fit this definition of environmental technology. The waste cleanup efforts at Department of Energy weapons complex sites generate innovative technologies that would be considered environmental technologies. For example, the primary purpose of a technology to clean up hazardous chemicals is to reduce environmental risks by cleaning up, or using the words in the definition, enhancing, the environment through environmental remediation.

To further clarify the types of environmental technologies contemplated by this legislation, the definition is linked to technologies identified in the environmental technology strategy called for by title I.

The strategy is to identify technologies that otherwise satisfy the criteria of this definition but that will also address the environmental requirements of the Nation. All of the agencies involved in the development of environmental technologies, using an open consultative process, are to draft the strategy. In this way, the strategy will result in a list of technologies all the agencies consider to be environmental technologies.

Mr. JOHNSTON. I thank the distinguished chairman for clarifying the meaning of the term environmental technology.

Based on what the distinguished Senator from Montana said, I understand that energy technologies developed by the Department of Energy, such as energy efficiency or solar or renewable technologies, would not be considered environmental technologies for purposes of this legislation. The fact that a technology employing solar energy may have important environmental benefits would not, by itself, render the technology an environmental technology. This same analysis would apply to other energy technologies developed by the Department of Energy.

Mr. BAUCUS. I would like to note that the definition would not limit the research activities currently being carried out by other agencies.

Mr. JOHNSTON. I have one additional question as it relates to title IV. Title IV allows executive agencies and private sector entities to verify

and evaluate the cost and performance of environmental technologies. Each group providing verification services is required to provide the Environmental Protection Agency with the results of those verifications and evaluations. What will the EPA do with that information?

Mr. BAUCUS. The Administrator will publish that information along with similar information it receives from the private sector. In the case of information developed by the private sector, the EPA will review and certify the accuracy of the data prior to publication. In the case of information developed by an executive agency other than the EPA, the EPA will not make any such review unless requested to do so by the agency. The EPA will simply publish the information it receives. The EPA, however, will only certify the accuracy of data it has reviewed.

Mr. JOHNSTON. I thank the Senator, that was also my understanding. I appreciate the Senator's work with the committee I chair, the Committee on Energy and Natural Resources, on the careful crafting of this language and I look forward to continuing to work with him on the bill.

Mr. NUNN. I would also like to thank both the distinguished chairman from Montana and the distinguished chairman from Louisiana for their hard work on this legislation and for working with me and the members of the committee I chair, the Committee on Armed Services, in addressing concerns we had in this bill.

Mr. BAUCUS. As this bill creates programs that may involve the environmental research activities of both the Department of Energy and the Department of Defense, the participation of the Energy and Natural Resources and the Armed Services Committees was essential to the work of writing the legislation. I thank both the distinguished chairman from Louisiana and the distinguished chairman from Georgia for their help in fashioning this legislation.

Mr. JOHNSTON. The House of Representatives is currently considering the companion measure—H.R. 3870, the Environmental Technologies Act of 1994—to this bill. The House Committee on Science, Space, and Technology reported H.R. 3870 on April 13, 1994. I have several concerns with the bill as reported.

H.R. 3870 would establish the definition of environmental technology so broadly that energy technologies such as those involving nuclear power, fusion, solar, or energy efficiency could be considered environmental technologies. The term is used throughout the bill in ways that are troubling. For example, the bill would direct the President to prioritize environmental technologies in a national environmental technology strategy. With such a broad definition of environmental

technology, I fear, the strategy would turn into a national energy strategy.

The bill would direct agencies such as the Department of Commerce, the Environmental Protection Agency, the National Aeronautics and Space Administration and the National Science Foundation to carry out energy research activities that are properly in the domain of the Department of Energy. It is not acceptable to me to create new energy research programs at other agencies, especially when funding for Department of Energy research programs are going down because of anxieties over the deficit.

The House bill would add the Department of Energy Environmental Technology Development as a new title. This title would establish an environmental technology program within the Department of Energy. The Department of Energy, however, already has such a program—a program clearly not within the jurisdiction of the Senate Environment and Public Works Committee.

To ensure that all of my concerns are addressed, I would like the assurance from the Senator from Montana that he will continue to work with me and the members of my committee in fashioning any environmental technology legislation with the House and that he will resist those portions of the House bill that are contrary to the position taken in the Senate bill.

Mr. NUNN. I too have concerns with the House bill, H.R. 3870, as reported, and would likewise appreciate the assurance of the distinguished gentleman from Montana that he will work with me and the members of my committee in fashioning environmental technology legislation with the House.

Mr. BAUCUS. I have found the participation of both the Senator from Georgia and the Senator from Louisiana not only helpful, but essential, in crafting S. 978. I not only give my assurance that I will inform and consult with both of the distinguished chairmen in working with the House on any environmental technology legislation, I welcome that help and input into that process. Our three committees have worked closely on this bill. The legislation we have crafted will lead to better coordinated Federal environmental programs and to the development of innovative environmental technologies. I am pleased with the legislation and intend to vigorously defend the bill in conference with the House. I will resist those provisions of the House bill that are contrary to the agreements we have reached.

Mr. NUNN. I thank the Senator.

Mr. JOHNSTON. Thank you. I ask the distinguished Senator from Montana his intentions toward the title of the House bill that would add the "Department of Energy Environmental Technology Development" as a new title since there is not a position in the Senate bill on this issue.

Mr. BAUCUS. It is impossible to predict all of the circumstances that will affect the decisions made in conference, but with that caveat, I intend to defer to my distinguished colleague from Louisiana and his colleagues on the Senate Energy and Natural Resources Committee and to my distinguished colleague from Georgia and his colleagues on the Senate Armed Services Committee as to the wisdom and appropriateness of including such a program within the bill.

Mr. JOHNSTON. I thank my distinguished colleague from Montana for answering my questions and explaining his intentions toward the House bill.

Mr. BUMPERS. Mr. President, I am pleased to join my colleague, Senator BAUCUS, the distinguished chairman of the Senate Committee on Environment and Public Works, in support of S. 978, the National Environmental Technology Act of 1994. In my view, this legislation will greatly advance the capabilities of this nation to meet the growing demands for environmental technologies necessary to accomplish the goals of environmental protection here at home and throughout the world. This legislation will also have the positive result of helping spur economic development and jobs creation through the opportunities it will afford the business community through the Federal partnership strategies that are an integral part of this bill.

As chairman of the Senate Committee on Small Business, I am very pleased that a provision has been included to highlight the role small businesses across this country will play in meeting the objectives of this legislation. I also want to take this opportunity to reinforce my support for language in this bill that directs the Administrator to give special consideration to the needs of small business concerns located in areas of pervasive poverty.

During the 100th Congress, I introduced legislation along with Congressman, now Secretary, Mike Espy which established the Lower Mississippi River Delta Commission. That Commission was charged with the task of investigating and reporting to the President and to Congress on measures necessary to help improve the economy and quality of life in those portions of Arkansas, Mississippi, Louisiana, Tennessee, Kentucky, Missouri, and Illinois which encompass that area we call the Delta.

In May 1990, then-Governor Bill Clinton, Chairman of the Lower Mississippi Delta Commission, submitted the Delta Commission's final report to President Bush and to the Congress. That report, in part, describes the delta as that which "by statistics constitutes the poorest region of the United States of America." The final report also took note that "the Congressional mandate to the Delta Commission directed that a broad approach be taken toward the

study of regional poverty and economic development needs" and that "ecological mindfulness and economic development are no longer seen as incompatible but as indivisible." I believe the concepts developed in S. 978 are fully compatible with the findings, objectives, and goals of the Delta Commission.

The Delta Commission report included 68 specific goals and more than 400 recommendations for action by the Federal, State, and local governments. It is extremely noteworthy that among those recommendations is a call for the creation of programs by Federal and State agencies to make loans, grants, and services to local communities, businesses and organizations for the purpose of developing environmental technologies. That is precisely what this bill does.

In his May 14, 1990 letter to the President to accompany the final report of the Delta Commission, then-Governor Bill Clinton stated,

Being in the vanguard of change need not be a distinction limited to the freedom-hungry citizens of Eastern Europe or Poland or the aggressive business people of Singapore or Korea. The people of the delta belong in that vanguard. They want to be there, and they can be if each of us will do our part.

Mr. Chairman, that was nearly 4 years ago, but I believe the legislation you bring to the floor today is a part of that responsibility Bill Clinton stated so eloquently. There are more than 8 million people who live in the delta who have ingenuity and energies to offer, and the opportunities which are inherent in this legislation may well serve to allow them a meaningful role in the marketplace of ideas.

Mr. BAUCUS. I commend the Senator from Arkansas for his tireless efforts to bring careful consideration to the challenges of the Lower Mississippi River Delta. He is correct that we must never forget that there are regions of this nation that deserve our special attention as he has done so thoughtfully with his work to establish the Delta Commission and as he continues to do in helping fulfill the objects of the Commission's report. I share his view that this bill is consistent with the objectives of that report.

Mr. BUMPERS. I thank the chairman for his comments.

Mr. KEMPTHORNE. I had intended to offer an amendment today that would establish a clear authorization of \$47 million over 5 years to carry out accelerated research and development of a new generation of hydropower turbines. In addition to improving turbine efficiency, the research and development would incorporate changes also necessary to mitigate environmental concerns, particularly those related to fish survival. It has come to my attention that the Department of Energy may already have sufficient authority to carry out this kind of R&D. Could I

ask the Senator from Wyoming for a clarification of the authority of the Department of Energy to undertake an accelerated R&D program to produce an efficient, fish-friendly advanced hydroturbine?

Mr. WALLOP. The Department has generic authority under the Federal Nonnuclear Energy Research and Development Act of 1974 to conduct hydropower research development and demonstration of advanced energy technologies. Supplementary authorities to foster the commercialization of such renewable energy technologies as hydropower are provided in the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 and the Energy Policy Act of 1992.

The Department thus has sufficient general and specific authorities to undertake with industry the type of cooperative turbine development activity that you propose. In fact, according to the Department's fiscal year 1995 budget, during the current fiscal year the Department intends to explore whether industry is interested in such a cost-shared program to develop an advanced, turbine design that will minimize impacts on aquatic ecosystems. It is DOE's current intention to initiate such turbine development activities in fiscal year 1995. These activities would be conducted by the National Engineering Laboratory and the Oak Ridge National Laboratory under already existing authorities. These authorities also are sufficient for the expanded project which the Senator is proposing, subject to the availability of appropriated funds. I am sure the chairman of the Energy and Natural Resources Committee can confirm my understanding of the law is correct.

Mr. JOHNSTON. The Senator from Wyoming is correct.

Mr. KEMPTHORNE. I thank the Senators for this clarification.

Mr. BAUCUS. Mr. President, I would like to take a moment now to again thank Senators LIEBERMAN, MIKULSKI, CHAFEE, JOHNSTON, NUNN, BINGAMAN, WALLOP, and DOMENICI who have worked so tirelessly for this bill.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank Senator BAUCUS for his kind comments and say what a pleasure it is to work with him not only on this measure but a host of other measures that come before us. He is a wonderful person to work with.

Now, as I understand it, there is an amendment that will be considered at some other time. Is there a time specific set for that?

Mr. BAUCUS. Mr. President, I suggest to the Senator from Rhode Island we perhaps can resolve this issue by suggesting the absence of a quorum for a few minutes and possibly we can work out a resolution of this matter.

Mr. HOLLINGS. Mr. President, I want to commend the Senator from

Montana [Mr. BAUCUS] and his colleagues for their work on S. 978 and for working closely with the Committee on Commerce, Science, and Transportation.

The Commerce Committee is interested in this bill for two reasons. First, the committee has long had jurisdiction over interagency research and development [R&D] programs, such as the National Earthquake Hazard Reduction Program and the High-Performance Computing and Communications Initiative. It also oversees the White House units which help the President coordinate such programs, particularly the Office of Science and Technology Policy and the National Science and Technology Council.

Title I of S. 978 calls for the President to create an interagency environmental technology strategy, a very appropriate way to ensure agency coordination and reduce unnecessary duplication. S. 978 refers specifically to existing legislation on interagency technology strategies, legislation that Senator Bingaman and I wrote in 1991 and included in the fiscal year 1992 Defense Authorization Act. I want to restate for the record that while the Defense Act was an acceptable vehicle for that legislation, subject matter regarding interagency research and technology activities remains under the jurisdiction of the Commerce Committee.

Second, the Commerce Committee has a strong interest in industry-led, government-aided programs to develop new basic civilian technologies. Several proven civilian technology programs already exist, most notably the Commerce Department's Advanced Technology Program. In drafting S. 978, the Senate faced a balancing act: the Environmental Protection Agency [EPA] clearly needs to play an important role in the development of environmental technologies, and yet we should take advantage of existing technology programs when appropriate and not reinvent the wheel or engage in unnecessary duplication. I note that title II—the title concerning research partnerships—includes formal interagency coordination and directs the EPA Administrator to allocate a substantial percentage of environment technology appropriations for partnerships with other Federal agencies.

I also note that the legislation requires the EPA Administrator to ensure that research partnerships be selected under a merit-based, competitive procedure—that is, through peer review. I strongly believe that Federal technology awards should be made only by peer review and not by politics. I have insisted on peer review in Commerce Department technology programs, including the Advanced Technology Program and the Manufacturing Technology Centers, and this approach has led to high quality awards and no pork. I am pleased to see this type of process included in S. 978.

Mr. President, S. 978 is an important bill, and I once again want to thank the Environment Committee and its chairman for working closely with the Commerce Committee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 3:30 p.m. Monday, the Senate resume consideration of S. 978; that the only floor amendment remaining at that time be the Stevens amendment No. 1687, with no second-degree amendments in order thereto; that there be 30 minutes for debate on the amendment, with the time equally divided and controlled in the usual form; that on Wednesday, May 11, upon disposition of S. 1935, the Senate then resume consideration of S. 978 with 10 minutes remaining for debate on the Stevens amendment No. 1687 and the time equally divided in the usual form; that when the time is used or yielded back, without intervening action, the Senate vote on or in relation to the Stevens amendment No. 1687; that upon disposition of the Stevens amendment, without intervening action, the committee substitute, as amended, be agreed to, the bill read a third time, and the Senate vote on passage of S. 978, without intervening action.

I further ask unanimous consent that on Monday, May 9, upon the use or yielding back of time on the Stevens amendment No. 1687, the Senate then proceed to the consideration of S. 2019, the Safe Drinking Water Act.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, it is my understanding that this has the approval of Senator STEVENS.

Mr. BAUCUS. That is my understanding.

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

Mr. CHAFEE. It is furthermore my understanding, Mr. President, that Senator MCCAIN, who earlier had indicated that he had some amendments to S. 978, has decided he is not going to press with those amendments and, indeed, is not even going to present them.

Mr. BAUCUS. Mr. President, that is my understanding as well.

Mr. CHAFEE. So that agreement has been accepted, Mr. President?

The PRESIDING OFFICER. Yes.

MORNING BUSINESS

AMENDMENT NO. 1683

Mr. LEVIN. Mr. President, early this morning, we passed, by voice vote, a manager's amendment. At that time, I asked that two colloquys between Senator SIMPSON and me be placed in the RECORD after the passage of that amendment. It appears in the CONGRESSIONAL RECORD for May 5, that the colloquys were inadvertently placed in the RECORD prior to the consideration of the managers amendment.

Therefore, I ask unanimous consent to include those colloquys in the RECORD at this point.

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

Mr. SIMPSON. We earlier passed a managers amendment which banned the current practice that allowed registered lobbyists to write checks to charities designated by Senators who have delivered a speech for an honorarium. This prohibition, however, is limited only to lobbyists and registered foreign agents. Honoraria speeches can still be made under this bill. Appropriate charities can still be designated by the Senator making the speech. The major change in the law is that the payments must not be written or tendered by lobbyists or foreign agents. Of course, 100 percent of any honoraria must go to the charity. I wish to direct this inquiry to the author of the bill, Senator LEVIN. On February 13, 1992, Senator KENNEDY and I received a ruling from the Senate Ethics Committee in regard to our participation in a series of broadcasts known as "Face Off" on the Mutual Broadcast System. As a result of our participation on "Face Off," we are able to direct \$25,000 per year to various charitable causes. We are, of course, prohibited from personally keeping one cent of that money. The checks to the selected charities are received from the broadcast group which produces "Face Off." The Broadcast Group is neither a foreign agent or a registered lobbyist. Would the bill, as amended, in the view of the Senator from Michigan, have any adverse effect on this arrangement?

Mr. LEVIN. If the Broadcast Group is neither a registered lobbyist nor a foreign agent, it is my opinion that this bill would not in any way change, alter or amend the earlier Ethics Committee ruling on that subject.

Mr. SIMPSON. Mr. President, in the year 1992 our Senate colleagues directed over \$500,000 to go to charities as a result of speeches which they made. By current law, not one cent of those funds went into any Member's pockets. In 1991, the amount was over \$762,000. These funds go to organizations such as the Girl Scouts, the Boy Scouts, the American Cancer Society, universities, community colleges, environmental and Conservation causes, scholarship programs, veterans groups, and many other worthwhile charitable and educational institutions. I believe this kind of work which Senators do to benefit charities is most commendable. This bill would have banned that type of activity entirely. I was prepared to offer an amendment which would have continued current law regarding charitable honoraria. Since my amendment became known to my old friend, Senator CARL LEVIN, the author of the legislation, he and I and our respective

staff members have engaged in fruitful negotiations. I think we have achieved a solution which will allow these types of worthwhile organizations to continue to receive proceeds from honoraria. However, since this bill is mostly about appearances, and the perceived influence of registered lobbyists, we have agreed to modifications of the current system. I commend Senator LEVIN and his staff for their work in helping to draft this resolution.

As I understand it, provisions in the managers' amendment would prohibit charitable contributions in lieu of honoraria if those contributions are made directly by a lobbyist or a registered foreign agency is that correct?

Mr. LEVIN. That is correct.

Mr. SIMPSON. However, I understand that nothing in the managers' amendment which includes the provisions I requested would prohibit a Member from entering into an agreement to make a speech, and then to direct that an honorarium for the speech go to appropriate charities so long as the person who writes the check to the charity is not a registered lobbyist or registered foreign agent. Is that correct?

Mr. LEVIN. That is correct. It is not our intention to prohibit Senators from directing honoraria proceeds to worthy charities. However, we do not want the perception to be that lobbyists are seeking to influence a Senator by contributing to his or her favorite charity. The entire focus of this bill is to avoid that sort of perception. Accordingly, the prohibition extends only to lobbyists or foreign agents.

Mr. SIMPSON. I very much appreciate the outstanding cooperation I have received from my fine friends, Senator LEVIN and Senator COHEN, in arriving at a satisfactory solution to this matter.

TRIBUTE TO STEVE GREATHOUSE

Mr. REID. Mr. President, as everyone in this Chamber knows, the American Jewish Committee has established a distinguished and exemplary record of advocating for human rights issues throughout the world. Since 1906, the committee has worked to protect the rights and liberties of all minority groups and to strengthen understanding between diverse racial, ethnic, and religious communities.

Each year in Las Vegas, the committee recognizes a Nevanad who, through leadership and example, characterizes this spirit. I am pleased to announce this year, the AJC will be honoring my friend, Steve Greathouse, with its prestigious Institute of Human Relations Award. This award will be presented May 12 in Las Vegas.

Steve began his career in Las Vegas in 1974. Because of his talent, intelligence, and energy, he climbed steadily through ranks of casino management. In 1978, he joined Harrah's Hotel in Reno as the race and sportsbook manager. Two years later, he was promoted to assistant general manager for services.

In 1983, Steve returned to Las Vegas to oversee gaming operations at the Holiday Casino/Holiday Inn, a Harrah's property on the famous Las Vegas Strip. Within 4 years, he was named

senior vice president and general manager of the casino and, in 1990, he was promoted to executive vice president of Harrah's Southern Nevada. Recently, he was named president of Harrah's Casino Hotels Division.

This brief though impressive biographical sketch represents only a small portion of Steve Greathouse's achievements. Along the way, he has also built a sterling reputation in the gaming industry and within the community itself for his vision and for his willingness to help others.

As the president of the Nevada Development Authority and as a member of the board of directors for the Las Vegas Convention and Visitors Authority, he has led the effort to enhance tourism in Nevada and to promote the State's attractions for vacationing families from throughout the Nation and abroad. In this regard, he is an outstanding ambassador for our country.

Whenever a local charity or service organization needs assistance, Steve is always there to lend a hand. Through his participation with the United Way and other agencies, he is always there to see that those in need have somewhere to turn.

I know I join all Nevadans in expressing our congratulations to Steve and his wife, Grace, for all they have done in our State and for this prestigious honor.

BE A STAR FESTIVAL—WEST VIRGINIA SCHOOLS FOR DEAF AND BLIND

Mr. ROCKEFELLER. Mr. President, since the Senate is in session today, I could not attend the Be A Star Festival in Romney, WV, at the Schools for the Deaf and Blind. But I did want to commend the students and staff for this special event.

I believe strongly in community service and my years serving in VISTA brought me to West Virginia and truly changed my life. Last year, I was proud to join President Clinton in support of the National Community Service Act which will encourage public service at all levels and all ages.

I also take great pride in reporting to my colleagues about the "Be A Star Festival" held today. At this event, students and staff from the Schools for the Deaf and Blind will be participating in community service this morning. Planned activities include trash pickups to clean local neighborhoods, visits to seniors in area nursing homes, volunteering at local child care centers, and even making dog biscuits to help the local humane society. Each student will have the chance to contribute what they can. Despite handicaps of blindness or deafness, each of these students is eager—and able—to contribute to their community.

West Virginia has adopted the motto of every mountaineer can be a volun-

teer, and the West Virginia Schools for the Deaf and the Blind are providing this with their Be A Star Festival. I am very proud of each and every student.

OBSTETRICS AND GYNECOLOGY

Mr. COCHRAN. Mr. President, as we continue our review of the options for health care reform, one of the important areas for consideration is the quality of health care. In his Presidential address to the annual meeting of the members of the American College of Obstetricians and Gynecologists, Dr. Richard S. [Pete] Hollis, of Amory, MS described how the quality of care physicians' provide is at an all-time high. Dr. Hollis' commitment to excellence in a changing medical profession is commendable.

Mr. President, I ask unanimous consent that a copy of Dr. Hollis' speech be printed in the RECORD.

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

[From *Obstetrics & Gynecology*, Jan. 1994]

CARING: A PRIVILEGE AND OUR RESPONSIBILITY

(By Richard S. Hollis, M.D.)

When I chose to become a doctor 45 years ago, I had very simple, perhaps even naive, reasons for choosing a career in medicine. I wanted to help people; I wanted to make a difference. Of course, I could have accomplished these things as a farmer or a teacher, but I chose providing health care as my way of caring about people.

The principles of medical practice are based on caring. John Ring, past president of the American Medical Association, in a commencement address at the Georgetown University School of Medicine in 1992 noted, "It is no accident that two of the most important words in medicine—the word 'patient' and the word 'compassion'—come from the same Latin root: the verb *patior*, which means to bear a burden." It is the patient who carries the burden of illness, but the compassionate physician shares that burden, lifting it when possible and lightening it when that is all that can be done. This sharing of the burden has always been the hallmark of the medical profession.

CHANGING MEDICAL ARENA

Nearly everyone who enters medicine has a desire to help someone in need, to be socially useful. It is this commonality, this shared commitment, that unites us as physicians and Fellows of this College. However, there is a dramatic difference between the world of medicine today and when I first began seeing patients. My memory is that of the individual doctor doing his or her best, held in high esteem by a community that expected the physician's commitment to excellence but was realistic about what to expect. Lawsuits were very rare, and liability insurance cost much less than the rent. There was no "doctor shopping." The "hassle factor" was manageable. Complex, intrusive regulations and paperwork never took priority over patient care.

Please do not misunderstand my nostalgia. I am not calling for a return to "the good old days," especially when I reflect on how advances in technology and treatments have

benefited our patients. I still remember how heartbreaking it was to deliver an erythroblastotic infant. And there are ways other than the technological in which things have improved. When I note how different the College is now—with women currently representing 24% of our membership and nearly half the Junior Fellows female—there is no doubt in my mind that we are better for the changes of the last few years.

But there are some disturbing factors in this new environment. In balancing the demands of practicing medicine, it is too easy to lose sight of why we entered this profession in the first place. Although the quality of the care we provide is at an all-time high, the way we provide it has suffered. I sense a growing frustration within the Fellowship, and it is hard not to conclude that the two trends are connected.

In 1987, the American Medical Association surveyed more than 4000 physicians who had been in practice at least 5 years. Forty-four percent said they would not choose medical school again.¹ Within our specialty, there are other alarming signals evidenced by the increasing number of Fellows who have stopped providing obstetric care, creating serious access problems for women and sacrificing one of our greatest joys, that of helping to bring a new life into this world.

Rightly or wrongly, the general public, and women in particular, have begun to lose faith in us. According to a 1991 survey of public opinion by the American Medical Association, 73% of women feel negatively about doctors in general. The next year's survey reported that most respondents did not believe doctors care as much as they used to. And we've all heard the complaints about arrogance, greed, and paternalism. Why is it that, although our patients are living longer, healthier lives, they are losing confidence in their doctors? What are we communicating to our patients, in either words or actions, that leads them to believe we no longer care about them? And why are we less satisfied with what we can do for patients, even though it far exceeds our wildest dreams in medical school?

CARING IN A TECHNOLOGICAL ERA

Part of the reason lies in our increasing reliance on technology. I believe we have become more comfortable with high-technology procedures than with our patients. After World War II, we entered an era of research that produced unprecedented advances in technology. Gradually our skills have shifted away from the bedside. But have we sacrificed our "nice ways" in the name of scientific discovery? Perhaps we have forgotten, as James² tells us, that "success is not a destination we will ever reach. Success is the quality of the journey."

Our patients should not have to choose between the "traditional" doctor who spends time with them and answers their questions, and the "high-technology" physician whose reputation in state-of-the-art procedures is as legendary as his or her abrupt style. When 71% of the public says it believes doctors keep patients waiting too long, and when 63% do not believe doctors involve them enough in deciding about treatment,³ we had better be listening. Whether we are ready or not, the "times they are a-changing." We need to do more than just sit back and wait to see what others decide for us.

The obstetrician-gynecologist is a critical advocate for women's health, and advocacy has never been more important than it is right now. Our health care system has been biased against women. Research has been inadequate, not only in its failure to give wom-

en's health issues their rightful attention, but also in its assumption that the male is the norm. Until recently, most drug testing was done on men, with the results extrapolated uncritically to women. There are many examples of how women have been left out of research, such as the frequently cited Harvard study⁴ which established the value of aspirin in the prevention of heart disease. Initial research on antidepressants focused exclusively on men, although women are twice as likely to suffer from clinical depression. The Baltimore Longitudinal Study on Aging did not include women during the first 20 years, even though women live an average of 7 years longer than men and are more likely to be affected by osteoporosis and arthritis.

The health insurance industry has excluded payment for many preventive measures for women, such as mammograms. Many third-party payers require a woman to practice two-stop shopping for health care. More than half of all women of childbearing age consider their obstetrician-gynecologist their principal physician, but the insurance industry often does not,⁵ making it difficult for women to get the care they need from a physician they know and trust.

NEED FOR A NEW SPECIALTY?

There is new interest in a women's health specialty. Critics say that internists are not taught enough about female reproductive problems; family physicians are too busy with men and children to be up to speed on women's needs; and obstetrician-gynecologists are ill-equipped to treat problems unrelated to reproduction. This new specialist would be trained in women's reproductive biology and the effects of certain diseases and treatments specific to women. He or she also would have studied psychological and social issues, eliminating fragmentation of care.

Such a proposal appeals to women who are frustrated with the way they receive care, but many fear that creating a specialty devoted to the health care of women is just another way of ghettoizing women's issues. They predict that such specialists will earn less, and training programs will attract few residents. Others, myself included, feel that by creating yet another specialty, we would be sending the message that the responsibility for improving women's health is someone else's job. I have never believed in the "separate but equal" solution. It does not work in education or housing, and it does not work in medicine.

COMMITMENT TO CARING

What is the answer? It may be an oversimplification, but I believe we need to go back to the basics, to rethink what it means to care, to take a hard look at ourselves and how we deliver health care.

In 1968, the Council on Resident Education in Obstetrics and Gynecology issued a definitive statement on our specialty:

At present time, many of our society's most serious concerns lie in the discipline of gynecology and obstetrics. The quantity and quality of the next generation, the degeneration of family life, teenage pregnancy, the rising illegitimacy rate—these and many other of our social concerns are intimately bound up with the subject matter of the obstetrician-gynecologist. These concerns have given the discipline a sense of social responsibility that is perhaps unique among the medical specialties.⁶

Twenty-five years later, I believe that this is still true.

We must focus today on improving the health of the women we will serve tomorrow.

I urge you to join with me in committing to five goals. First, let us renew our commitment to caring. Caring comes from the heart. Call it empathy, compassion, understanding, or friendship. It is time to put the patient first. This means we must endow caring with a tangible value so it can compete in the same realm with technical expertise.

In our training, we must ask if there is an overemphasis on methodology. We may need more course work that involves ethics and discusses the values and traditions on which our specialty is based. To broaden our perspective, a review of the history and philosophy of medicine would be helpful. I recommend the following reading to every resident: *The Cry and the Covenant*, a biography of Ignaz Semmelweis; *The Woman's Surgeon*, a biography of J. Marian Sims; and "A Way of Life," the 1913 Sillman Lecture, delivered by Sir William Osler, at Yale University.

Many of our training programs have already recognized the need to return to the humanistic model. Today, more than 70% of medical schools use real-life models who simulate specific, standardized symptoms to provide students with actual experience in dealing with patients. Other programs provide lessons in empathy in which doctors become the patients. Still others require students to teach preventive health courses and serve as mentors to distressed families. These efforts are to be celebrated, but we can do more.

Second, we must learn the skills to communicate better: to use open-ended questions, not to interrupt, to answer questions and explain procedures, and to make the patient feel part of the decision-making process. To have her simply sign the consent form is not enough.

Do you greet your patient warmly by name or by looking at her chart? Do you avoid eye contact and use jargon? How do you respond to being questioned? Do you recognize the different language and cultural factors that could affect how you and your patient interact?

We need to be concerned with the total patient, not just with why she presents herself on a particular visit. That means taking the time to listen—to her domestic problems, her stress at work, her financial worries, and her basic difficulties in coping with day-to-day living. We also must try to understand what is meant when we're told, "You just don't get it."

Third, each of us needs to become an aggressive advocate of women's health issues. The government has been reluctant to support research focusing on issues unique to women. We must labor for equal time for areas in obstetrics and gynecology where our lack of knowledge is enormous. Questions such as what can a young woman do to prevent breast cancer later in life and what triggers the onset of labor need to be answered to improve the care we provide. We must never allow gender—any more than race, religion, ethnicity, or social status—to play a role in setting the agenda for health care research.

Fourth, we must place greater emphasis on prevention care. For most women ages 18-44 years, the obstetrician-gynecologist is her primary, and often her only, health care provider. Preventive health care is an important aspect of the care we provide.

We can do a better job in helping our patients make the behavioral changes often required for improved health. It is not enough to tell a woman not to smoke; when she says "show me how", she is telling us what we should do. It is not for us to set the time-

table for an abused woman to pack her bags and leave her husband. Our role is help her find a shelter when she decides it is time to leave, or to support her if she chooses not to leave.

How many of us get involved with safe-sex discussions? Do we offer sexually transmitted disease testing to all of our patients, or do we select certain women because we think they may be a particular risk? If we do not provide these services to women, who will? The reality is that there simply are not enough other primary care physicians to meet the needs of women.

Finally, we must promote access to quality health care for all women, especially those most vulnerable and least served women in our society. We need to go beyond the rhetoric and become active at the community, state, and national levels to assure access to high-quality care for all women. The ACOG Executive Board's approval of a plan for universal access to maternity services is one step in making our commitment clear.

Call me old-fashioned, but I believe we were put on this earth for a purpose. For those of us who chose medicine as our life's work, the number of opportunities to make a difference far exceeds the number of challenges we must face. Our patients deserve no less than the best we have to offer.

As we look to the future, let us aim high and strive hard. Let us never cease in the quest for knowledge. And let us do this with concern, caring, and heartfelt love and compassion.

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IRRESPONSIBLE CONGRESS? TAKE A LOOK AT THIS

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about the weather but nobody does anything about it. And Congress talks a good game about bringing Federal deficits and the Federal debt under control, but there are too many Senators and Members of the House of Representatives who unflinchingly find all sorts of excuses for voting to defeat proposals for a constitutional amendment to require a balanced Federal budget.

As of Thursday, May 5 at the close of business, the Federal debt stood—down to the penny—at exactly \$4,573,713,001,135.78. This debt, mind you, was run up by the Congress of the United States, because the big spenders in the U.S. Government cannot spend a dime that has not first been authorized and appropriated by Congress. The U.S. Constitution is quite specific about that.

And pay no attention to the nonsense from politicians that the Federal debt was run up by Ronald Reagan or George Bush. The Congress is the villain.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was going on. A billion minutes ago, not many years had elapsed since Christ was crucified.

NATIONAL STUDENT/PARENT MOCK ELECTIONS

Mr. HATCH. Mr. President, we are not accustomed to thinking of voter education as antiviolence education. But the stark realities and images of war-torn and disenfranchised people in other nations that are broadcast across our television screens and printed in our daily newspapers should leave us more grateful than ever for our own constitutional democracy, a form of government we all too often take for granted.

Democracy is a means of non-violent resolution of conflict. While it vests power in the people, we exercise power with votes instead of with violence; ballots instead of bullets. We do not need a gun to be heard.

We are not accustomed to thinking of voter education as antiviolence education. But democracy is, by definition, the nonviolent resolution of conflict. In a democracy, we choose votes instead of violence, ballots instead of bullets. We do not need a gun to be heard.

Violence, psychologists tell us, is the tool of the powerless. It is a response to a sense of impotence—a rage against helplessness. The University of Colorado's formal evaluation of the 1992 National Student/Parent Mock Election found it reduced feelings of powerlessness. Participating students, also showed increases in:

First, political decisionmaking ability;

Second, informed involvement in current issues;

Third, the belief that voting is important;

Fourth, the belief that Social Studies classes are relevant; and

Fifth, the discussion of political and election topics with parents.

Time magazine has called the National Student/Parent Mock Election "the largest voter education project ever." I submit to my colleagues, it is also the largest antiviolence project ever. By encouraging interactions with parents, with public officials, with leading citizens, and by actively involving young Americans with the ideas and ideals, the commitment, the sense of purpose that is our beacon of hope to the world—by helping young voters be heard—the National Student/

Parent Mock Election works to steer American youth away from the delinquent and destructive behaviors of the powerless.

I urge my colleagues to give of themselves to the Nation's youth by actively participating. I urge you to serve as role models for young people and help their teachers teach the full meaning of democracy. I urge you to roll up your sleeves and go to work. Speak before groups of these young voters of the 21st century. Debate with them. Answer their questions, encourage their participation in campaigns, and you will be encouraging the commitment, the attachment, the bonding that allows our young people to grow into proud, productive Americans. Start by writing to every superintendent in your State or district, as I have done through the years, urging them to involve their students in this highly successful voter education projects. Help them to understand how voter education is also anti-violence education, how they can not only strengthen our democracy for the future but contribute to our domestic tranquillity today. I urge teachers and students and parents all across America to get involved. There is no more important lesson to be taught in today's America than the lesson our forefathers taught us over 200 years ago—the lesson of democracy. For each generation must create its democracy anew.

Over 5 million American students and parents in all 50 States, Washington, DC., and overseas—Germany, England, Scotland, Italy, Portugal, Bahrain, France, Holland, Japan, Korea, the Marshall Islands, Guam, the Virgin Islands, and Puerto Rico—participated in the 1992 National Student/Parent Mock Election.

They met all across the country and around the world to cast their votes on who would win the national elections and to vote their recommendations to the President and Congress on six key national issues. Every State had a State election headquarters that called their votes in to National Election Headquarters, as over 20 million viewers watched "the largest voter education project ever"—Time.

A national television program was aired for 2 hours on C-SPAN, showing educators, students, and parents all across the country participating in the project's activities. Production assistance and funding were provided by Time magazine, Time Warner, HBO, CNN, Conus Communications and GLOBALCOM, time magazine provided press assistance, publicity and advertising. CNN and HBO contributed public service announcements prior to the mock election and CNN reported the results hourly the day after. There was extensive coverage by local television stations and the media, with educational television stations and cable

stations airing teenage debates of the issues and teen call-in programs prior to mock election night.

I am pleased to support the 1994 National Student/Parent Mock Election. Scholastic magazines has joined the mock election coalition and will provide mock election materials to elementary, junior and senior high schools across the Nation. A 1994 pilot project, Actions invites the students of America to create their own pilot projects to help combat violence in their community. Students from elementary school through college level are encouraged to organize a project, with the assistance of an adult advisor, designed to help turn around the violence in their community. The first project to be accepted in each State as an official National Student/Parent Election Actions project will receive \$150 toward expenses. There is no limit to the number of pilots per State, or the kinds of projects student might undertake in their community. Some examples might include working to secure street lights for a dark neighborhood, organizing after school activities for unsupervised younger children subject gang inducements, or submitting the student's own ideas for legislation to the State legislature and working to have their legislation enacted.

To become an official Actions pilot, groups must fill out a brief questionnaire describing their plans, the affiliation of their adult advisor, and the group's chairman or leader. Applications must be signed by the responsible adult.

ACTIONS groups will exchange ideas and experiences with each other throughout the 1994-1995 school year. At the end of the school year, the five most successful Actions project leaders will be awarded a free trip to Washington, DC, to meet each other and share experiences in the Nation's Capitol. The most successful project will receive a first prize award of two tickets overseas.

This exciting voter education and parent involvement project is made possible by a national grassroots network in every State and around the world wherever American schools are found. In my own State, Utah, The League of Women Voters has led the project. The Standard Examiner of Ogden served as Utah Election Headquarters, Deputy Lieutenant Governor Tripugth wrote to all the print media soliciting their help in educating young voters and I wrote to all of the State's school superintendents asking them to encourage their teachers and students to participate. In 1994, the league will once again lead Utah's mock election and Utah's schools, media, and public officials are again working together to educate the next generation of young voters through the National Student/Parent Mock Election.

The project is organized differently in every school and every State, but in every State, Members of the Senate and the House can make a significant difference by writing to their local school superintendents and asking them to be sure their schools are participating in the project and I urge my colleagues to do so.

CAREERS THROUGH CULINARY ARTS

Mr. METZENBAUM. Mr. President, I want to bring to the attention of my colleagues an article which appeared recently in USA Today, featuring an exciting new education program developed by Richard Grausman.

Richard Grausman, a good friend of mine, is a well known and respected author, educator, and expert in the field of French cooking. He was for more than 15 years the official U.S. representative of the renowned Cordon Bleu Cooking School in Paris, and he is the author of a highly successful cookbook, "At Home With the French Classics."

He certainly has every right to be proud of his many accomplishments. Yet instead of just sitting back and enjoying his success, Richard Grausman decided to put his experience and creativity to use providing educational opportunities for disadvantaged youth.

The Careers Through Culinary Arts Program, which he created, brings chefs and culinary experts into inner city high schools to show students that they can master the art of French cooking and to open career paths for them in the food industry. The program began in New York in 1990 with a handful of schools, and it now reaches some 25,000 students in 150 schools across the country. The program, which is funded through private donations and industry support, also provides scholarships for students to attend such prestigious cooking schools as the Cordon Bleu and the Culinary Institute of America.

Mr. President, this is a wonderful success story, and it tells us something important about how one person can make a difference when he is willing to devote his talent and energy to helping young people get a good start in life. I ask my colleagues to join me in offering congratulations to Richard Grausman on his outstanding achievement.

I ask unanimous consent that the article from USA Today, entitled "Culinary Arts Program Gives Kids a New Recipe for Life," be printed in the RECORD.

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

[From the USA Today, Apr. 16, 1994]

**CULINARY ARTS PROGRAM GIVES KIDS A NEW
RECIPE FOR LIFE**
(By Cathy Hainer)

WASHINGTON.—A few months ago, Joel Sims could barely boil water for pasta.

Now, the 17-year-old student at M.M. Washington High School is hoping to open a Japanese restaurant.

Sims and 16 of his fellow students are participating in the Careers through Culinary Arts Program, a New York-based organization that tells kids: If you can't stand the street, get into the kitchen.

Founder Richard Grausman is telling high schoolers that there's more to culinary careers than washing dishes. He began the program in 1990 with 12 schools in New York. In four years, it has grown to include more than 25,000 students in 150 schools, from Philadelphia to Chicago to Phoenix.

A slight, silver-haired man going into inner-city schools to teach kids to use pots and pans? Sounds crazy, but it's a proven recipe for success.

"These are the kids for whom academics hold no excitement," says Grausman, author of *At Home With the French Classics* (Workman, \$14.95). There's logs of pent-up frustrations. But when you allow them to use their hands, whether in art class, shop, or the kitchen, you get wonders happening. To the point where academics improve and kids have a career goal to shoot for.

C-CAP brings local chefs and culinary professionals into classrooms and teaches students basic culinary techniques. "Chopping slicing and dicing are the building blocks," says Grausman. "Anyone can become a good cook, but you have to get the basics first."

Lesson 1: learning to slice an onion without slicing off your fingers. Lesson 2: how to cut a carrot before it rolls off the counter. And the *pièce de résistance*—an omelette-making demonstration.

The students are typical high schoolers: Wearing baggy jeans and T-shirts, they slouch in their chairs. But when Grausman calls for volunteers, and they don white chef's aprons, there's a real transformation. "You can see in their faces they want to learn," Grausman says. "There's a great sense of pride of accomplishment." Of course, it doesn't hurt that they get to eat the day's lesson.

"The important thing is to start a spark of interest," says Betty Sims, home economics teacher at M.M. Washington. "Most high school students think culinary careers are demeaning, that cooks make \$3 an hour. Richard's been a godsend in that he teaches the students they can move up in the industry."

C-CAP is paid for by private donations and corporate sponsors, including *Bon Appétit* magazine, Workman publishing and General Mills. In addition to the in-school programs, C-CAP also sponsors several scholarships to cooking schools, including Le Cordon Bleu in Paris and the Culinary Institute of America in Hyde Park, N.Y. In its four years, C-CAP has distributed more than \$1 million in scholarship money.

Fifteen-year-old Kenede Herbert hopes to get some of that action. "I've always baked a lot at home, especially desserts, that's what I'm best at," she says "I'd like to go to the Culinary Institute in upstate New York to learn more about that."

And Grausman isn't stopping there. Next year he plans to launch a "school-to-work" program in conjunction with the 25,000-member American Culinary Federation that would offer post-graduate training in restaurants across the country.

As Grausman puts the finishing touches on an omelette, the kids seem more intent on his technique than getting their forks into the finished product. "Now you can use your love of cooking and do something with it as a career," he tells them.

THE 'CREME DE LA CREME'

Owen Marvel is a C-CAP success story. The 18-year-old entered the program at John Dewey High School in Brooklyn, N.Y. "I was too shy to enter my freshman year, but my sophomore year my home economics instructor hooked me up with Richard Grausman, and I came in seventh in the whole city (in the C-CAP scholarship program)."

In his junior year, Marvel's poached salmon in beurre blanc sauce nabbed the coveted C-CAP scholarship first prize: a 10-day learning trip to Le Cordon Bleu in Paris.

In his senior year he won a C-CAP internship to Bouley, the highly-regarded New York restaurant of chef David Bouley. "The New York City restaurant scene is really intense, but working with chef Bouley really had an impact on my technique."

Marvel is currently in his first year at the Culinary Institute of America, working toward a culinary arts degree. After graduation, he hopes to land a restaurant job in Seattle or San Francisco.

"My family is very food-oriented, so I had always cooked. But working with the C-CAP program, I knew I wanted to make food my career."

**TRIBUTE TO WILLIAM K.
DRUMMOND**

Mr. HATFIELD. Mr. President, I rise today to extend my best wishes to a gentleman who has been a leader in the Northwest energy field. For the past 6 years, Mr. William K. Drummond has served as the manager of the Public Power Council. PPC is a regional association representing the consumer-owned utility customers of the Bonneville Power Administration.

As my colleagues know, Bonneville, which serves as the economic engine of the Northwest, has particular significance for consumer-owned utilities. Under Federal law, these municipal utilities, rural electric cooperatives, and public utility districts receive a first-right, or preference, to purchase the power marketed by Bonneville from the Federal dams on the Columbia and Snake Rivers.

During Bill's tenure as manager, Bonneville and the region have undergone numerous changes: moving from a period of resource surplus to one of deficit, needing to take drastic steps to restore wild salmon stocks listed under the Endangered Species Act, repeatedly defeating administration initiatives to alter existing repayment practices, and responding to an increasingly competitive electric utility industry. Bill has led PPC—and the Northwest—throughout these challenges.

Under his leadership, PPC has played a central role in guiding public power and the region toward workable and progressive solutions. I have found my personal experience with Bill to be highly rewarding, and I know my col-

leagues from the region share the opinion.

Mr. President, Bill Drummond will be leaving the PPC shortly to accept the position of general manager at the Western Montana Generation & Transmission Cooperative. While we will miss Bill's service at the helm of PPC, I am consoled by the knowledge that he will remain an important player in Northwest public power circles.

I ask my colleagues to join me in wishing Bill, his wife, Elizabeth, and his two sons all the best.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 833, 834, 836, 837, 838, 839, 840, 841, 843, 844, 845, 846, 847, 848, 849, 850, 851, 854, 856, 857, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, and 887, and all nominations placed on the Secretary's desk in the Foreign Service.

Mr. President, I further ask unanimous consent that the nominees be confirmed en bloc, 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 (Mr. EXON). Without objection, the nominations are considered and confirmed en bloc, as outlined in the unanimous-consent request.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Edmund T. DeJarnette, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

Melvyn Levitsky, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Ryan Clark Crocker, of Washington, 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 State of Kuwait.

Arvonne S. Fraser, of Minnesota, for the rank of Ambassador during her tenure of service as the Representative of the United States of America on the Commission on the Status of Women of the Economic and Social Council of the United Nations.

Edward S. Walker, Jr., 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 Arab Republic of Egypt.

Ralph R. Johnson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the Rank of Ambassador during his tenure of service as Coordinator of the Support for East European Democracy (SEED) Program.

Charles H. Twining, 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 Cambodia.

Edward William Gnehm, Jr., of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Peter R. Chaveas, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Myles Robert Rene Frechette, 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 Republic of Colombia.

Donna Jean Hrinak, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Johnny Young, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

Irvin Hicks, 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 Ethiopia.

Robert Krueger, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

AFRICAN DEVELOPMENT FOUNDATION

Willie Grace Campbell, of California, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1999.

Marion M. Dawson, of Connecticut, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1999.

INTER-AMERICAN FOUNDATION

Mark L. Schneider, of California, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1998.

U.S. INFORMATION AGENCY

Henry Howard, Jr., of Virginia, to be an Associate Director of the United States Information Agency.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Simon Ferro, of Florida, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994.

Simon Ferro, of Florida, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1997. (Reappointment)

THE JUDICIARY

Fortunato P. Benavides, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Carl E. Stewart, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

Robert Harlan Henry, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit.

Deborah A. Batts, of New York, to be United States District Judge for the Southern District of New York.

James G. Carr, of Ohio, to be United States District Judge for the Northern District of Ohio.

Ruben Castillo, of Illinois, to be United States District Judge for the Northern District of Illinois.

Audrey B. Collins, of California, to be United States District Judge for the Central District of California.

Mary M. Lisi, of Rhode Island, to be United States District Judge for the District of Rhode Island.

Frank M. Hull, of Georgia, to be United States District Judge for the Northern District of Georgia.

W. Louis Sands, of Georgia, to be United States District Judge for the Middle District of Georgia.

Clarence Cooper, of Georgia, to be United States District Judge for the Northern District of Georgia.

Solomon Oliver, Jr., of Ohio, to be United States District Judge for the Northern District of Ohio.

Raymond L. Finch, of the Virgin Islands, to be a Judge for the District Court of the Virgin Islands for a term of ten years.

DEPARTMENT OF JUSTICE

Saul A. Green, of Michigan, to be United States Attorney for the Eastern District of Michigan for the term of four years.

Joseph Clyde Fowler, Jr., of Tennessee, to be United States Marshal for the Eastern District of Tennessee for the term of four years.

James W. Lockley, of Florida, to be United States Marshal for the Northern District of Florida for the term of four years.

Sheldon Whitehouse, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

Barbara C. Jurkas, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

Ernestine Rowe, of Colorado, to be United States Marshal for the District of Colorado for the term of four years.

Leonard Trupo, of West Virginia, to be United States Marshal for the Northern District of West Virginia for the term of four years.

Gregory Moneta Sleet, of Delaware, to be United States Attorney for the District of Delaware for the term of four years.

Faith S. Hochberg, of New Jersey, to be United States Attorney for the District of New Jersey for the term of four years.

John William Marshall, of Virginia, to be United States Marshal for the Eastern District of Virginia for the term of four years.

DEPARTMENT OF COMMERCE

Philip G. Hampton, II, of the District of Columbia, to be an Assistant Commissioner of Patents and Trademarks.

Lawrence J. Goffney, Jr., of Michigan, to be an Assistant Commissioner of Patents and Trademarks.

Michael Kane Kirk, of Florida, to be Deputy Commissioner of Patents and Trademarks.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Kelly Christian Kammerer, and ending

Stephanie Turco Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 26, 1994.

Foreign Service nominations beginning Kevin C. Brennan, and ending John Peters, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 25, 1994.

STATEMENTS ON THE NOMINATION OF MARY M. LISI

Mr. CHAFEE. Mr. President, on that particular one, I would just like to say how delighted I personally am, and I know the President likewise is, of Calender 868, Mary M. Lisi, to be U.S. district judge for the district of Rhode Island.

I know the distinguished Presiding Officer shares with me the high esteem for her. I am very glad this is coming forth.

Mr. PELL. Mr. President, today the Senate has acted to confirm the nomination of Mary Lisi to fill the vacancy of U.S. district court judge for the district of Rhode Island. I am delighted that the Senate has seen fit to approve of President Clinton's choice for this post and believe that Rhode Island and the Federal judiciary will be distinguished by her service.

As Ms. Lisi prepares to take the bench, it is worth noting that she will bring unique experiences and skills with her. She will be the first woman to serve as a Federal judge in Rhode Island's history. This is a long overdue event and I am proud that we are finally breaking the gender barrier in the Federal judiciary in our State. In addition, she also will contribute the perspectives of having been a juvenile advocate, a public defender, and an ethics watchdog during her legal career. Dedicated to public service and ever conscious of the public trust invested in her, she will bring honor and respect to the Federal bench.

Once again, I am pleased that the Senate has taken this action, wish all the best to Ms. Lisi as she takes her new position, and look forward to working with her in the future.

STATEMENTS ON THE NOMINATION OF SHELDON WHITEHOUSE

Mr. CHAFEE. Mr. President, again, I know that you share with me the joy that Sheldon Whitehouse will now be confirmed for the U.S. attorney's position for the State of Rhode Island.

I am particularly proud of this because I have known his father since my college days and have known Sheldon Whitehouse since he was a small boy. I have seen him grow up, seen him do a splendid job in the law representing our Governor, and in a host of billets doing an outstanding job for our State and its citizens.

So it is with great pleasure that I see his name on this list and support his confirmation with enthusiasm.

Mr. PELL. Mr. President, I am pleased that the Senate today has acted to confirm Sheldon Whitehouse

to be the U.S. attorney for the district of Rhode Island. It has been almost a year since I first recommended Mr. Whitehouse to the President to fill this post and I am immensely pleased that the Senate has taken its action today in approving his nomination.

Shortly, Mr. Whitehouse will take office and as he does so, he faces the great challenges and difficulties that are inherent in law enforcement and judicial system today. Burgeoning crime rates, younger and more violent criminals, conflicting views over sentencing and imprisonment, and frightened and angry victims make for a confusing and emotion-charged environment in which the wheels of justice must turn. I am confident that the dedication to principle, intellect, compassion, and unique skills that Mr. Whitehouse possesses will aid him immeasurably as he carries out the duties of his office. In no small way, I believe that his work will help restore confidence and respect in our oft-beleaguered system of justice.

Once again, I note with pleasure the Senate's action today, wish Mr. Whitehouse all best wishes as he takes on his new responsibilities, and look forward to working with him to improve our judicial system and law enforcement in this country.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

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 Mrs. HUTCHISON:

S. 2085. A bill to amend title IV of the Social Security Act to require States to establish a 2-digit fingerprint matching identification system in order to prevent multiple enrollments by an individual for benefits under such act, and for other purposes; to the Committee on Finance.

By Mr. LEAHY (by request):

S. 2086. A bill to amend the Rural Electrification Act of 1936 to remove the 7-percent interest rate limitation on certain Rural Electrification Administration loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUMPERS:

S. 2087. A bill to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 18, 1994; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD (for himself, Mr. BRADLEY, Mr. STEVENS, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. HUTCHISON):

S.J. Res. 186. A joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 2085. A bill to amend title IV of the Social Security Act to require States to establish a 2-digit fingerprint matching identification system in order to prevent multiple enrollments by an individual for benefits under such act, and for other purposes; to the Committee on Finance.

WELFARE ANTIFRAUD ACT OF 1994

Mrs. HUTCHISON. Mr. President, I rise today to talk about our Nation's welfare system. Almost 30 years ago a fellow Texan Lyndon Johnson declared an unconditional war on poverty. Unfortunately, this country has not yet won that war. Our welfare programs, created with the intention of providing assistance to those in despair, has been defeated by the disincentives that plague America's inner cities. Unfortunately, adding to our troubled entitlement programs are the abuses of the system that prevail in many of our cities. There are too many welfare recipients receiving benefits to which they are not entitled. Our State and local governments are burdened with inefficient fraud prevention procedures that perpetuate the abuses in the system.

Today, I am introducing a bill to detect, investigate and prosecute fraud in the Aid to Families With Dependent Children [AFDC] program through fingerprint identification systems. AFDC fraud is a costly problem that will not go away if left unaddressed. We need dramatic changes in fraud detection programs. People all over the world see the United States social service system as a ticket to free benefits. Fake birth certificates, fake green cards, and phony Social Security cards are sold openly in Puerto Rico, Haiti, and China. Cooperation among Federal and State agencies is necessary to detect the abusers. A fingerprinting identification system is a solution to identifying the cheaters.

Examples of fraud are evident in every State. According to the National Taxpayers Union, Maria Lopez and her 17 relatives might still be defrauding welfare departments in five States. As a migrant farm worker, Maria collected welfare benefits in Washington, Nebraska, Oregon, and Wyoming. Following in her success, 17 of her relatives opened welfare accounts in those States. Had caseworkers in the various States bothered to check they would have found all 18 persons claiming the same address or post office box. In Minnesota, a man was convicted of welfare fraud, assault and terrorist threats related to using at least six names and even more Social Security numbers. That man defrauded the welfare system of \$10,490. Governor Wilson of California said last month "You can use a phony social security card or a phony name, but nobody can use a phony fin-

gerprint." The use of a fingerprinting system to verify the identity of recipients will work to reduce and prevent fraud in the system. Reducing fraud in the system will cut costs and make sure that those who are really in need are receiving assistance. States that have experimented with fingerprinting programs have produced dramatically better results in combating fraud than those States expending resources and effort on other deterrence programs.

The fingerprinting system works. In June 1991, Los Angeles County began taking computer fingerprints from applicants for the State general relief program. That program has saved Los Angeles County \$5.4 million during the first 6 months of its operation and is projected to save about \$18 million over 5 years. The program was so successful that 2 weeks ago, Los Angeles County announced commencement of the finger-imaging system in the AFDC program. According to Governor Wilson's office the fingerprinting project is expected to save taxpayers a total of \$4.2 million in its first year of operation.

Programs in New York have also been successful. A study conducted by the New York Department of Social Services estimated that New York could save \$46 million a year if it adopted a statewide finger-imaging system.

According to a recent Inspector General's report, the evidence of fraud that occurs in our local office goes unnoticed and worse yet unpunished. In that report, one eligibility worker stated "After all my work proving that she was a fraud, she only got a slap on the wrist and an order to repay the money. * * * I know she'll do the same thing again, but why should I waste my time sending it to the investigator. She will just be back in here laughing in my face again." The Inspector General of HHS reported that the presence of an active, visible and effective fraud investigation function is critical to the integrity of the AFDC program. Fingerprinting welfare recipients has proven to be an effective mechanism to attack the abuses of the system. A fingerprinting system coupled with real prosecutorial mechanisms to deal with perpetrators is desperately needed in our local welfare offices.

With both the President and Congress focusing on the reform of our welfare system, attention to eligibility is critically important. In 1991, the Department of Health and Human Services reported that roughly 65 percent of the cases reported in 1991 had evidence sufficient to support a question of fraud. This number represents only the percentage of cases that have been reported. As the Inspector General report indicates, there may also be many, many cases that go unreported due to inadequate preeligibility requirements and inadequate investigative techniques.

The 1993 Inspector General report recommended that States use the most effective ways to prevent inappropriate payments in the AFDC program. The success stories from both the California and New York programs suggest that fingerprinting welfare recipients is effective fraud detection. The results have been impressive. The cost-savings are significant. Fingerprinting welfare recipients is a more modern and efficient approach to the welfare application process. The systems currently being utilized have weeded out several thousand people who should not have been on the rolls. The Welfare Anti-Fraud Act will ensure that only eligible persons receive access to AFDC benefits. We must halt the widespread abuses of the welfare system across this Nation. This bill is necessary to ensure that scarce Federal, State, and county resources are used effectively and not pointlessly spent on multiple aid.

Mr. President, the old parable about welfare says that if you give a man a fish, he eats for a day, and if you teach him to fish, he eats for a lifetime. Almost every welfare program this Congress has devised has promised to teach people to fish, but most have ended up handing out fish on the street corner. If we stop the abuses in the system, those who are truly needy will be covered—and the taxpayers who provide this help will know their tax dollars are being spent in a responsible manner.

By Mr. LEAHY (by request):

S. 2086. A bill to amend the Rural Electrification Act of 1936 to remove the 7-percent interest rate limitation on certain Rural Electrification Administration loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL ELECTRIFICATION ADMINISTRATION
LOANS ACT OF 1936

• Mr. LEAHY. Mr. President, today I am introducing legislation to repeal the 7-percent interest rate cap on certain loans made by the Federal Financing Bank. This legislation will repeal a provision that was included in the Rural Electrification Loan Restructuring Act of 1993 (H.R. 3123/Pub. L. 103-129). On April 26, 1994, I introduced S. 2054 for the same purpose. However, because of a technical error in that bill I am introducing this new corrected version of the legislation.

As I mentioned on April 26, 1994, when President Clinton signed H.R. 3123, he indicated concern over the 7-percent cap on certain REA loans and said he wished to work with Congress to remove this provision. The legislation that I am introducing today is a good faith effort on the part of the administration to resolve this issue with Congress.

In President Clinton's "Statement on Signing the Rural Electrification Loan

Restructuring Act of 1993" he explained:

The Act places a 7-percent interest rate cap on certain REA loans, including those refinanced through the Department of the Treasury's Federal Financing Bank. Experience with Federal credit programs indicates that such statutorily fixed interest rate ceilings produce unpredictable and unintended results, including (1) inequities among borrowers using the program at different times; (2) extraordinary demands for loans when market interest rates are high; and (3) increased budget deficits. The "openended" character of subsidies resulting from the interest rate cap is inconsistent with the administration's objective of managing Federal subsidies more effectively.

I would like to inform my colleagues of my intent to seek quick action on this legislation. I will move next week to discharge this bill from the Committee on Agriculture, Nutrition, and Forestry and to seek final passage.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF MAXIMUM INTEREST RATE LIMITATION ON FFB LOAN REFINANCING.

Section 306C of the Rural Electrification Act of 1936 (7 U.S.C. 936c) is amended—

(1) in subsection (c)(2), by striking " , except that such rate shall not be greater than 7 percent per year, subject to subsection (d)"; and

(2) by striking subsection (d).•

By Mr. BUMPERS:

S. 2087. A bill to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 18, 1994; to the Committee on Labor and Human Resources.

THE NUTRITION LABELING AND EDUCATION ACT
AMENDMENTS OF 1994

• Mr. BUMPERS. Mr. President, companies across the Nation have spent countless hours and millions of dollars in an effort to comply with the new food labeling rules that will become effective Sunday, May 8. In spite of their efforts, many have found that they will simply not be able to meet the newest labeling requirements by that date. In many cases, their current supply of labels contains nutrition information, but the label format does not meet the new standards.

Changes or clarifications to the regulations were issued in August, and although this might seem a reasonable period of time in which to comply, it has not been the case.

I have heard from manufacturers from Maryland to Oregon who simply could not get their labels or packages printed before the deadline. These companies want to provide the required nutrition information in the correct for-

mat because it is clear that consumers are beginning to "check it out" as the FDA suggests.

I am pleased to introduce a bill that corrects this regulatory problem, a problem that will affect not only the food manufacturing industry, but consumers, farmers, and the environment if we do not act quickly.

This bill extends the deadline for full compliance to August 18, 1994, for products whose labels were printed before April 1, 1994. I believe this approach is a reasonable solution to a very real problem.

Label producers are running at full capacity, but they simply cannot meet the demands of their customers. Label printing is a specialty, and the process is not as simple as it seems. Only after the food products have undergone laboratory analysis to determine nutrition content can the first step toward a final label begin. Art work has to be done, film has to be made, and then plates for the presses must be produced. In a memorandum dated May 4, 1994, a graphics company told one of its large customers that U.S. plate producers are saturated with orders and that "there is a backlog in the industry that will take several weeks to debottleneck."

Labels include more than just the paper or plastic strips that are attached to cans of beans or bottles of soft drink. They include the egg cartons, the potato chip bags or any other packaging on which the nutrition information is provided. Without an extension of the May 8 deadline, manufacturers will be forced to dispose of tons of packages and labels, many of which are not biodegradable.

In Arkansas, one rice cooperative alone will have to dispose of about a half million dollars' worth of packaging. This loss will come out of the farmers' pockets. A paper company in my State has 7 million dollars' worth of liquid packaging that is not in compliance. Some companies will not have enough cartons that comply with the letter of the regulation by Sunday and milk producers can't put their products on hold while containers are manufactured.

Can you imagine how many tons of cardboard, plastic coated paper, and plastic bags and jugs will be hauled to the landfills of this Nation? For each container or labeling strip that is discarded, another must be produced. The environmental consequences of our failure to extend the compliance period would be staggering.

Some segments of the food industry face a more serious dilemma than others. A company that produces private label products, sometimes called "store brands," may produce 150 brands of one product in three sizes of each brand. This one company must have 450 different labels for just that one product. If the company cannot get enough la-

bels in time, it will be forced to shut down production and lay off its employees until its new labels arrive, and the customer must choose a different and perhaps more expensive brand.

This measure will not assist everyone, but I believe it will make a significant difference.

I am grateful for the cooperation of all those who assisted in working out a solution to several serious problems.●

By Mr. PACKWOOD (for himself, Mr. BRADLEY, Mr. STEVENS, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. HUTCHISON):

S.J. Res. 186. A joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

NATIONAL GIRLS AND WOMEN IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, today, I am joined by my colleagues Senators BRADLEY, STEVENS, FEINSTEIN, KENNEDY, and HUTCHISON in introducing a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Girls and Women in Sports Day." I have successfully introduced this joint resolution for the past 8 years and hope to continue this tradition.

I first introduced this joint resolution after I met a very special woman named Flo Hyman when she came to lobby Congress in 1984. Flo, along with other Olympic athletes, joined Senators in support of restoring landmark civil rights protections for women, minority, and disabled athletes after the Supreme Court ruling in the Grove City College versus Bell case. In its decision, the Supreme Court ruled that the prohibition of sex discrimination in education in title IX of the Education Amendments of 1972 applied only to the particular program or activity that received Federal assistance, not the entire institution. Under this interpretation, educational institutions would be free to discriminate in programs such as athletics and retain their Federal funding in other areas. Fortunately, the Grove City case was ultimately overturned and gender equity in education was restored.

At a crowded press conference in 1984, Flo delivered a moving and inspiring speech about how the civil rights law—title IX—had enabled her to fulfill her dream and "reach the gold."

When Flo died about 8 years ago, I was moved by her sudden death at such a young age. I wanted to do something to continue her mission and spirit. So, I introduced the resolution to begin National Girls and Women in Sports Day to honor Flo Hyman. Each year at a ceremony on this day, a woman athlete is presented with the "Flo Hyman Award." In 1994, the award representing total commitment and passion that Hyman demonstrated was presented to Patti Sheehan—professional golfer and

LPGA Hall of Fame inductee. It is my hope that this resolution will inspire future generations of women athletes to strive toward the excellence which Flo Hyman, Patti Sheehan, and other female athletes exemplify.

Despite recent advances made by women in sports, inequities still exist between the funding and promotion of women's and men's athletic programs. Mr. President, I offer this joint resolution designating February 2, 1995, and February 1, 1996, as "National Girls and Women in Sports Day" to honor women's contributions in sports and to encourage all women to participate in and enjoy the health benefits of athletics.●

ADDITIONAL COSPONSORS

S. 978

At the request of Mr. BAUCUS, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Oregon [Mr. HATFIELD], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 978, a bill to establish programs to promote environmental technology, and for other purposes.

S. 1915

At the request of Mr. SHELBY, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1915, a bill to require certain Federal agencies to protect the rights of private property owners.

S. 1986

At the request of Mr. BREAUX, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor 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 name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor 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.

S. 2046

At the request of Mr. COCHRAN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2046, a bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes.

AMENDMENTS SUBMITTED

CONGRESSIONAL GIFTS REFORM ACT

D'AMATO (AND OTHERS) AMENDMENT NO. 1685

Mr. D'AMATO (for himself, Mr. GORTON, and Mr. DOMENICI) proposed an amendment to the bill (S. 1935) to prohibit lobbyists and their clients from providing to legislative branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures; as follows:

At the appropriate place, add the following:

It is the sense of the Senate that the conferees to the upcoming Senate-House conference on omnibus crime legislation should totally reject the so-called Racial Justice Act provisions contained in the crime bill passed by the House of Representatives on April 21, 1994.

NATIONAL ENVIRONMENTAL TECHNOLOGY ACT OF 1994

BAUCUS (AND OTHERS) AMENDMENT NO. 1686

Mr. BAUCUS (for himself, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. KERRY, Mr. CHAFEE, Mr. WOFFORD, Mr. MOYNIHAN, Mr. LAUTENBERG, Mrs. BOXER, Mr. REID, Mr. METZENBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. SARBANES, Mr. PELL, Mr. DODD, Mrs. MURRAY, Mr. LEAHY, Mr. JEFFORDS, Mr. CAMPBELL, and Mr. HATFIELD) proposed an amendment to the bill (S. 978) to establish programs to promote environmental technology, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Environmental Technology 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 and purposes.
Sec. 3. Definitions.

TITLE I—ENVIRONMENTAL TECHNOLOGY STRATEGY

Sec. 101. Development.

TITLE II—ENVIRONMENTAL TECHNOLOGY INITIATIVE

Sec. 201. Establishment.
Sec. 202. Environmental Protection Agency partnership authority.
Sec. 203. Multi-agency partnership authority.
Sec. 204. Authorization of appropriations.

TITLE III—ENVIRONMENTAL INNOVATION RESEARCH PROGRAM; TECHNOLOGY TESTING

Subtitle A—Environmental Innovation Research Program

Sec. 301. Environmental innovation research program.

Sec. 302. Guidelines of the environmental innovation research program.

Sec. 303. Multi-agency environmental innovation research program.

Subtitle B—Innovative Technology Testing

Sec. 311. Program.

TITLE IV—ADDITIONAL PROGRAMS

Subtitle A—Verification of Environmental Technologies

Sec. 401. Program.

Subtitle B—Technical Assistance to Small Business in Coordination with Existing Programs

Sec. 411. Environmental assistance.

Sec. 412. Statutory construction.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) environmental problems facing the world pose a threat to the environmental and economic security of the United States and other nations;

(2) promoting a sound economy while maintaining a healthy environment is among the urgent public policy challenges of the United States;

(3) the development and utilization of environmental technologies will enhance both global environmental security and the economic standing of the United States in the world marketplace;

(4) the growing worldwide demand for environmentally sound products and processes, and for cost-effective environmental cleanup and pollution control technologies, presents significant business opportunities;

(5) innovative environmental technologies face barriers to development and utilization, and are often slow to be adopted;

(6) advances in source reduction, environmental cleanup, and pollution control technologies could significantly reduce Federal Government and private cleanup expenditures, improve cleanup results, and help prevent future contamination;

(7) the development and implementation of effective public and private partnership arrangements will help promote successful technology development programs;

(8) many technologies developed for other purposes, such as defense or space exploration, could also be used to address environmental problems;

(9) a coordinated, interagency strategy for environmental technology will greatly facilitate the development of environmental technologies that can respond to environmental programs and create jobs and new sources of income; and

(10) successful Federal Government programs to foster the development and utilization of environmental technologies depend on coordination and cooperation among agencies involved in environmental protection and agencies involved in technology development.

(b) PURPOSES.—The purposes of this Act are—

(1) to further environmental protection, spur the creation of jobs (including the creation of jobs in areas of pervasive poverty), and enhance the ability of domestic companies to compete in the international marketplace by facilitating the development and utilization of environmental technologies;

(2) to encourage the development and utilization of environmental technologies that prevent or control pollution and remediate existing contamination;

(3) to help overcome barriers that hinder the successful development and utilization of environmental technologies; and

(4) to coordinate Federal Government policies, actions, and budgets with respect to environmental technologies.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ENVIRONMENTAL TECHNOLOGY.—The term "environmental technology" means a product, process, or service—

(A) the primary purpose of which is to reduce an environmental risk by protecting or enhancing human health or the environment through—

- (i) pollution control;
- (ii) environmental remediation; or
- (iii) a design or process change that results in source reduction or recycling; and

(B) that is identified and listed in the Strategy under section 101(a)(4).

(3) EXECUTIVE AGENCY.—The term "Executive agency" has the same meaning as is provided in section 105 of title 5, United States Code.

(4) PARTNERSHIP.—The term "partnership" means any arrangement under which the head of an Executive agency or a designee (including a Federal laboratory) undertakes research, development, demonstration, or technical assistance activities in cooperation with one or more non-Federal partners or partners from other Executive agencies.

(5) SMALL BUSINESS CONCERN.—The term "small business concern" means a business concern that is recognized as a small business concern under section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and that has no more than 100 employees.

(6) SOURCE REDUCTION.—The term "source reduction" has the same meaning as is provided in section 6603(5) of the Pollution Prevention Act of 1990 (42 U.S.C. 13102(5)).

TITLE I—ENVIRONMENTAL TECHNOLOGY STRATEGY

SEC. 101. DEVELOPMENT.

(a) IN GENERAL.—

(1) DEVELOPMENT.—As one of the strategies required under section 822(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 6687(a)), the President shall develop an Environmental Technology Strategy (referred to in this title as the "Strategy").

(2) FIRST STRATEGY.—The first Strategy shall be submitted to Congress with the annual report on critical technology strategies required under section 822(b) of such Act, due February 15, 1995.

(3) CONTENTS.—Notwithstanding the second sentence of section 822(a)(1) of such Act, each Strategy shall identify environmental requirements based on trends in domestic and global environmental threats and the potential for environmental and economic benefits. To meet the requirements, each Strategy shall—

(A) recommend effective public and private partnership arrangements for the development and utilization of environmental technologies;

(B) recommend actions that will encourage the utilization of environmental technologies, with special attention to environmental technologies that are likely to reduce risk to human health and the environment in a cost-effective manner;

(C) recommend actions that will encourage the development of environmental technologies by small business concerns, including small business concerns located in areas of pervasive poverty;

(D) identify economic, regulatory, and other barriers to the development, utilization, or export of environmental technologies, and recommend appropriate actions to reduce the barriers;

(E) identify incentives for the development, utilization, or export of environmental technologies, and recommend appropriate actions to improve the incentives; and

(F) consistent with section 822(a)(3)(E) of such Act, develop Federal budget estimates for the activities of Executive agencies that promote, develop, or support environmental technologies identified in the Strategy.

(4) ENVIRONMENT TECHNOLOGIES.—As part of the Strategy, the President shall identify and list technologies that meet the criteria of clauses (i), (ii), and (iii) of section 3(2)(A) and that address the requirements identified under paragraph (3) of this subsection. The list shall include the technologies that meet the criteria of clauses (i), (ii), and (iii) of section 3(2)(A) and that are identified in—

(A) the 5-year plan prepared by the Strategic Environmental Research and Development Program Council pursuant to section 2902(d)(3) of title 10, United States Code; and

(B) the 5-year plan for environmental research, development, and demonstration required by section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1976 (42 U.S.C. 4361).

(b) REPORT TO CONGRESS.—The President shall—

- (1) submit to Congress any subsequent revisions to the Strategy; and
- (2) make the Strategy publicly available.

TITLE II—ENVIRONMENTAL TECHNOLOGY INITIATIVE

SEC. 201. ESTABLISHMENT.

(a) IN GENERAL.—

(1) INITIATIVE.—The Administrator shall establish an Environmental Technology Initiative (referred to in this title as the "Initiative") to coordinate and support the implementation of the roles, responsibilities, and goals identified for the Environmental Protection Agency pursuant to the most recent Strategy developed under title I.

(2) OFFICE.—

(A) ESTABLISHMENT.—The Administrator shall establish an office to—

(i) coordinate the implementation of the Initiative;

(ii) coordinate and support the implementation of the activities of the Environmental Protection Agency authorized under this Act; and

(iii) coordinate the development of policies of the Environmental Protection Agency that foster technological innovation.

(B) HEAD.—The office shall be under the direction of such officer of the Environmental Protection Agency as the Administrator shall designate.

(b) INTERAGENCY COORDINATION.—In carrying out this section, the Administrator shall collaborate with the appropriate officials of Department of Commerce, the Department of Defense, the Department of Energy, and other appropriate Executive agencies to—

(1) ensure the effective use of then existing capabilities within Executive agencies; and

(2) prevent duplication of efforts by the Environmental Protection Agency with other Executive agencies.

(c) FUNCTIONS.—Consistent with subsections (a) and (b), the Administrator, in collaboration with the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, and the heads of other appropriate Executive agencies, shall—

(1) through partnerships, pursuant to sections 202 and 203, including the provision of grants or loans, support the development and demonstration of environmental technologies at the precommercial stage by industrial, academic, governmental, and non-governmental entities;

(2) using information that is in the public domain or voluntarily submitted, track on a continuing basis the research and development being conducted on environmental technologies by private industry in the United States;

(3) cooperate in developing and improving mechanisms to—

(A) promote the transfer of environmental technologies domestically and internationally;

(B) provide information to private and public concerns that develop, apply, or export environmental technologies;

(C) use electronic databases and other means to collect and disseminate nonproprietary information on environmental technologies, including descriptions of environmental technologies developed, tested, or verified under the programs established under this Act; and

(D) provide a locator service that would direct users to information relating to environmental technologies, including information on new products and services, regulations, export opportunities and assistance, demonstration programs, and verification and testing programs;

(4) advise other officials, as appropriate, within the other Executive agencies, concerning programs, strategies, and regulatory reforms for promoting the development and utilization of environmental technologies;

(5) facilitate market acceptance for environmental technologies;

(6) develop recommendations for changes in Federal procurement guidelines to give preference to environmental technologies;

(7) provide advice and assistance to regional technology centers and similar community-based alliances that are supporting a transition from defense technology research, development, and production to environmental technology research, development, and production;

(8) pursuant to section 401, establish a program to verify the cost and performance characteristics of environmental technologies; and

(9) report to Congress not less frequently than annually on—

(A) the activities conducted under the authorities established by this section; and

(B) the resources and staff devoted to managing the activities.

(d) **CONSULTATION WITH OTHER GROUPS.**—The goals and programs in support of the Initiative shall be developed and implemented by the Administrator in consultation with other Executive agencies, private sector organizations, academic institutions, and nonprofit groups involved in technology development and utilization, environmental protection, labor, education, or international relations.

SEC. 202. ENVIRONMENTAL PROTECTION AGENCY PARTNERSHIP AUTHORITY.

(a) **IN GENERAL.**—To support the development of environmental technologies, the Administrator may enter into partnerships that—

(1) are in accordance with the statutory duties of the Environmental Protection Agency;

(2) are consistent with the roles, responsibilities, and goals identified for the Environmental Protection Agency pursuant to the Strategy developed under title I; and

(3) do not duplicate specific technology development projects being conducted by other Executive agencies.

(b) **ECONOMIC BENEFITS.**—In carrying out the programs established under this title, the Administrator shall ensure that the prin-

cipal economic benefits pursuant to any partnership accrue to the domestic economy of the United States.

(c) **LIMITATIONS.**—The period of a partnership that provides a grant or loan pursuant to this section—

(1) with a single firm may not exceed 3 years; and

(2) with a consortium of companies or other entities may not exceed 5 years.

(d) **SMALL BUSINESS CONCERNS.**—In carrying out this section, the Administrator shall give special consideration to the needs of small business concerns (including small business concerns located in areas of pervasive poverty) in entering partnerships.

(e) **ADMINISTRATION OF PROGRAM FUNDS.**—In carrying out this section, the Administrator shall—

(1) determine categories of projects to be funded under the Initiative;

(2) issue solicitations for partnerships to be funded;

(3) receive and evaluate proposals resulting from solicitations;

(4) ensure that partnerships are selected under a merit-based, competitive procedure; and

(5) in selecting participants for partnerships, give preference to partnerships that support the development of environmental technologies that—

(A) meet the definition of source reduction; or

(B) are likely to reduce risks to human health or the environment in a cost-effective manner.

(f) **FEDERAL SHARE.**—The Federal share of the cost of a partnership conducted under this section may exceed 50 percent only if—

(1) the partnership is conducted pursuant to an agreement entered into with a small business concern under this section, except that the Federal share of the cost of a partnership described in this paragraph may not exceed 75 percent;

(2) the partnership supports the development of an environmental technology that meets the definition of source reduction, except that the Federal share of the cost of a partnership described in this paragraph may not exceed 75 percent; or

(3) the partnership supports fundamental research for the development of an environmental technology.

(g) **CONFIDENTIAL INFORMATION.**—

(1) **PROPRIETARY INFORMATION.**—Except as provided in paragraph (2), information classified for reasons of national security, trade secrets, confidential business information, or other proprietary information may not be disclosed by an officer or employee of the United States acting under any provision of this Act. The information shall not be subject to disclosure under section 552 of title 5, United States Code.

(2) **EXCEPTION.**—Confidential business information may be disclosed only in accordance with a written agreement between—

(A) the owner or developer of the information; and

(B) the Administrator or the head of the appropriate Executive agency.

(3) **DISSEMINATION OF RESEARCH RESULTS.**—Pursuant to paragraphs (1) and (2) and section 201(c)(3)(C), the Administrator or the head of the appropriate Executive agency shall provide for the dissemination of nonproprietary research results of the projects supported under the programs established under this title.

(h) **MINIMUM ALLOCATION FOR SMALL BUSINESS.**—Not less than 25 percent of the Federal funds made available to carry out this

section shall be awarded to small business concerns pursuant to partnerships authorized under this section.

SEC. 203. MULTI-AGENCY PARTNERSHIP AUTHORITY.

(a) **IN GENERAL.**—The Administrator may enter into a partnership with the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, or the head of any other appropriate Executive agency, or any combination thereof, to develop an environmental technology that will assist the Environmental Protection Agency and the other agency or agencies involved achieve their respective responsibilities and missions.

(b) **AUTHORITY.**—In carrying out this section, the head of an Executive agency may enter into a partnership in accordance with provisions of law that are applicable to the agency.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out the programs established under this title—

- (1) \$36,000,000 for fiscal year 1994;
- (2) \$80,000,000 for fiscal year 1995; and
- (3) \$120,000,000 for fiscal year 1996.

(b) **FEDERAL AGREEMENTS.**—The Administrator shall allocate a substantial percentage of funds made available by appropriations pursuant to subsection (a), with a goal of reaching 50 percent, for partnerships entered into pursuant to section 203.

TITLE III—ENVIRONMENTAL INNOVATION RESEARCH PROGRAM; TECHNOLOGY TESTING

Subtitle A—Environmental Innovation Research Program

SEC. 301. ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.

(a) **ESTABLISHMENT.**—For each fiscal year, the Administrator is authorized to provide for an environmental innovation and research program an amount not more than 1.25 percent of the amount of funds made available to the Environmental Protection Agency from the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (referred to in this subtitle as "Superfund") pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), notwithstanding any other provision of such Act and subject to the availability of appropriations.

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—The Administrator shall use the amount allocated under subsection (a) to make awards to private concerns or other entities, through a uniform process (described in subsection (e)), for the development of environmental technology that contributes to the program objectives of the Superfund.

(c) **WAIVER.**—

(1) **IN GENERAL.**—The Administrator may waive the requirements of this section in full or part if—

(A) unforeseen emergency circumstances require the Administrator to redirect funds for technology development to other purposes; and

(B) the Administrator has redirected all technology development funds (other than funds allocated pursuant to subsection (a)) available to the Administrator from the Superfund to address the unforeseen emergency circumstances.

(2) **REPORT.**—If the Administrator waives a requirement of this section pursuant to paragraph (1), the Administrator shall provide a report that explains the reasons for the waiver to Congress.

(d) CONSTRUCTION.—Nothing in this Act limits the amount of funds that the Administrator may spend on the research, development, or commercialization of environmental technology.

(e) PHASES OF ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.—The Administrator shall carry out an environmental innovation research program in the following 3 phases:

(1)(A) A first phase for determining, insofar as practicable, the scientific and technical merit and feasibility of proposals that are submitted pursuant to environmental innovation research program solicitations and appear to have commercial potential.

(B) With respect to the first phase, the Administrator may enter into partnerships (including grants and loans), each of which shall be in an amount not to exceed \$250,000 to support the initial development of proposed environmental technologies.

(2)(A) A second phase to fund the further development of environmental technologies funded under paragraph (1) that meet particular program needs, and with respect to which awards shall be made on the basis of the scientific and technical merit and feasibility of each proposal, as evidenced by the first phase (as described in paragraph (1)), taking into consideration, among other considerations, the commercial potential of each proposal, as evidenced by—

(i) the record of the private concern or other entity of successfully commercializing technologies, products, or processes developed as a result of environmental innovation research or other research;

(ii) the existence of funding commitments, from the private sector or sources other than the environmental innovation research program, to fund the further development of the environmental technology;

(iii) the existence of funding commitments from the private sector or sources other than the environmental innovation research program for the third phase of research to be conducted pursuant to paragraph (3)(A); and

(iv) the presence of other indicators of the commercial potential of the environmental technology.

(B) With respect to the second phase, the Administrator may enter into partnerships, each of which shall be in an amount not to exceed \$750,000, unless the Administrator finds that additional funding is necessary and appropriate.

(3)(A) If appropriate, a third phase, in which—

(i) environmental innovation research funding is used to continue development activity that has demonstrated outstanding commercial potential in the second phase of the environmental innovation research program and merits further environmental innovation research funding;

(ii) awards from funding sources other than the environmental innovation research program are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; or

(iii) commercial applications of research or research and development funded by the environmental innovation research program are funded by non-Federal sources of funds or, for environmental technologies intended for use by the Federal Government, by Federal funding sources other than the environmental innovation research program.

(B) With respect to a research or research and development project funded under subparagraph (A) and consistent with section 202(f), the Federal share shall not exceed 50 percent of the total cost of the project.

(C) With respect to the assistance provided under this paragraph, the Administrator may assist the private concern or other entity in pursuing funding or procurement from other Federal programs and in pursuing financial and technical assistance for the export of technology developed under the environmental innovation research program.

(D) The Administrator may, in lieu of the 3-phase process established under this subsection, fund proposals for the development of certain technologies through an alternative competitive process, on the basis of a written finding that—

(i) the proposed technology is at a stage in development comparable to the stage in development of technologies that would emerge from the second phase of the process established under this subsection; and

(ii) employing the first 2 phases of the process established under this section would be inappropriate.

(E) With respect to a development project funded under subparagraph (D)—

(i) awards shall be based on scientific and technical merit and demonstrated outstanding commercial potential;

(ii) consistent with section 202(f), the Federal share shall not exceed 50 percent; and

(iii) the Administrator shall notify Congress in writing of the award and provide a copy of the written finding made under subparagraph (D).

(f) SMALL BUSINESS.—In carrying out the program established under this section, the Administrator shall consider the needs of small business concerns for the development and utilization of environmental technology.

(g) TESTING ENVIRONMENTAL TECHNOLOGY.—Partnerships authorized under paragraph (2), or subparagraph (A) or (D) of paragraph (3), of subsection (e) may make available, if appropriate, funds to test environmental technology in the program established under section 311.

SEC. 302. GUIDELINES OF THE ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.

(a) GUIDELINES.—The Administrator shall issue guidelines for environmental innovation research conducted pursuant to this subtitle.

(b) CONTENTS.—The guidelines issued by the Administrator shall, at a minimum, provide for—

(1) simplified, standardized, and timely solicitations of project proposals; and

(2) to the extent feasible, application procedures standardized with the procedures established under title II.

SEC. 303. MULTI-AGENCY ENVIRONMENTAL INNOVATION RESEARCH PROGRAM.

(a) PRIORITY.—To the maximum extent practicable, each head of an Executive agency shall encourage the commercial application of environmental technologies developed to meet the missions and responsibilities of the agency.

(b) COLLECTION OF DATA.—The head of an Executive agency providing funding for the research and development of environmental technology shall—

(1) identify projects funded by the agency for the development of environmental technology that have been commercially successful;

(2) consistent with section 201(g), make the data publicly available; and

(3) make recommendations to appropriate officials of other Executive agencies regarding effective mechanisms to foster the development of commercially viable environmental technologies.

Subtitle B—Innovative Technology Testing

SEC. 311. PROGRAM.

(a) ESTABLISHMENT.—In collaboration with the heads of other appropriate Executive agencies, the Administrator is authorized to establish a program for testing environmental technologies at federally owned facilities and other sites, including sites—

(1) on the National Priorities List established under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

(2) in the inventory of Federal agency hazardous waste facilities under section 3016 of the Solid Waste Disposal Act (42 U.S.C. 6937), collectively referred to in this section as “applicable sites”.

(b) FEDERAL SITES.—In exercising the authority under the program established under this section, the Administrator shall enter into partnerships with other Executive agencies, and, if appropriate, non-Federal partners, for the purpose of testing environmental technologies at federally owned sites. Each partnership shall include agreements regarding the selection of sites and the management and oversight of the testing and evaluation of environmental technologies at such sites, subject to the guidelines established under subsection (d).

(c) DESCRIPTION.—As part of the program established under this section, the Administrator shall—

(1) solicit and accept applications to test environmental technologies suitable for the prevention, control, or remediation of contamination at applicable sites, subject to the guidelines established under subsection (d);

(2) subject to subsection (b) and in consultation and cooperation with representatives of other Executive agencies, State and local governments, industry consortia, and other groups interested in the control, source reduction, and remediation of contamination at an applicable site, manage and oversee testing and evaluation of environmental technologies at the site, subject to the guidelines established under subsection (d);

(3) document the performance and cost characteristics of an environmental technology tested at an applicable site;

(4) consistent with section 201(c)(3)(C), list and disseminate nonproprietary information regarding the performance and cost characteristics of an environmental technology that has been tested at 1 or more applicable sites; and

(5) to the extent feasible, incorporate Environmental Protection Agency programs in existence on the date of enactment of this Act that facilitate testing of environmental technologies at applicable sites, including the alternative or innovative treatment technology research and demonstration program established under section 311(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(b)).

(d) GUIDELINES.—The Administrator, in agreement with the heads of other appropriate Executive agencies, shall, after notice and opportunity for comment, issue guidelines for the operation of the program established under this section. The guidelines shall include—

(1) an initial listing of applicable sites potentially available for the testing of environmental technologies categorized by site characteristics, including production processes and technologies and, in the case of contaminated sites requiring remediation, site geology and site contaminants;

(2) criteria for designating the eligibility of applicants to the program established under this section;

(3) the application procedures for applicants designated under paragraph (2), including, consistent with section 202(f), provisions for sharing the costs of testing with applicants;

(4) criteria for the verification of the efficacy of tested environmental technologies;

(5) specific procedures for the management and oversight of testing at applicable sites, including procedures for consultation with communities in the vicinity of applicable sites;

(6) criteria for determining whether and to what extent legal authorities should be used to indemnify successful applicants to the program established under this section; and

(7) provisions for terminating partnerships.

(e) LISTING OF TESTED TECHNOLOGIES.—In the case of a technology tested under the program established under this section, the Administrator shall publish the nonproprietary test results, cost information, and a general description of the tested environmental technology, and, consistent with section 201(c)(3)(C), disseminate the information.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1995 through 1998.

TITLE IV—ADDITIONAL PROGRAMS

Subtitle A—Verification of Environmental Technologies

SEC. 401. PROGRAM.

(a) ESTABLISHMENT.—As part of the Environmental Technology Initiative established under title II, the Administrator shall establish a program to verify, evaluate, and disseminate performance and, to the extent practicable, estimates of the capital and operating cost (referred to in this section as "cost estimates") of environmental technologies, including environmental technologies appropriate for meeting the performance criteria of regulations issued as performance standards under laws that the Administrator determines are appropriate, collectively referred to in this section as "applicable regulations".

(b) PURPOSE.—The purpose of the program established under this section is to provide businesses, municipalities, and other persons subject to environmental regulations or concerned with environmental improvement, with greater access to suitable environmental technologies by establishing a process of verification of the performance characteristics and cost estimates of environmental technologies.

(c) ADMINISTRATION.—As part of the program established under this section, the Administrator, in collaboration with appropriate officials of other Executive agencies, shall—

(1) establish procedures for soliciting applications for and selecting, pursuant to the criteria established under subsection (d), non-Federal entities to perform the functions described in subsection (e);

(2) pursuant to subsection (g), develop and issue common guidelines and protocols to verify and evaluate the performance and cost estimates of environmental technologies; and

(3) pursuant to subsection (h), list and disseminate the results of the verification and evaluation of environmental technologies.

(d) SELECTION CRITERIA.—The Administrator, in collaboration with the heads of appropriate Executive agencies, shall, through a merit based selection process, select non-

Federal entities to perform the functions described in subsection (e) based on—

(1) the capability of the entity to provide thorough and credible technical and financial verification and evaluation of environmental technologies;

(2) the likelihood of continued viability of the entity; and

(3) such other criteria as the Administrator considers appropriate.

(e) NON-FEDERAL VERIFICATION.—Each non-Federal entity selected under subsection (d) shall—

(1) accept applications to verify and evaluate performance characteristics and cost estimates of environmental technologies;

(2) using appropriate protocols developed under subsection (g), verify the quality and credibility of performance data and cost estimates submitted by applicants;

(3) using the criteria developed under subsection (g), evaluate performance data and cost estimates for environmental technologies; and

(4) report to the Administrator performance data and cost estimates regarding the environmental technologies verified and evaluated.

(f) FEDERAL VERIFICATION.—As part of the program established under this section, the head of an Executive agency may, individually or pursuant to a partnership, verify and evaluate the performance and cost estimates of environmental technologies at federally owned sites. The head of the Executive agency shall ensure that—

(1) the common protocols and guidelines developed under subsection (g) are employed for the verification and evaluation of all environmental technologies; and

(2) the results for each environmental technology verified and evaluated are reported to the Administrator.

(g) GUIDELINES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator, in agreement with the Secretary of Energy, the Secretary of Commerce, the Secretary of Defense, the Administrator of the Small Business Administration, and appropriate officials of other Executive agencies, shall, after notice and opportunity for comment, issue guidelines for the operation of the program established under this section. The guidelines shall be revised from time-to-time as appropriate.

(2) DESCRIPTION.—The guidelines shall include—

(A) criteria for designating the eligibility of applicants to the program established under this section;

(B) application requirements and procedures for submitting data for verification;

(C) appropriate protocols to verify the quality and credibility of performance data and cost estimates submitted by applicants;

(D) general criteria for the evaluation of environmental technologies, including an evaluation, with respect to each technology evaluated, of the ability of the technology to—

(i) meet the performance criteria of any applicable regulation under tested conditions with additional source reduction, control, or remediation benefits as compared to otherwise applicable technology;

(ii) meet the performance criteria of any applicable regulation under tested conditions at a comparable or lower estimates of cost than the estimated cost of otherwise applicable technology; or

(iii) constitute a significant advance in the development of an environmental technology with broad applicability;

(E) a schedule of fees for applications to cover the costs of the program, including—

(i) lower fees for each applicant designated as a small business concern, nonprofit group, institution of higher education, or State or local government entity; and

(ii) lower fees for applications to verify environmental technologies that provide source reduction;

(F) consistent with section 202(g), criteria and appropriate procedures for the protection of proprietary information regarding environmental technologies; and

(G) such other provisions as the Administrator or the head of another agency listed in paragraph (1) may consider appropriate.

(h) REVIEW AND REPORTING OF TECHNOLOGIES.—

(1) IN GENERAL.—In the case of a technology verified and evaluated by a non-Federal entity selected under subsection (d), the Administrator shall conduct appropriate review of the accuracy of the data and the results of the verification and evaluation, prior to publication of the information under paragraph (2).

(2) PUBLICATION OF DESCRIPTION.—Consistent with section 201(c)(3), the Administrator shall publish a nonproprietary description of the environmental technologies verified and evaluated under this section and disseminate the information.

(3) SIGNIFICANT ADVANCES.—The Administrator may establish a list of technologies verified under the program established by this section that represent significant advances as compared to then current available technologies.

(i) NO REVISION OF REGULATIONS.—Nothing in this Act shall be construed, interpreted, or applied in any manner to revise any regulation or release a person subject to any regulation from the duty to comply with the regulation.

(j) JUDICIAL REVIEW.—

(1) EFFECT OF VERIFICATION.—The verification or evaluation of a technology under the program established under this section shall not—

(A) constitute a final action by the Administrator; and

(B) be subject to judicial review.

(2) FAILURE TO COMPLY.—If a technology verified, evaluated, and listed pursuant to the program established under this section fails to result in compliance with any applicable regulation, the verification, evaluation, and listing shall not constitute a defense in an enforcement action or citizen suit and shall not create a cause of action against the Environmental Protection Agency.

(k) NO FEDERAL CAUSE OF ACTION.—Nothing in this section creates a cause of action or in any other manner increases or decreases the liability of a person.

Subtitle B—Technical Assistance to Small Business in Coordination with Existing Programs

SEC. 411. ENVIRONMENTAL ASSISTANCE.

(a) AGREEMENTS.—Not later than 180 days after the date of enactment of this Act, the Administrator, the Secretary of Commerce, and the heads of other Executive agencies shall enter into such agreements as are necessary to permit the Environmental Protection Agency to provide technical assistance and support to the Manufacturing Technology Centers and other similar Extension Centers administered by the National Institute of Standards and Technology of the Department of Commerce and other technology assistance programs for small business concerns as appropriate.

(b) ASSISTANCE.—The assistance shall include—

(1) the preparation of environmental assistance packages for small business concerns generally and, if appropriate, for specific small business sectors, including information on—

(A) environmental compliance requirements and methods for achieving compliance;

(B) new environmental technologies;

(C) alternatives for source reduction that are generally applicable to the small business sectors; and

(D) guidance for identifying and applying opportunities for source reduction at individual facilities;

(2) providing technical assistance to small business concerns seeking to act on the information provided under paragraph (1);

(3) coordinating with the heads of other Executive agencies to identify those small business sectors that need improvement in environmental compliance or in developing methods for source reduction; and

(4) developing and carrying out an action plan for providing assistance to improve the environmental performance of small business sectors in need of improvement.

(c) COORDINATION.—The Administrator may coordinate with—

(1) small business development centers (established pursuant to section 21 of the Small Business Act (15 U.S.C. 648)); and

(2) as appropriate, other small business and agricultural extension programs and centers, to provide environmental assistance to small business concerns.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$7,000,000 for each of fiscal years 1995 through 1998.

SEC. 412. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed, interpreted, or applied in any manner to—

(1) affect the obligation or duty of any Executive agency to comply with all applicable environmental laws and requirements; or

(2) limit the authority of any Executive Agency to carry out or administer any program, duty, or responsibility.

**STEVENS (AND OTHERS)
AMENDMENT NO. 1687**

(Ordered to lie on the table.)

Mr. STEVENS (for himself, Mr. INOUE, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill S. 978, supra; as follows:

On page 18, strike line 1 and insert in lieu thereof the following:

SEC. 204. NATIVE AMERICAN SANITATION-HEALTH TECHNOLOGY FUND PROGRAM.

(a) AUTHORIZATION.—The Administrator is authorized and encouraged to enter into an agreement to establish a partnership program to fund grants to research, engineer, develop, test, and demonstrate innovative water sanitation technologies for Indian reservations, Alaska Native villages, and other remote, rural regions. Funds provided pursuant to this section may be awarded beginning in fiscal year 1995 for competitively judged proposals that have the potential to improve health and sanitation conditions in Alaska Native villages, on Indian reservations, and in other rural areas, with emphasis on areas with conditions that are not conducive to utilization of conventional wastewater treatment methods.

(b) COORDINATION.—The Administrator shall coordinate disbursements related to Alaska Native village sanitation authorized by paragraph (a) with appropriate federal agencies and departments, including any such agency or department participating in the federal field working group on rural Alaska sanitation.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

KERRY AMENDMENT NO. 1688

Mr. BAUCUS (for Mr. KERREY) proposed an amendment to the bill S. 978, supra; as follows:

Annual report including specific benchmarks on the success of the program:

On page 13:

On line 6 delete all through line 9 and replace with the following:

"(A) description of the research, development and testing conducted under programs authorized pursuant to Title II, Title III, and Title IV of this Act;

(B) resources and staff devoted to the programs listed under paragraph (A); and

(C) estimated environmental and economic benefits resulting from the programs listed under paragraph (A) and the cost of the programs."

NOTICES OF HEARINGS

SUBCOMMITTEE ON EXPORT EXPANSION AND AGRICULTURAL DEVELOPMENT

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Subcommittee on Export Expansion and Agricultural Development will hold a hearing on export assistance efforts for small business. The hearing will occur on Thursday, May 12, 1994, in room 428A of the Russell Senate Office Building. For further information, please call Dan Solomon, legislative assistant for Senator HARRIS WOFFORD at 224-6324.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, May 6, beginning at 10 a.m. to conduct a hearing on the nominations of Alan S. Blinder, to be a member of the Board of Governors of the Federal Reserve System; Steven M. Wallman, to be a member of the Securities and Exchange Commission; and Philip N. Diehl, to be Director of the Mint.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Friday, May 6, 1994, at 9:30 a.m. on a hearing on the subject: Health Care Information Management.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BAUCUS. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold an oversight hearing on the effect of military research on the health of veterans. The hearing will be held on May 6, 1994, at 10 a.m. in room 106 of the Dirksen Senate Office Building.

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

ADDITIONAL STATEMENTS

PUBLIC SERVICE RECOGNITION WEEK

● Mr. HARKIN. Mr. President, I rise to speak regarding Public Service Recognition Week. This week commemorates the millions of men and women who work on the Federal, State, and local levels to do the people's work.

Public employees quietly serve the Nation in so many ways. They teach our children. They defend our Nation. They ensure the safety of our buildings, food, water, medicines, workplaces, and roads. They protect our families from crime, and search for cures to protect them from disease. They protect our retirements and our savings. Each of us relies on these public servants quietly doing their work every day.

The predominant concern with Government spending at all levels means that this Nation's public servants are increasingly being asked to do more with less. Yet despite hardships of fewer personnel and scarce resources, the work continues to get done. It is a tribute to the ingenuity and ability of these dedicated workers that they continue to perform their duties effectively.

Unfortunately, too often these public servants go unappreciated, or worse yet, are vilified. Some have seized on public servants as convenient targets, and as scapegoats for problems beyond their control in Government programs and services. Public Service Recognition Week is one way that our Nation can tell these workers that we appreciate them, and to thank them.

Those of us in Congress should be thankful for our Nation's public servants. Without their tireless efforts, the laws we pass here would be completely hollow. I salute these dedicated men and women.●

TRIBUTE TO GEORGE HALVORSON: HEALTH CARE LEADER

● Mr. DURENBERGER. Mr. President, I rise to pay tribute to a Minnesota health care pioneer and visionary, George Halvorson. As the chief executive officer of HealthPartners, Minnesota's largest HMO, George continues to play a major role in the progress toward national health care reform.

It is hard to summarize the impact this good friend of mine has had on the development of managed health care. I refer my colleagues to an article by Judith Borger in the St. Paul Pioneer Press dated May 2, 1994.

Referred to in Borger's article as a "huge force in the Minnesota marketplace and a growing influence on the national scene," I can confirm with pride that George helped bring Minnesota into the spotlight as a model for national health care reform.

George's endeavors in the corporate world of health care are noteworthy, but he is also an accomplished author. I highly recommend to my colleagues his influential discourse on the ills of the Nation's current health care system, *Strong Medicine*. *Strong Medicine* explains in very clear and understandable terms the problems facing America's health care system and outlines an insightful way to address them.

I urge policy-makers, private industry leaders and my colleagues alike to familiarize themselves with the work of this Minnesota health care reform leader, and would ask that the May 2 St. Paul Pioneer Press article be entered into the RECORD.

The article follows:

[From the St. Paul Pioneer Press, May 2, 1994]

HEALTH CARE'S HEAVYWEIGHT—
HEALTHPARTNERS CEO GEORGE HALVORSON
HAS EMERGED AS ONE OF THE LEADING
FORCES IN CHANGING THE SHAPE OF THE
HEALTH CARE SYSTEM IN MINNESOTA

(By Judith Yates Borger)

George Halvorson, CEO of Minnesota's largest health maintenance organization, is one of the state's most powerful health care leaders—often revered, sometimes feared, and generally credited with enormous foresight. But it wasn't foresight that brought him into the health care industry just as managed care started to boom.

Halvorson, who heads Bloomington-based HealthPartners, came to the Twin Cities in 1968 to attend graduate school at night, and he needed a day job to support his young family. Since he'd been a reporter for the Fargo Forum, he thought he'd find work in public relations.

Seeing an ad for an "underwriter" at Eagan-based Blue Cross and BlueShield of Minnesota, he figured it meant assistant writer and applied. The personnel interviewer was amused at Halvorson's mistake, and, as luck would have it, also had an opening in the public relations department. Halvorson landed that job.

It wasn't a very bright beginning for a man who today is called brilliant by many of his peers. But it was momentous for Minnesota, because the health care reform movement that is under way here today is driven by the forces of business. While it may appear that legislators and public policy wonks are pulling the health care strings, the reality is that the employers who buy health care for the majority of Minnesotans will ultimately determine how much care most people will get, and how much it will cost.

Halvorson is a huge force in the Minnesota marketplace and a growing influence on the national scene. His view of the future has a direct effect on the health care that many

Minnesotans receive. If you're one of the 600,000 HealthPartners enrollees and have heart disease, for example, his newest effort, called Partners for Better Health, may put a scale in your bathroom to help you keep close track of your weight. And if you're not a HealthPartners member, your health plan certainly will be watching Halvorson's program closely.

"He sticks his head farther above the horizon than anyone else," said Steve Wetzell, executive director of the Business Health Care Action Group, a powerful coalition of 22 of Minnesota's largest employers.

"He's a visionary," said Dr. Jim Reinertsen, co-president of HealthSystem Minnesota in St. Louis Park.

Halvorson's meteoric rise at Blue Cross was the first indication of his talent. By 1980 he was senior vice president for marketing with Blue Cross and felt he was in line to be president. The board of directors instead chose Andrew Czajkowski, who was "10 years older and very bright," Halvorson says today.

Halvorson left the Blues, taking with him a "thinly veiled enmity" for his former employer that continues today, according to Don Wegmiller, president and CEO of Minneapolis-based Management Compensation Group/Health Care Inc.

Halvorson went to work setting up an HMO for seniors under a grant from the Wilder Foundation and Health One Corp., where Wegmiller was then president. When the federal government refused to pay more than the usual amount because the program enrolled more very frail elderly, Halvorson arranged for the sale of the HMO to a larger company that could better absorb the cost.

"He transferred the seniors and everyone was taken care of," said Wegmiller. "You give George a problem and he's quick to solve it. You give him an opportunity and he's quick to take advantage of it."

One of those opportunities came in 1992. He has been president of GroupHealth for six years when a few of the Twin Cities' largest employers, fed up with the escalating health care premiums for their employees, banded together to form the Business Health Care Action Group. Together they decided to buy health care the same way they buy any other raw materials needed to do business: by listing specifications and asking for bids.

Halvorson wanted the contract, but Group Health didn't have all the components the Business Health Care Action Group wanted. So Group Health merged with St. Louis Park-based MedCenters Health Plan, and named the new organization HealthPartners. Then Halvorson formed an alliance with St. Louis-based Park Nicollet Medical Center and the Mayo Clinic in Rochester. HealthPartners got the contract, and a huge boost in visibility.

Halvorson's vision was apparent again at about the same time, when Minnesota legislators were passing MinnesotaCare, the state law that, among other things, establishes integrated service networks (ISNs). Sort of super-HMOs that are supposed to manage their members' entire health care, from the first appointment to the last bill, ISNs generally are supposed to have three parts: an insurance company, a string of clinics and doctors, and a hospital.

Of all the health plans in Minnesota at the time, HealthPartners was the closest in structure to ISNs. Were ISNs designed to look like HealthPartners, or was HealthPartners designed to look like an ISN? Neither, says Halvorson.

Each year the senior management at HealthPartners puts together a list of about

300 assumptions about what the various players in the health care field—competitors, legislators, federal officials—are likely to do. It also compiles a corresponding list of moves for HealthPartners. The practice has helped position HealthPartners to anticipate the changes.

"About four years ago we asked ourselves what would be the best possible design for a health plan, and that's what we came up with," said Halvorson. "I think we and the Legislature were working on parallel tracks."

The only piece HealthPartners was missing was a hospital. Halvorson took care of that in September 1993 when HealthPartners surprised the health care community by merging with St. Paul Ramsey Medical Center in what seemed like record time. Just two days before the papers were signed with Ramsey, HealthPartners had heard a presentation for a deal from Health East and agreed to further discussion. Health East executives were preparing for the additional meeting with Halvorson when they learned he'd already signed with Ramsey.

"If Health East had put a different proposal on the table, it would have gone differently," said Halvorson.

None of the executives at Health East was willing to discuss Halvorson for this article. Neither was the Blues' Czajkowski. That is an indication of the level of power Halvorson has amassed in this marketplace. Few are willing to risk angering him by saying something that might be taken the wrong way.

His name is in the newspaper almost daily, it seems, because he always returns reporters' calls and usually says something that furthers the story. On the other hand, when President Clinton gave his address on health care last fall, CBS News asked Halvorson to appear on camera to provide reaction. He declined.

"I'm just not a TV type," he said.

So what type is he? Focused, hard-driving, steadfast in his beliefs, and a tough negotiator, say his friends. Plodding, dull and cold, counter his critics.

"When you're dealing with George you've got to really do your homework, because he's done his," said Reinertsen.

"What can one really say about a guy who takes a portable fax machine along with him to the Boundary Waters?" said Gordon Sprenger, executive officer of HealthSpan Health Systems, Brooklyn Center. "About a guy who, at remote retreats, continues to wear suits and wing-tipped shoes when everyone else is in sweaters and jeans?"

"Halvorson says he's 'a child of the '60s who happens to be an executive of the '90s'—if not a terribly well-paid one. In 1992, for example, Halvorson earned \$316,000 to run an organization that then had revenues of \$864 million. By comparison, Tim Hanson, president of HealthEast, was paid \$449,851 that year to run an organization with revenues of \$292 million. HealthPartners' revenues increased to \$1.1 billion with the merger last fall of St. Paul Ramsey Medical Center. Halvorson got a raise to \$350,000.

Nonprofit organizations such as HealthPartners typically pay executives far less than for-profit companies. And while for-profit public companies are owned by the stockholders, HealthPartners operates like a cooperative, with a board of directors elected by the members and physicians. The 18-member board of directors sets Halvorson's salary.

Halvorson shrugs at talk about his pay.

"It's more money than I ever thought I'd make and certainly sufficient for my needs,"

he said. "If my primary motivation were money, I'd work someplace else."

"George is an idealist," said Reinertsen, who once took Halvorson fishing to get to know him better. "Personal wealth is not a driver for him. It's not how he measures winning. It irritates him when people who are doing a poor job are paid three times what he is. He regards that as a black mark on health care."

But for all his idealism, he can come off as just another heartless executive. When Medicare refused to increase reimbursement rates in Minnesota, HealthPartners raised premiums on its Senior Plus plan 29 percent to \$140 a month and added a \$10 co-pay. The seniors responded by picketing HealthPartners headquarters in Bloomington. Weeks later, Halvorson and a retinue of executives met with about 200 angry seniors to present a 20-page position paper and a host of charts and graphs in an attempt to convince them the fault lay with the federal government. It didn't work.

Halvorson, who said he has raised money for the Senior Federation for years, is frustrated with the whole affair.

"We're getting a bad rap from people who don't understand the government payment system," he said.

Dr. Richard Reece, publisher and editor of the Reece Report, a newsletter offering "political and economic insights for physicians," has been a critic of Halvorson's philosophy for years. But even he grudgingly acknowledges Halvorson's success.

"He's a plodding, sound achiever who has stuck to his principles, and the world has swung around to his thinking," said Reece.

Halvorson may be plodding, but right now he's absolutely obsessed with "Partners for Better Health." The program targets five disease areas and sets goals to reduce their rates among HealthPartners members. For example, the plan wants to reduce heart disease among members by 25 percent by encouraging them to cut smoking and switch to low-fat diets.

But what if you don't want to stop smoking or lose weight? Isn't this an intrusion on your privacy?

HealthPartners is betting there will be enough motivated people in the program that it won't run into much opposition from the start. And, hopefully, by the time it has gotten to the laggards, it will have learned enough to convert them to the motivated.

Clearly, the No. 1 convert to wellness is Halvorson himself. It's become a personal mission for him. Fingering his bottle of mineral water, Halvorson says he's lost 35 pounds in recent months—"without ever being hungry," he said—and he shows off the excess inches of material in the waist of his pants as proof.

Halvorson lost the weight during the past year, he said, by eating fat-free foods and squeezing in some kind of physical activity whenever possible. To illustrate his point, he points to one wall of the Health Partners' conference room, now covered with labels from fat-free foods. Halvorson often uses those foods to prepare meals for himself before luncheon meetings, explaining at length to those around the difference between high-density lipids and low-density lipids. He's even convinced the Decathlon Club in Bloomington to serve his favorite fat-free chocolate syrup.

"You can't be preaching this when you're 50 pounds overweight," he said.

If Health Partners actually does achieve its very ambitious goals of improving the health of its members, it will be yet another

example of Halvorson moving several steps ahead of the pack.

"He's 20 years ahead of the rest with that program," said Wetzell.●

FACES OF THE HEALTH CARE CRISIS

● Mr. RIEGLE. Mr. President, I rise again today in my continuing effort to put a face on the problems of unmet health care needs across our country. I would like to share the story of Nancy and Charles Sullivan from Port Huron, MI. In the mid-1980's, both Nancy and Charles were diagnosed with multiple sclerosis. Fortunately, Charles receives Medicare benefits through the Social Security Disability Insurance Program, but Nancy does not have any health insurance.

Charles and Nancy are in their mid-forties and have three daughters between the ages of 19 and 23 who no longer live at home. For 21 years, Chuck worked in a wire manufacturing plant and rose to the position of assistant plant manager. Nancy stopped working outside the home when their first child was born. In 1980, while their three children were still small, Nancy began having health problems and was subsequently diagnosed with multiple sclerosis, or "MS."

MS is a chronic disease of the central nervous system that can cause paralysis and loss of control over body functions. There is no cure, although medication and therapy can help some people control their symptoms. Symptoms vary dramatically—some people have only slight symptoms, while others become severely disabled.

Fortunately, Chuck's employer provided health insurance benefits which covered the cost of Nancy's treatments and equipment. But then in 1986, Chuck's health began to deteriorate and he was also diagnosed with MS.

As a result of the MS, Nancy is paralyzed from the waist down and confined to a wheelchair. Chuck's health did not fail as quickly as Nancy's. As a result, Chuck was able to continue to work full time, but also assumed the responsibility of taking care of Nancy, the children, and the household. In 1989, Chuck's employer moved to Arkansas and Chuck and his family planned to follow his job after Nancy had back surgery. Although the manufacturer had agreed initially that Chuck could transfer after Nancy's recuperation, the company changed its mind and ordered Chuck to report to the plant in Arkansas with less than 1 week's notice. Because Nancy's surgery was scheduled for that same week, the family could not move. His employer refused to negotiate with him, and Chuck was terminated.

During 1989, the year that he was receiving unemployment compensation, Chuck paid \$370 per month to continue his health insurance benefits so that

Nancy could receive the care she needed. In 1990, Chuck had an MS attack that put him in the hospital. His MS had progressed to the point of being totally disabling. Chuck could no longer control his muscle functions and was confined to a wheelchair. This attack came shortly after Chuck followed through on a potential job opportunity.

Both Chuck and Nancy received SSI and Medicaid for a short time before Chuck became eligible for Social Security Disability Insurance benefits because of his many years of employment. Chuck's SSDI benefits, however, are high enough to make Nancy ineligible for SSI and Medicaid benefits. She is not eligible for SSDI because she worked as a homemaker, and therefore she has not been employed enough to acquire the necessary quarters to receive benefits. The only way that Nancy could get health care benefits through Medicaid is if she and her husband were to get a divorce.

The Sullivans barely make ends meet on their small monthly income of \$1,200 from Social Security and veteran's pension benefits. Nancy does not go to the doctor when she is sick, because she doesn't have any insurance to cover the costs. They struggle to take care of themselves without any assistance in their home. Nancy and Chuck cannot afford the high cost of an individual health insurance policy to cover Nancy. They question whether or not they could even find a policy that would cover her preexisting MS condition.

Mr. President, the Sullivans and all Americans deserve the security of guaranteed affordable health care coverage that will meet their needs regardless of pre-existing conditions. We need to enact health care reform legislation to make sure that families like Chuck and Nancy are able to purchase affordable health care for both, not just one of them. I will continue to work with my colleagues in the Senate and the Clinton administration to ensure the comprehensive health care reform is a reality this year.●

WORLD ROWING CHAMPIONSHIPS

● Mr. LUGAR. Mr. President, I am very pleased that the Senate acted so expeditiously in adopting legislation providing a duty waiver for competitors in the 1994 World Rowing Championships which will be held in Indianapolis, IN.

I was pleased to propose this legislation which became part of an omnibus event duty free bill for the World Cup, the 1996 Olympics and Paralympics, and the 1995 Special Olympics. For rowing, it is particularly important because it waives the requirement for posting bond for the equipment brought by competing international teams. Rowing shells and oars are expensive equipment and this relieves the competing teams of an unnecessary ex-

pense and eases their entry into the United States.

As we all know, the world has changed significantly in recent years, and many countries barely have the resources to field a team. Waiving the bond requirement is an enormous help.

The 1994 World Rowing Championships will be held from September 11-18, the first time they have ever been held in the United States. Since their origin in 1893 as the European championships, championships have been held every year since.

The races will be held at Indianapolis's Eagle Creek Reservoir, a beautiful site surrounded by the largest municipal park in the Nation. It is also home to the only internationally certified course in the United States. Competing will be over 1,000 athletes, men and women, from more than 40 countries.

Rowing has a long history in organized American sport. The Harvard/Yale race is the oldest intercollegiate athletic event in America, held annually for 142 years, since 1852. The National Association for Amateur Oarsmen, now the U.S. Rowing Association and headquartered in Indianapolis, was first established in 1872 and was the first national governing body for sport in America. Ironically, its purpose was to distinguish its members from professionals. Amateur rowing to this day remains a sport pursued more for love than for remuneration.

Mr. President, I am thrilled to have this exciting event coming to my home city of Indianapolis, a place we Hoosiers like to think of as the Nation's amateur sports capital. I congratulate the organizers from U.S. rowing for their hard work in winning the bid for this event and invite all my colleagues and their staff, particularly those that were rowers in school, to come to Indianapolis in September for what I promise will be memorable competition in a splendid setting. •

ARSON PREVENTION ACT OF 1994

Mr. BAUCUS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 1727) to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1727) entitled "An Act to establish a program of grants to States for arson research, prevention, and control, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arson Prevention Act of 1994".

SEC. 2. FINDINGS.

Congress finds that—

(1) arson is a serious and costly problem, and is responsible for approximately 25 percent of all fires in the United States;

(2) arson is a leading cause of fire deaths, accounting for approximately 700 deaths annually in the United States, and is the leading cause of property damage due to fire in the United States;

(3) estimates of arson property losses are in the range of \$2,000,000,000 annually, or approximately 1 of every 4 dollars lost to fire;

(4) the incidence of arson in the United States is seriously underreported, in part because of the lack of adequate participation by local jurisdictions in the National Fire Incident Reporting System (NFIRS) and the Uniform Crime Reporting (UCR) program;

(5) there is a need for expanded training programs for arson investigators;

(6) there is a need for improved programs designed to enable volunteer firefighters to detect arson crimes and to preserve evidence vital to the investigation and prosecution of arson cases;

(7) according to the National Fire Protection Association, of all the suspicious and incendiary fires estimated to occur, only 1/3 are confirmed as arson; and

(8) improved training of arson investigators will increase the ability of fire departments to identify suspicious and incendiary fires, and will result in increased and more effective prosecution of arson offenses.

SEC. 3. ARSON PREVENTION GRANTS.

The Federal Fire Prevention and Control Act of 1974 is amended by inserting after section 24 (15 U.S.C. 2220) the following new section:

"SEC. 25. ARSON PREVENTION GRANTS.

"(a) DEFINITIONS.—As used in this section:

"(1) ARSON.—The term 'arson' includes all incendiary and suspicious fires.

"(2) OFFICE.—The term 'Office' means the Office of Fire Prevention and Arson Control of the United States Fire Administration.

"(b) GRANTS.—The Administrator, acting through the Office, shall carry out a demonstration program under which not more than 10 grant awards shall be made to States, or consortia of States, for programs relating to arson research, prevention, and control.

"(c) GOALS.—In carrying out this section, the Administrator shall award 2-year grants on a competitive, merit basis to States, or consortia of States, for projects that promote one or more of the following goals:

"(1) To improve the training by States leading to professional certification of arson investigators, in accordance with nationally recognized certification standards.

"(2) To provide resources for the formation of arson task forces or interagency organizational arrangements involving police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

"(3) To combat fraud as a cause of arson and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

"(4) To provide for the management of arson squads, including—

"(A) training courses for fire departments in arson case management, including standardization of investigative techniques and reporting methodology;

"(B) the preparation of arson unit management guides; and

"(C) the development and dissemination of new public education materials relating to the arson problem.

"(5) To combat civil unrest as a cause of arson and to advance research at the State

and local levels on the prevention and control of arson linked to urban disorders.

"(6) To combat juvenile arson, such as juvenile fire-setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

"(7) To combat drug-related arson and to advance research at the State and local levels on the causes and prevention of drug-related arson.

"(8) To combat domestic violence as a cause of arson and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

"(9) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

"(10) To improve the capability of firefighters to identify and combat arson through expanded training programs, including—

"(A) training courses at the State fire academies; and

"(B) innovative courses developed with the Academy and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

"(d) STRUCTURING OF APPLICATIONS.—The Administrator shall assist grant applicants in structuring their applications so as to ensure that at least one grant is awarded for each goal described in subsection (c).

"(e) STATE QUALIFICATION CRITERIA.—In order to qualify for a grant under this section, a State, or consortium of States, shall provide assurances adequate to the Administrator that the State or consortium—

"(1) will obtain at least 25 percent of the cost of programs funded by the grant, in cash or in kind, from non-Federal sources;

"(2) will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-Federal sources for arson research, prevention, and control programs;

"(3) will use no more than 10 percent of funds provided under the grant for administrative costs of the programs; and

"(4) is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System or the Uniform Crime Reporting program.

"(f) EXTENSION.—A grant awarded under this section may be extended for one or more additional periods, at the discretion of the Administrator, subject to the availability of appropriations.

"(g) TECHNICAL ASSISTANCE.—The Administrator shall provide technical assistance to States in carrying out programs funded by grants under this section.

"(h) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

"(i) ASSESSMENT.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall submit a report to Congress that—

"(1) identifies grants made under this section;

"(2) specifies the identity of grantees;

"(3) states the goals of each grant; and

"(4) contains a preliminary assessment of the effectiveness of the grant program under this section.

"(j) REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations to implement this section, including procedures for grant applications.

"(k) ADMINISTRATION.—The Administrator shall directly administer the grant program required by this section, and shall not enter into any contract under which the grant program or any portion of the program will be administered by another party.

SEC. 3. PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this section should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

"(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this section, the Administrator shall provide to each recipient a notice describing the statement made in paragraph (1) by the Congress."

SEC. 4. VOLUNTEER FIREFIGHTER TRAINING.

Section 24(a)(2) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(a)(2)) is amended by inserting before the semicolon the following: ", with particular emphasis on the needs of volunteer firefighters for improved and more widely available arson training courses".

SEC. 5. CPR TRAINING.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

"SEC. 32. CPR TRAINING.

"No funds shall be made available to a State or local government under section 25 unless such government has a policy to actively promote the training of its firefighters in cardiopulmonary resuscitation."

SEC. 6. FEDERAL EMPLOYEE HOUSING EXCEPTIONS.

Section 31(c)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(1)) is amended—

(1) in subparagraph (A), by striking "No Federal" and inserting in lieu thereof "Except as otherwise provided in this paragraph, no Federal"; and

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

"(C) Housing covered by this paragraph that does not have an adequate and reliable electrical system shall not be subject to the requirement under subparagraph (A) for protection by hard-wired smoke detectors, but shall be protected by battery operated smoke detectors.

"(D) If funding has been programmed or designated for the demolition of housing covered by this paragraph, such housing shall not be subject to the fire protection requirements of subparagraph (A), but shall be protected by battery operated smoke detectors."

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(h) In addition to any other amounts that are authorized to be appropriated to carry out this Act, there are authorized to be appropriated to carry out this Act—

"(1) \$500,000 for fiscal year 1995 for basic research on the development of an advanced course on arson prevention;

"(2) \$2,000,000 for fiscal year 1996 for the expansion of arson investigator training pro-

grams at the Academy under section 24 and at the Federal Law Enforcement Training Center, or through regional delivery sites;

"(3) \$4,000,000 for each of fiscal years 1995 and 1996 for carrying out section 25, except for salaries and expenses for carrying out section 25; and

"(4) \$250,000 for each of the fiscal years 1995 and 1996 for salaries and expenses for carrying out section 25."

SEC. 8. SUNSET.

Notwithstanding any other provision of this Act, no funds are authorized to be appropriated for any fiscal year after fiscal year 1996 for carrying out the programs for which funds are authorized by this Act, or the amendments made by this Act.

Mr. BRYAN. Mr. President, I rise today to urge my colleagues to support H.R. 1727, the Arson Prevention Act of 1994.

This legislation establishes a grant program to assist States in their efforts to combat arson. According to the U.S. Fire Administration, arson is the number one cause of fire deaths in the United States. Testimony by fire safety and law enforcement officials indicate that more research and study are needed to identify the causes of arson and for the development of more effective arson prevention programs.

H.R. 1727 was initially passed by the House on July 26 of last year. Senator GORTON and I introduced a similar bill, S. 798, in the Senate on April 20, 1993. S. 798 was considered by the full Senate on November 22 of last year, and incorporated into H.R. 1727 as an amendment on final reading. H.R. 1727, as amended, was unanimously passed by the Senate.

The legislation was reconsidered by the House on April 26 of this year, and passed with additional amendments. Senator GORTON and I have agreed to concur in the House amendments and are seeking the unanimous support of our colleagues.

Mr. GORTON. Mr. President, I am pleased to support H.R. 1727, the Arson Prevention Act of 1994, which is now before the Senate. I joined Senator BRYAN in introducing S. 798, the Senate version of this important legislation. I wish to commend Senator BRYAN, who chairs the Commerce Committee's Consumer Subsubcommittee, for his leadership on fire safety issues. He has been a tireless champion of these issues, and it is my privilege to serve as the ranking Republican on the subcommittee which has been very aggressive in advancing legislation to enhance the safety of American consumers.

Arson is a major problem in this country. According to the U.S. Fire Administration [USFA], arson results in 700 deaths and \$2 billion in property damage annually. It is the leading cause of fire-related deaths, and it is responsible for 25 percent of all property damage due to fire. Recent press reports indicate that arson is strongly suspected in the devastating wild fires that killed three and destroyed hun-

dreds of homes last year in southern California. In Washington, only 2 years ago, we felt the terror of an arsonist in our midst in north King and south Snohomish County. Those fires focused my attention on the need for expanded arson investigator training and for the development of arson fire tracking systems.

H.R. 1727 authorizes \$4 million in grants to be awarded to States for arson-related research. This research will focus on a variety of causes of arson and how they can be minimized. In addition, the bill provides \$2 million for USFA to conduct training programs for arson investigators to improve recognition of arson fires and to assist in identifying individuals who commit these deadly crimes.

Mr. President, crime is the leading issue facing the Nation. This legislation, which is supported by every fire safety organization, is an important part of the effort to address crime. It will save lives and prevent countless serious injuries. I urge my colleagues to support this legislation.

Mr. BAUCUS. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHAFEE. Mr. President, I move to table that motion to reconsider.

The motion to lay on the table was agreed to.

LIFTING THE ARMS EMBARGO ON BOSNIA AND HERZEGOVINA

The PRESIDING OFFICER. Under the previous order, upon completion of all debate on the amendments that have just been handed to S. 798, the Senate will now proceed to S. 2042, the Bosnian arms embargo bill, for debate only. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2042) to remove the United States arms embargo of the Government of Bosnia and Herzegovina.

The Senate proceeded to consider the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MEASURE INDEFINITELY POSTPONED—S. 1182

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Cal-

endar No. 273, S. 1182, the Arms Control and Disarmament Act, be indefinitely postponed.

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

Mr. METZENBAUM. Mr. President, I might say that the provision of that bill was included in H.R. 2333 the State Department Authorization Act.

Mr. President, I yield the floor.

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

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

OPPOSITION TO BOSNIA ARMS EMBARGO AMENDMENT

Mr. PELL. Mr. President, in January, the Senate voted to adopt a sense-of-the-Senate amendment to the State Department authorization bill calling on the President to lift the United States arms embargo against Bosnia. I was one of a few Members who voted against that provision, and I continue to hold to that position today as we consider a bill that actually directs the President to lift the arms embargo unilaterally.

I listened to a great deal of the debate that occurred 2 weeks ago when Senators DOLE and LIEBERMAN originally offered this legislation and, in fact, found many of the arguments in favor of lifting the arms embargo to be quite compelling. I heard gripping testimony—including the messages that Senator DOLE read from Bosnia's leaders—providing further evidence that the current situation is unjust.

Clearly, the people of Bosnia are suffering greatly, and Bosnian Government forces are outgunned by the Bosnian Serb aggressors, as we saw most recently in Gorazde. Although the NATO ultimatum of April 22 appears to have relieved the Serb bombing of Gorazde, regrettably, in other parts of Bosnia, the reckless violence against civilians continues.

First, it would put the United States in the position of abrogating a U.N. Security Council resolution, and in essence, breaking international law. Second, it could begin a process of unilateral United States involvement in the Bosnia conflict—or as some Senators put it when we took up this issue 2 weeks ago—start us down the slippery slope to greater engagement in the crisis. Third, unilaterally lifting the arms embargo could actually leave the Bosnian Government forces vulnerable to further Serbian obstruction of humanitarian assistance and brutal attack. Fourth, lifting the embargo at this time could upset the delicate peace process that is underway.

Many of my colleagues have made the point that the international community may be contributing to the problem by denying the Bosnian Government the right to defend itself. We have heard many times that we owe it to the people of Bosnia to level the playing field. Some of my colleagues have made powerful arguments to that effect. I believe, however, that if steps are to be taken, the United Nations, not the United States going it alone, should take them. The embargo is in place as a result of a binding U.N. Security Council resolution and can only be abrogated by a subsequent U.N. Security Council action. A unilateral lifting of the arms embargo would set a dangerous precedent. Other countries could choose to ignore Security Council resolutions that we consider important—such as the embargo against Iraq and sanctions against Libya.

As many said in the previous discussion, U.S. integrity is on the line. I agree wholeheartedly. If the United States were to break the embargo on its own, we would destroy our credibility as a trustworthy leader in international affairs. A unilateral lifting of the arms embargo would undoubtedly strain our relations with Britain, France, Russia, and other countries with troops on the ground in Bosnia—and would undermine our trustworthiness in other international negotiations completely unrelated to the Balkans tragedy.

I find myself in agreement with the sentiments expressed 2 weeks ago by Senators KERRY and WARNER, among others, that a unilateral lifting of the arms embargo could be perceived as the beginning of a United States decision to go it alone in Bosnia. It is naive to think we can unilaterally lift the arms embargo, and then walk away. We instead would assume responsibility for Bosnia not only in terms of our moral obligation, but in terms of the logistics of getting the weapons into Bosnia—which would likely require sending in United States personnel. Granted, this legislation states that nothing should be construed as authorizing the deployment of United States forces to Bosnia and Herzegovina for any purpose. But I want to emphasize that this would be a U.S. decision to dismantle the embargo. It would not be a U.N. decision, not a NATO decision, not a decision made with the support of other countries with a stake in the conflict. I therefore do not see how we can lift the embargo on our own without sending in logistics and training personnel to carry out the policy.

Lifting the embargo without international support would increase U.S. responsibility for the outcome of the conflict. As Senator WARNER put it so well 2 weeks ago, if we take unilateral action, we will put a "Made in the USA" stamp on the crisis. If we were to take the initiative and supply arms on

our own, our allies, who I admit, have not always been the most cooperative, could step back even further and say, "It may be our continent, but it is your job now to see this through; it is America's problem to solve."

Before we take any step that could lead to greater U.S. action—and I argue that unilaterally lifting the arms embargo would do just that—we need to answer some serious questions. A year ago this month, I wrote an op-ed piece in which I stated:

Terrible human-rights abuses—torture, rape and slaughter—run rampant in Bosnia. But as horrible as the situation is there, other parts of the world—Kashmir, Cambodia, Nagorno-Karabakh, Sudan, and Liberia—are also experiencing reckless violence and grave abuses that breed instability.

Sadly, in the year that has passed since I wrote those words, the carnage in Bosnia has continued, and other countries have been added to my list—Rwanda, Haiti, Algeria.

A year ago, I asked: Why should we intervene in Bosnia? Why is Bosnia different from other places of conflict in the world? What are American interests in Bosnia? Regrettably, we are no closer to having answers to those questions today than we were a year ago. Without those answers, I cannot support any action that would launch us headlong into a military quagmire.

I am concerned about the negative impact that lifting the arms embargo could have on the Bosnian people. I know that the Bosnian Government has asked that the arms embargo be lifted, and it may appear rather presumptuous for us to tell the Bosnian Government that we know what is best for it. But if the United States were to lift the embargo on our own, our allies with troops on the ground would very likely pull out of portions of Bosnia, leaving the Moslem enclaves even more vulnerable to Bosnian Serb attacks and the obstruction of the delivery of humanitarian relief supplies.

There would likely be a lag time—anywhere from 6 weeks to 6 months by many estimates—for weapons to be delivered to Bosnia. During that lag time, in which the United Nations pulls out and the Bosnian Government awaits weapons delivery and training, the Serbs will undoubtedly move swiftly to crush Bosnian Government forces. Moreover, the United States will receive the brunt of the blame when hundreds, if not thousands, of Bosnians die from lack of basic supplies.

Finally, a unilateral lifting of the embargo could endanger progress on the international negotiations underway and jeopardize the gains made to date through diplomacy. If we were to lift the arms embargo, all parties to the negotiations would lose incentive to reach a negotiated settlement. In characteristic fashion, the Bosnian Serbs would likely rush to grab even more land before arms could be deliv-

ered to the Bosnians; the Bosnian Government may take the lifting of the arms embargo as a signal that the United States intends to intervene, and may lose interest in a negotiated settlement; Croatia, currently in a fragile alliance with Bosnia, would either prevent the transit of the arms across its territory or insist upon its own cut, potentially upsetting the delicate negotiations occurring between Serbia and Croatia over the status of the United Nations protected areas in Croatia.

Admittedly, the diplomatic process in the Balkans has not been perfect. There continue to be frustrations, but there also have been some important accomplishments, including the breaking of the siege of Sarajevo and the signing of a peace agreement between Moslems and Croats in Bosnia. If we build upon these and other accomplishments, we have the hope of a comprehensive peace. I for one, believe it unwise to upset the sensitive negotiation process now underway.

While I oppose the legislation before us, I must say that I am encouraged by this exchange of views on the Senate floor. It is a debate—an honest and thorough examination of a tough issue—which is long overdue. I acknowledged earlier that I see merit in some of the arguments of the bill's proponents. This is an issue that knows no partisan boundaries, that cuts to the heart of issues related to U.S. influence and power abroad. There are serious and valid disagreements among us, and as public servants, we are called upon to exercise our best judgment on this very difficult issue. My own gut feelings, my own conscience tells me that unilaterally lifting the arms embargo is the wrong thing to do at this time and I therefore must oppose this bill.

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

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

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2042.

Mr. DOLE. Is that the Bosnia bill?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, I am pleased to be joined by the distinguished Senator from Connecticut, Senator LIEBERMAN, and 31 additional Republican and Democrat cosponsors. We began the debate on this issue 2 weeks ago—on the eve of NATO's meeting on the catastrophe in Gorazde. At that time, there were several Senators who suggested that the Senate wait to

vote on this legislation which would unilaterally lift the United States arms embargo on Bosnia until after NATO's political council met.

Well, NATO made its decision to issue an ultimatum to the Bosnian Serbs and to authorize air strikes to protect Gorazde and the other safe havens. However, since that time, there have been no air strikes because the U.N. Special Representative, Yasushi Akashi, has refused to authorize them. Meanwhile, Serb violations of the NATO ultimatums are increasing daily, and Bosnian Serb forces are redeploying their tanks unbelievably with UNPROFOR assistance.

On the diplomatic front, the United States has also joined with the British, French, Germans, and Russians to form a contact group to press for a ceasefire, and to press for a settlement which would leave the Bosnians with 51 percent of their country.

In my view, this is hardly progress. We are no closer to a just and workable agreement than we were a year ago. With the exception of the recent Bosnian-Croat federation agreement, the international community is only recycling failed policies—changing a detail here and there.

The war in Bosnia has gone on for 25 months. For 25 months the Bosnians have been subjected to the most brutal aggression and denied the ability to defend themselves. It is high time for the United States to lead the way and lift the United States arms embargo on Bosnia—no more speeches, no more excuses, no more handwringing.

The facts are clear: The arms embargo is illegal and unjust; UNPROFOR, the U.N. protection forces, are not protecting Bosnians; and U.N. authority over NATO airstrikes has rendered the threat virtually meaningless. And more importantly, the Bosnians do not want American troops—they merely ask for the weapons to defend themselves, their families, and their homes. What is needed is United States leadership to turn the corner—away from ill-conceived U.N.-driven policies and toward a policy that reflects United States interests and restores Bosnia's rights. I hope that my colleagues will support this measure.

As we get into the debate again on next Tuesday, hopefully, we will work out some arrangement. I understand the distinguished majority leader may have a substitute. Maybe we can have separate votes—one on his and one on ours—and we will see what happens.

I think it is time we take the high moral ground. Bosnia is an independent nation. They are a member of United Nations. Article 51 of the U.N. Charter says they have a right to self-defense. They are not looking for offensive weapons. They want only defensive weapons, antitank weapons. I think if we fail to do this, we miss the opportunity to redeem ourselves in the eyes of the world.

I thank the Chair.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

ORDERS FOR MONDAY, MAY 9, 1994

Mr. METZENBAUM. Mr. President, on behalf of the majority leader, I ask unanimous consent that, upon completion of the debate today on S. 2042, the Bosnia arms embargo legislation, the Senate then stand in recess until 3 p.m., Monday, May 9; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 3:30 p.m., with Senators permitted to speak therein for up to 5 minute each; and that at 3:30 p.m., the Senate then resume consideration of S. 978, the national environmental technology bill, as provided for under the provisions of a previous unanimous consent agreement.

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

RECESS UNTIL MONDAY, MAY 9, 1994, AT 3 P.M.

Mr. DOLE. Is there any further business to come before the Senate?

The PRESIDING OFFICER. Under the previous order, debate having been concluded, the Senate will stand in recess.

Thereupon, the Senate, at 3:39 p.m., recessed until Monday, May 9, 1994, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 6, 1994:

DEPARTMENT OF STATE

EDMUND T. DEJARNETTE, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

MELVYN LEVITSKY, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

RYAN CLARK CROCKER, OF WASHINGTON, 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 STATE OF KUWAIT.

AVONNE S. FRASER, OF MINNESOTA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COMMISSION ON THE STATUS OF WOMEN OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

EDWARD S. WALKER, JR., 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 ARAB REPUBLIC OF EGYPT.

RALPH R. JOHNSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS COORDINATOR OF THE SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.

CHARLES H. TWINNING, 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 CAMBODIA.

EDWARD WILLIAM GNEHM, JR., OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

PETER R. CHAVEAS, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

MYLES ROBERT RENE FRECHETTE, 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 REPUBLIC OF COLOMBIA.

DONNA JEAN HRINAK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

JOHNNY YOUNG, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TOGO.

IRVIN-HICKS, 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 ETHIOPIA.

ROBERT KRUEGER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BURUNDI.

AFRICAN DEVELOPMENT FOUNDATION

WILLIE GRACE CAMPBELL, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 1999, VICE C. PAYNE LUCAS, TERM EXPIRED.

MARION M. DAWSON, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 1999, VICE JOHN TRAIN, TERM EXPIRED.

INTER-AMERICAN FOUNDATION

MARK L. SCHNEIDER, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1998, VICE JAMES HENRY MICHEL, TERM EXPIRED.

UNITED STATES INFORMATION AGENCY

HENRY HOWARD, JR., OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY, VICE JOHN CONDAYAN, RESIGNED.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SIMON FERRO, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994, VICE CARLOS SALMAN, TERM EXPIRED. SIMON FERRO, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994. (REAPPOINTMENT.)

DEPARTMENT OF COMMERCE

PHILIP G. HAMPTON II, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS.

LAWRENCE J. GOFFNEY, JR., OF MICHIGAN, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS.

MICHAEL KANE KIRK, OF FLORIDA, TO BE DEPUTY COMMISSIONER OF PATENTS AND TRADEMARKS.

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.

THE JUDICIARY

FORTUNATO P. BENAVIDES, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

CARL E. STEWART, OF LOUISIANA, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

ROBERT HARLAN HENRY, OF OKLAHOMA, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

DEBORAH A. BATTS, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

JAMES G. CARR, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

RUBEN CASTILLO, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

AUDREY B. COLLINS, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

MARY M. LISI, OF RHODE ISLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

FRANK M. HULL, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

W. LOUIS SANDS, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA.

CLARENCE COOPER, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

SOLOMON OLIVER, JR., OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

RAYMOND L. FINCH, OF THE VIRGIN ISLANDS, TO BE A JUDGE FOR THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF 10 YEARS.

DEPARTMENT OF JUSTICE

SAUL A. GREEN OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS.

JOSEPH CLYDE FOWLER, JR., OF TENNESSEE, TO BE U.S. MARSHALL FOR THE EASTERN DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS.

JAMES W. LOCKLEY, OF FLORIDA, TO BE U.S. MARSHALL FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

SHELDON WHITEHOUSE, OF RHODE ISLAND, TO BE U.S. ATTORNEY FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF 4 YEARS.

BARBARA C. JURKAS, OF MICHIGAN, TO BE U.S. MARSHALL FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS.

ERNESTINE ROWE, OF COLORADO, TO BE U.S. MARSHALL FOR THE DISTRICT OF COLORADO FOR THE TERM OF 4 YEARS.

LEONARD TRUPO, OF WEST VIRGINIA, TO BE U.S. MARSHALL FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF 4 YEARS.

GREGORY MONETA SLEET, OF DELAWARE, TO BE U.S. ATTORNEY FOR THE DISTRICT OF DELAWARE FOR THE TERM OF 4 YEARS.

FAITH S. HOCHBERG, OF NEW JERSEY, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF 4 YEARS.

JOHN WILLIAM MARSHALL, OF VIRGINIA, TO BE U.S. MARSHALL FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF 4 YEARS.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING KELLY CHRISTIAN KAMMERER, AND ENDING STEPHANIE TURCO WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 16, 1994.

FOREIGN SERVICE NOMINATIONS BEGINNING KEVIN C. BRENNAN, AND ENDING JOHN PETERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 25, 1994.