SENATE—*Wednesday, May 11, 1994*

(Legislative day of Monday, May 2, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, the Reverend Carol B. Smith, from the Kabletown United Methodist Church of West Virginia.

PRAYER

The guest Chaplain, the Reverend Carol B. Smith, Kabletown United Methodist Church, Rippon, WV, offered the following prayer.

Let us pray:

We thank Thee, O Lord, that this Nation is yet governed by men and women chosen by the people of these 50 States by democratic process. As these chosen ones prepare to discharge their duties this day, give to them, we pray, the grace of humility sufficient to claim Thy promise, "If any man lack wisdom, let him ask God who giveth to all men liberty, and it shall be given him." You alone, Lord, are fully aware of the difficulties these servants of this Nation have to face and the grave decisions they must make. Give them the wisdom to know and the courage to do what is best for our country in the glory of Thy name. 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 11, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Alaska [Mr. STEVENS] is recognized to speak for up to 5 minutes; the Senator from Massachusetts [Mr. KERRY] is recognized to speak for up to 20 minutes.

The Chair, in his capacity as a Senator from the State of Hawaii, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. 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.

The Senator from Alaska [Mr. STEVENS] is recognized to speak for up to 5 minutes.

EARLY CANCER SCREENING

Mr. STEVENS. Mr. President, I have spoken before here on the floor of the Senate about my experience with prostate cancer, and Senators have listened to my plea and that of minority leader, Senator DOLE, to seek early screening and diagnosis of what is a largely ignored disease for men.

It has been almost 3 years now since that early screening detected my prostate cancer. I then elected to have surgery, which was a complete success. And I have had annual physical checkups. The results this year, as they have been every year, have confirmed that there is absolutely no trace of prostate cancer now in my system, and my physician has given me a clean bill of health in this regard.

Incidentally, also, I had very successful recovery from back surgery.

But I come to the floor today to introduce legislation which I think is necessary to improve research opportunities and screening for breast, cervical, and prostate cancer because I think all Americans ought to have available the routine screening tests which can discover cancers early, giving them the same chance that I had to bring about early health care and to have a prolonged life because of it.

During the months and years since my own diagnosis, a number of Senators have come to talk to me. Senator DOLE and I have participated in a number of meetings about symptoms and signs of prostate cancer. We have had meetings, at the request of individual Members of the Congress, with family members who may have been worried about this subject.

As I learn more about the subject of cancer, I learn more about these other reproductive cancers, particularly breast and cervical cancer, and the populations who are at the highest risk for these cancers. It is no accident that the breast cancer support group called Why Me? stimulated the growth of a prostate cancer group called Us Too. With respect to prostate cancer, one of the highest risk groups is African-American men.

The incidence of cancer in that group is at a significantly younger age than that of the average Caucasian or Asian-American man's experience with the disease. A higher percentage of African-American men die from this disease, solely because they are not screened.

There are several possible reasons why African-American men are not screened: By choice, because the basic digital exam is not a comfortable one; because they do not have access to screening services; or because many are low-income African-American men, who rarely have access to the services. Most African-American men do not have access to Medicare at the age of the most frequent incidence of prostate cancer, between the thirties and fifties; and many veterans, for instance, had their last exam when it was required during military service. For my age, that is many years ago.

Medicare can pay for an examination to evaluate the suspect symptoms but is generally not able to cover annual screening exams or PSA blood tests on a routine basis before there is some incidence, some symptom that demonstrates a cancerous presence.

Another high risk population is our own sons. I had the difficult job of telling my three sons after my surgery, on the advice of my surgeon, that they were at increased risk because they were sons of one who had been diagnosed with prostate cancer, and that the probability was that they might have an exposure to the disease at an earlier age than I did.

For breast cancer, we know that in some cases there are indications that it runs in families. Recently, my own sister had a diagnostic procedure for breast cancer. She did have access to insurance, and she had access to facilities for screening.

But the vast majority of women diagnosed with the disease each year are

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

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among those with limited access to both insurance coverage and the needed preventive services. There are extremely high rates of breast cancer among African-American women. In addition, our knowledge base about early diagnosis among younger women is very limited.

I am sad to say one of the groups which is strongly represented among my constituency, the Alaskan Native women, have a very high rate of cervical cancer. Alaskan Native women's rates of invasive cervical cancer occur at a much earlier age than the national population. We do not know all of the reasons for that, but we do know they share with African-American women a lack of access to screening services and to treatment when a problem is identified.

Many of our Alaskan Native women live in communities where it is accessible only by air. They see skilled screening technicians very infrequently. Others live in communities accessible by our ferry system, which we call the "Alaskan Marine Highway." Planes and ferries get them to regional hubs, which do have services available, but that is a very expensive proposition.

I am introducing legislation which, I hope, will get the attention of the Senate. The Senate will notice that many of the cosponsors of this legislation are Appropriations Committee members, and that is no accident, since I serve on that committee and have served there for a long time. The Appropriations Committee members, I feel, are keenly aware that funds included in authorizations are not available for appropriations. Often we authorize appropriations far beyond our ability to make money available. The Appropriations Committee also understands the need to expand the resources that we have, wherever possible, through obtaining matching funds from State and local governments or other sources.

The bill we are introducing today seeks to do that by matching Federal resources with the resources of nonprofit entities, which agree to prioritize their investment in screening facilities and make those facilities available to low-income women and men. This would double the total resources available to combat the problem, provide for early screening for cancer detection for a whole group of people in our country, who have no access to such screening.

Three years ago, I sought a specialized project of research excellence, which we then called "SPORE," for prostate cancer, and the Senate endorsed my request for projects which would bring the science from the laboratory to the patient in as short a time as possible. The approach that I am asking the Senate to take this day is to ask for a partnership between nonprofit organizations and the Federal Government in financing the facilities that would make available early screening and detection of cancers to rural areas in particular, and through the use of Federal funds in constructing the facilities, and nonprofit funds to take those facilities out to the rural areas. Having early screening and detection of cancers, I hope, will help us fight this terrible disease.

I send the bill to the desk for proper referral.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a summary and background of the Family Cancer Screening Research Partnership Act, which is introduced today by myself and Senators INOUYE, DOLE, MACK, and DORGAN.

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

FAMILY CANCER SCREENING AND RESEARCH PARTNERSHIP ACT

(Introduced by Senators Stevens, Inouye, Dole, Mack, and Dorgan)

BACKGROUND

The "Family Cancer Screening and Research Partnership Act of 1994" provides for the creation of federal partnerships with non-profit organizations to facilitate breast, cervical and prostate screening activities, and to expedite the development of effective treatments for breast, cervical and prostate cancer by combining resources to finance research efforts.

FEDERAL/NON-PROFIT RESEARCH PARTNERSHIPS

The Act authorizes the Director of the National Cancer Institute to enter into agreements with non-profit organizations to make matching grant awards for breast, cervical, and prostate cancer research of up to $250,000 each. The legislation includes appropriate protections for the federal expenditure. It also calls on the Director to expedite, where possible, the use of the federal funds. The federal share of funds may only be used for direct research activities.

LEVERAGING FEDERAL RESEARCH EXPENDITURES

By creating a partnership non-profit organizations will be encouraged to match federal research spending dollar for dollar, thus increasing the amount of funding available.

ENCOURAGING INCREASES IN RESEARCH PROGRAMS FUNDED BY NON-PROFIT ORGANIZATIONS

With the availability of federal matching funds, non-profit organizations can speed up the process of researching effective treatments for breast, cervical and prostate cancer.

COMPLEMENTS OTHER FEDERAL RESEARCH ACTIVITIES

A matching grant program does not replace other federal cancer research priorities and programs. Rather, a federal matching program is intended to complement the existing federal programs. It will hopefully encourage more researchers to focus there attention on these three diseases. And, importantly, it recognizes the need that to be successful, a war on cancer requires cooperation and coordination among the entire research infrastructure.

BREAST, CERVICAL, AND PROSTATE CANCER SCREENING PARTNERSHIPS

The Act authorizes the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, to award grants to nonprofit entities for the purpose of acquiring mobile vehicles and for properly equipping them for the purpose of conducting breast, cervical and prostate cancer screening procedures. Such vehicles will be used by organizations for the purpose of conducting free examinations. Priority for these grants will be given to non-profit organziations for efforts to screen low-income or geographically isolated women and men. An eligible use of these funds may be to outfit airplanes or boats where that is the best way to promote access to screening services.

EFFECTIVE SCREENING REDUCES FUTURE HEALTH EXPENDITURES

Breast, cervical and prostate cancer curability is directly proportional to its early diagnosis. Early detection of all three diseases reduces future health care costs associated with treatment, possible surgery, and after-care necessary for those diagnosed with one of these diseases.

CANCER SCREENING IS A FAMILY ISSUE—NOT A MALE OR FEMALE ISSUE

An effective screening effort requires outreach to those who are unable to afford regular examinations by a family physician or who do not otherwise have access to screening services. By making screening available at convenient locations for both husbands and wives, spouses are given the means of encouraging each other to undertake appropriate screening procedures.

A SMALL FEDERAL INVESTMENT IN EQUIPMENT WILL ENABLE THE NON-PROFIT SECTOR AND CORPORATE COMMUNITY TO UNDERTAKE SCREENING PROGRAMS

Mobile vehicles equipped for breast, cervical and prostate cancer screening programs cost approximately $400,000 each. This initial capital outlay makes it prohibitively expensive for nonprofit organizations to undertake screening initiatives for short periods during a year. By providing grants for the equipment the federal government would encourage such groups to make arrangements to staff the vehicles and otherwise defray the cost of screening programs.

SCREENING PROGRAMS SHOULD FOCUS ON UNDERSERVED AND AT-RISK COMMUNITIES

Mobile vehicles equipped to conduct cancer screening services will enable organizations to reach otherwise underserved communities.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

BOSNIA

Mr. KERRY. Mr. President, yesterday, and in days preceding it, there has been an ongoing debate about Bosnia. I would like to take a few moments, if I may, to discuss the amendment which is pending on the floor and to add some thoughts to this debate. This is an important debate for the U.S. Senate to have, and one which will have very far-reaching ramifications for the people of Bosnia, for the diplomatic efforts of the international community and, par-

ticularly, for U.N. peacekeepers on the ground.

I think it is fair to say that there is not one of us in the U.S. Senate, in this country, or among civilized people around the world, who has not been distressed or horrified by the atrocities that have been perpetrated by the Serbs against the Bosnian people: the wholesale violation of the rules of war, the emptying of whole villages through ethnic cleansing, the orphanization of children, and the rape of countless young women and girls as a systematic strategy of war. Many people had hoped the civilized world had put these things behind, or failing that, that the international community would be able to do more about them or prevent them entirely.

We also are outraged by the defiance of the Bosnian Serbs in attacking civilians as well as international peacekeepers in the U.N.-declared "safe havens." They have demonstrated a reckless disregard for the norms of international law and warfare by shelling hospitals, holding relief workers hostage, and attacking peacekeepers who are trying to protect innocent civilians.

We are angered by the violations of cease-fires by Bosnian Serb commanders and by the intransigence of those who represent the Bosnian Serbs at the negotiating table. We are frustrated by the collective failure of the international community to bring an end to this conflict, which has the potential of spreading to Kosovo, Albania, Macedonia, Bulgaria, Greece, or Turkey. In light of that potential, we need to think very carefully about the idea of unilateral lifting.

The transgressions of the Bosnian Serbs are so heinous that the international community, long ago, should have summoned a greater response for its outrage. Had we done this, the situation might be different today. But we did not, and that is why we suddenly find ourselves discussing the possibility of unilaterally lifting the arms embargo.

In the wake of our frustration, outrage, and anger, we want to take some action that will make a difference. That is the American instinct—to want to respond to this kind of problem and to make it clear to the world that we have a different standard of behavior. It is not just an American standard; it is a universal standard embodied in the Universal Declaration of Human Rights.

We want to level the playing field. We want to give the Bosnian Moslems a fair chance to "defend" themselves against this enemy that is more powerful and better equipped.

We know that there is an inequity in the embargo that was put into effect by the United Nations because it has allowed the Bosnian Serbs to be supplied while denying the Bosnian Moslems the weapons that they need. That is why so many of us pressed more than a year ago for the lifting of the embargo, to give the Bosnian Moslems a chance to defend themselves. The problem is that you cannot take the response that was appropriate a year or more ago and transfer it to the situation you have today and necessarily have the same result, or even the result that you want to achieve, which is to minimize the fighting and end the killing.

I would respectfully submit to my colleagues, whom I know feel as passionately as I about this situation, that to move at this particular moment to lift the embargo unilaterally will work counter to their intentions and may indeed have the far more dangerous effect of escalating the violence, increasing the killing, prolonging the war, and involving the United States in ways which we have assiduously tried to avoid.

The pending amendment mandates that the President terminate the United States arms embargo against the Government of Bosnia upon receipt of a request from that Government for assistance in exercising its right of self-defense.

The right of self-defense, which has been used to justify this particular step, is in article 51 of the Charter of the United Nations. The first part of that article suggests that every nation has a right of self-defense and that the United Nations cannot take that away from them. However, the article also suggests that where the United Nations is involved in an international peacekeeping effort, a state cannot invoke the right of self-defense in contravention of those efforts.

We have conflict in Bosnia but we also have an international effort to restore the peace. The troops on the ground are not our troops, but they are troops of some of our key NATO allies, and they are at risk. Our allies do not want to lift this embargo at this moment. By voting for the pending amendment, we are telling the very nations that have their troops on the ground that we, who have no troops on the ground, are willing to lift the embargo and put their troops at risk.

Moreover, like it or not, we have been, and are viewed as, a neutral party vis-a-vis the current conflict. We are not viewed as having chosen a side, except the side of the United Nations. We are viewed as neutrally trying to press for peace. Given our role in the negotiations and our position over the last year and a half, lifting the embargo unilaterally will wipe away the neutrality and send the message to the Bosnian Serbs that all of a sudden the United States has decided we are coming in on the side of the Bosnian Moslems. The effect of that, as Senator GLENN has well pointed out, is to pave the way for the delivery of military assistance.

If you are a Bosnian Serb and all of a sudden you see a lot of weapons coming in from the United States, which has suddenly decided to help the Bosnian Moslems, your response is going to be: "We better take them out fast before they learn how to use those weapons. We better start augmenting our campaign. And since the United States is willing to alter the balance of power and to abandon its neutrality, to hell with the safe havens and the exclusion zones. We are now going to have to fight this to the bitter end."

So, unilateral lifting would not advance the negotiating process. Rather, it would have the unfortunate impact of putting the troops of our allies in jeopardy, forcing our allies to consider whether or not to withdraw their forces from UNPROFOR altogether, and ending the humanitarian relief efforts.

It does not make sense. We are going to deny ourselves the very things we have been struggling, through the United Nations, to achieve over the course of the past months.

I have heard my colleagues come to the floor and plead for lifting the embargo now in order to allow the Bosnian Moslems to defend themselves. I agree that they should have had that right long ago. But in May 1994, that plea has a different meaning. That plea does not really just mean "Give us the right to defend ourselves." It really means "We want the weapons to be able to fight, to roll back the gains made by the Bosnian Serbs."

The same intransigence that the Bosnian Serbs have demonstrated at the bargaining table would now grow within the Bosnian Moslems. They would not negotiate to a conclusion because they would suddenly say: "Now we've got the weapons; now we can fight back. We are going to get this corridor back, and we are going to get this town back, and we are not going to go to the negotiating table until we have achieved what we want in terms of a bargaining position." So the war will go on, not end.

If we lift the embargo unilaterally, as the pending amendment contemplates, Bosnian Moslems, rightly so, will regard us as their patron and protector. They will see themselves as our client. The Bosnian Serbs, their supporters in Belgrade and Moscow, and others in the international community will see it this way too.

The request from the Government of Bosnia will be coming across our fax machine within minutes if this amendment is approved. Who is going to deliver the weapons? The CIA or will they be sent through some back channel? And what happens to those weapons ultimately? Do we really want to start loading up this area with more weapons at this point in time?

I believe that unilateral lifting of the embargo would sound the death knell for diplomacy, for the time being. It

would send a message to the warring parties, to the United Nations, and to our NATO allies that we, the United States, have given up on the negotiations. It would send a message that we believe our collective strategy is falling apart at the very moment, incidentally, that the Croats and the Bosnians have signed an agreement and are moving to a confederation and at the very moment that we have achieved, through the threat of air strikes, the safety of Sarajevo, Gorazde, and Zepa.

All of a sudden we would be saying, "To hell with it. We are going to let them fight it out." The result would be that the negotiations would be deterred, not advanced.

I would respectfully suggest that the approach of the Senator from Maine, the majority leader, is the sensible approach, because it asks that we go on record in favor of lifting the embargo in conjunction with others in the international community, particularly those with people at risk on the ground.

It is no secret that our NATO allies are not in favor of lifting the arms embargo at this time. They would regard our doing so as a deliberate attempt to undermine the sanctions regime imposed by the United Nations—a regime which we supported and voted for.

I would remind my colleagues again—and this is not a small matter—that our allies are the ones with the peacekeepers on the ground. They are the ones whose soldiers are at risk. It is not America that has had the courage to come forward and say we will put people on the ground.

If we lift the embargo and peacekeepers get killed because of intensified fighting, our allies will hold us accountable. If we lift the embargo and our allies have the perception that the danger to their forces has substantially increased, they may pull some or all of their forces out of UNPROFOR. That could lead to the collapse of the humanitarian relief effort in towns like Sarajevo, Goradze, Srebrenica and Zepa, where Bosnian civilians are surrounded by Serb forces. As a result, we would wind up in the totally contradictory position of trying to help the Moslems defend themselves while at the same time contributing to the demise of the international effort that is helping them to survive. Who, then, would bear the responsibility for protecting and feeding threatened civilians? Many would point to us!

I might add there is another factor that our colleagues who want to move unilaterally have not considered—Russia. In recent weeks the Russians have played a very responsible role vis-a-vis the Serbs. If we act unilaterally at a time when our allies in Moscow oppose this lifting, we run the risk of alienating the Russians, putting enormous pressure on Boris Yeltsin, and encouraging them to dig in their heels in support of their ethnic kin, the Serbs. Zhirinovsky and others will have a field day pointing to the fickle United States of America, which operates unilaterally because of its own grand designs on the people of that region. He and his supporters will press Yeltsin to help the Bosnian Serbs.

I think we should also recognize that lifting the arms embargo unilaterally would encourage many of our allies who have supported other embargos to say, "Well, if the United States can unilaterally do this, we can unilaterally pull out of this other embargo," most particularly the embargo on Iraq. Unilateral termination of the United States embargo on Bosnia ultimately could undo our own policy with respect to Iraq.

Proponents of lifting the embargo now argue that it would bring an end to the conflict because the Bosnian Serbs would be deterred from fighting further once the Moslems have access to heavy weapons. Well, I respectfully suggest that the history of that war and the history of the Balkans defy that presumption.

Heavy weapons in the hands of the Moslems would provide a strong incentive for Belgrade to decide that more people ought to become involved. Then, we will be asking ourselves what to do now? Do we commit NATO to this conflict in a whole-hog fashion to roll back territorial gains by the Serbs? I have no doubt about who would win, but I am just questioning whether that is the next step we want to take.

Over the last 25 months, the Bosnian Serbs have proven their determination to fight and fight and fight in the face of extraordinary odds. They have won a lot of territory on the battlefield. I think most people agree, and the President has again and again said, that this is not going to be resolved ultimately on the battlefield; it is going to be resolved at the bargaining table. We are at that table and we should not give people an incentive to leave it.

According to the State Department, the Bosnian Government would probably need very large, heavy-caliber weapons, including medium and heavy artillery, medium-tanks and long-range antitank weapons, including the TOW. No doubt these weapons would increase the firepower of the Bosnian Government forces, but be assured they would increase the level and the intensity of fighting as well.

Mr. President, the distinguished leaders of this body have given us a choice. The minority leader's amendment offers us the opportunity to go on record in support of unilateral lifting of the embargo in the very near term, as soon as the request for assistance comes in from the Government of Bosnia. The majority leader's amendment allows us to support the air strike option and to recognize the desire of the Senate to move forward to lift the embargo as part of a multilateral effort. I think the latter is the better approach and the more responsible choice.

Multilateral lifting would keep us in league with our allies. It would send a stronger signal of international disapproval of Bosnian Serb behavior because it would be a multilateral action not a unilateral action. It would enhance our ability to bring pressure to bear on the Bosnian Serbs.

Mr. President, as I have said again and again, unilateral lifting might have been the right option at the outset of this conflict because it would have equalized the situation. The fighting and the victories on the battlefield would have occurred under a different balance of power. However, if we lift now, unilaterally, we run the risk of jeopardizing all of our efforts to resolve this conflict.

Progress at the negotiating table has been slow and painstaking. Nevertheless in recent weeks diplomacy has paid off. Agreements have been reached between the Bosnian Moslems and Bosnian Croats. The Governments of Bosnia and Croatia have now concluded an agreement on confederation.

The diplomatic process has been reinvigorated through the so-called contact group, that is Russia, the United States, and the European Community. With NATO poised to strike Bosnian Serb forces that attack safe havens or violate the exclusion zones, the contact group is now in a much stronger position to press for movement at the table than at any other time in the past.

And since the establishment of an exclusion zone around Goradze, the fighting on the ground has almost calmed down. People said weeks ago, "How are we going to save Goradze? Lift the embargo." Lifting the embargo would not have saved Goradze. We did not lift the embargo but we did save Goradze. It proves that we have alternatives that are working at this moment in time.

Although the Bosnian Serbs have failed to comply completely with the United Nations requirements for the removal of weapons from the exclusion zones around Sarajevo and Goradze, the establishment of the zones, coupled with the threat of NATO air power, has improved the situation for civilians trapped within those towns.

The shelling has stopped, civilians are no longer being hurt or killed, and humanitarian aid is once again being delivered. Why one would want to make the move that undoes those accomplishments is beyond me.

Undoubtedly the deterrent value of NATO air power depends on the willingness of the United Nations to use it. I believe we have to streamline the command and control and eliminate the reluctance of Mr. Akashi to support those commanders on the ground who ought to have the right to protect their troops when needed. We have a command and control problem and we

ought to solve it. But it is important to recognize, this problem aside, that the international community does have a strategy today for penalizing the Bosnian Serbs for violations. That strategy ought to be given a chance to work.

If it does not work, if our allies decide there is no other course, we have the leverage under the Mitchell amendment to empower the President and the allies to move on the embargo. I would support that. But I do not think that at this particular moment, alone, with the restoration of the safe havens and the progress on the diplomatic effort, that this unilateral move is sensible or advisable.

For the United States, as the leader of the international community, to go its own way with an effort that has so many downsides measured against the upsides, is not only dangerous but it flies against our own efforts to encourage others to cooperate and to resolve disputes in multilateral fora. I hope my colleagues will agree and that we will adopt the position of the majority leader and reject a move that flies against our own diplomatic efforts, our own history in terms of multilateral approaches, the dictates of the situation on the ground, and the current diplomatic-military structure that we find ourselves in.

I yield whatever time I have left.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

A TRIBUTE TO PRESIDENT RICHARD MILHOUS NIXON

Mr. LOTT. Mr. President, I would like to pay tribute to a great President, a great man, and a dear friend, Richard Milhous Nixon.

April 22, 1994, marked a great loss to America and the world, when President Nixon died at the age of 81. Congressman, Senator, Vice President, and President; writer, commentator, elder statesman to the world: President Nixon stands tall as a giant of our age.

President Nixon is worthy of high praise, because he was willing to put all he had on the line in service to his country. He believed in the country's system of government, this country's ideals, and this country's bright destiny.

All of us who had the great honor to talk with President Nixon realized that we were engaging a fertile mind. The pomp of power and the sweep of history were his fascinations. He had a global vision, with America as its fulcrum. This global vision was sought after even after President Nixon left office. His long reign as elder statesman is a testament to his genius. He was an American Solomon, a wise man who helped build the peace of the world.

I, along with many other mourners, was in Yorba Linda last month for President Nixon's funeral. At this type of ending, you begin thinking about beginnings. I remember when I was a young congressional staff member in 1969 when I first met President Nixon. As administrative assistant to then-chairman of the House of Representatives' Rules Committee Bill Colmer, I had helped to arrange his annual House leadership seafood luncheon. President Nixon attended the luncheon because of his very warm relationship with Chairman Colmer. I had a chance to listen to the President's remarks and visit with him personally. I was inspired by him.

Then in August 1969, after Hurricane Camille, President Nixon came to Gulfport, MS, and promised that his administrtion would come to our aid after that devastating storm. He kept that promise.

When Chairman Colmer retired in 1972, with President Nixon's support, I first ran for Congress as a Republican. By that time, there was more than party that binded us together, but a long friendship which I remember and will always cherish.

At President Nixon's funeral in Yorba Linda, in front of the crowd of Congressmen, former Presidents, and foreign delegations, was the simple white house that President Nixon grew up in. I realized a truth looking at that small house. In America, the great can come from the simple. Many of our great leaders came from humble beginnings. That is why I have faith in the American people. From our minds have come great ideals, and from our midst have come men like Nixon.

Even as he tried to settle disputes in the family of nations, President Nixon had a wonderful and supportive family of his own. His wife Pat, who passed away last year, had under her radiance and grace a fierce devotion to her husband. President Nixon's daughters, Julie Nixon Eisenhower and Tricia Nixon Cox, have inherited the best of their father and mother, and I pray that they remain strong in their time of mourning.

The Reverend Billy Graham said of Nixon that a tree is best measured when it is laid down. President Nixon's legacy, from his humble roots to his passing, has yet to be fully measured. History has and will measure his efforts and his genius, and they have not—and will not—be found wanting.

LIFTING THE ARMS EMBARGO ON BOSNIA AND HERZEGOVINA

Mr. HEFLIN. Mr. President, as we reflect on whether to arm the Bosnians, there are some important questions that should guide our deliberations. This has been a frequently discussed option in Congress, as well as the constant request of the Bosnian Government for the past year. Bosnian Moslem forces have been outmatched by the stronger Serb forces, which benefited from most of the supplies left over from the former federal Yugoslav army. Some believe that the current arms embargo only reinforces that disparity. They also believe that arming the Bosnians would not only equalize the conflict, but would lead to the Serbs accepting a permanent cease-fire, if not a political settlement. On the other side, opponents of lifting the embargo—most of our European allies and Russia among them—would say that instead of "leveling the playing field," lifting the arms embargo would "level the killing fields," increasing the violence without coming any closer to a diplomatic solution.

As it now stands, the Serbs control about 70 percent of the land in Bosnia and Herzegovina, and there has been very little resistance so far to the advancing Serb army. We have to ask ourselves if it is not too later for a newly armed resistance in Bosnia to take back any of this land, or bring any measurable success to the Bosnians, especially since other nations will inevitably come to the aid of the Serbs if we begin backing the Moslems militarily. Will the fighting and killing only escalate?

There are several logistical issues that must be raised here as well. The most important are the questions of what types of arms should be provided and how they could be delivered with certainty and relative safety to Bosnian forces. These forces have no suitable access to the coast; high altitude airdrops, as demonstrated with the food and medicine flights, run the risk of some military supplies falling into the wrong hands; and low altitude airdrops, while minimizing this risk, increase the likelihood of American casualties. Croatia would necessarily play a crucial role in any such arms supply effort. Although there is currently a Moslem-Croat alliance, it is shaky at best.

Beyond these basic logistical concerns, there are more profound political issues to be considered. What would be the purpose of the arms supplies? If the answer is simply to equalize the fighting, the most likely immediate result would be increased violence and casualties on all sides, destroying any remaining hope for a negotiated settlement in the near term. Some believe strongly that equalization would be sufficient in itself to force the Serbs to accept a cease-fire, but we have no way

of knowing or testing such a hypothesis. Is it a gamble worth taking? Would the implementation of other resolutions, including ones imposing sanctions on Serbia and other former Yugoslavia republics, be undermined by lifting the arms embargo against Bosnia? Would current humanitarian efforts be underminded?

How long would arms be supplied? If the Serbs were to accept a ceasefire, it might prove necessary to continue arming the Bosnians to guard against the possible breakdown of the truce. If, on the other hand, Serbian militia forces continue to be successful militarily, then we face three options: Continue arms supplies to Bosnian forces in the continued hope of equalizing the conflict; intervene militarily, probably with ground forces; or discontinue arms supplies based on the view that arming the Bosnians has not worked. Are any of these options palatable or politically acceptable?

Although arming the Bosnian Moslems is likely to be overt rather than covert, the resulting options are strikingly similar to those the United States has faced in past large-scale paramilitary operations. Unless the operation shows demonstrable success, the only remaining courses of action are a marked increase in intervention or a willingness to end the operation, often without being able to safeguard those forces that have been supported. Again, we would be faced with rather unpalatable options.

Opponents of any expanded United States role in stopping the fighting in Bosnia say the end of the cold war has reduced Yugoslavia's strategic importance to the United States. They argue that the United States should leave the solution of the crisis to the Europeans, whose interests are far more directly concerned than ours.

But most of the European leaders I have spoken with in my role as chairman of the Senate delegation to the parliamentary arm of NATO would like to see more intervention by NATO and the United Nations, two organizations whose dependence upon the United States is obvious. They support air strikes and perhaps would even be in favor of land-force intervention, but continue to oppose arming the Bosnians out of fear that the conflict would spill over to other areas of the Balkans that have not been touched by fighting, thus destabilizing a wide area of Europe.

Opponents also compare the crisis to Lebanon or Northern Ireland, two areas where deeply rooted ethnic and religious conflicts are not amenable to military solutions. They believe it unlikely that even a massive bombing campaign could by itself stop the Serb forces or force them to give up the land they have captured. It is not inconceivable that the Serbs could draw on their history of resistance to outside forces and dig in their heels, drawing the United States into a guerilla war like the one fought against the Germans in mountainous Bosnia-Herzegovina during World War II. Additionally, the intervening force would have to do much of the work largely on its own, since Bosnian Croat forces have proven dubious in their loyalty to the Bosnian Government in the past.

Our bottom line is that we have absolutely no idea—logistically, politically, diplomatically, or militarily—what would occur as a result of lifting the arms embargo on Bosnia. There are any number of possible outcomes, most of which are bad. The only good one—a victory for the Bosnian Moslems—is highly unlikely, even with weapons. Since this is the case, it is clear that if we err at all, it should be on the side of caution, as terrible as the status quo is. The potential cost of erring on the side of chance is simply too great in this case.

As sad as it may be, American and other leaders may be left with a situation where there are no suitable diplomatic venues or military plans that are acceptable. If this is the case, we will have to decide whether we can live with the status quo—largely accepting the partition of Bosnia, and perhaps then turn our attention to policies designed to contain the conflict within its present borders. What we may be faced with at this late stage in the game is a choice between living with the status quo throughout containment, or arming the Bosnian Moslems so they can have the honor of going down fighting.

Lifting the arms embargo on Bosnia unilaterally, as the Dole resolution calls for, would set a dangerous precedent. It would, in effect, "Americanize" the fighting in the Balkans and possibly lead to more extensive United States involvement later. The public clearly does not support this, and it does not appear that it is in our national interests to do so. Senator MITCHELL's language provides safeguards against making this a strictly American operation.

In my judgment, it would be in Congress's best interest to get a formal briefing and detailed analysis from military and intelligence officials concerning some of these questions. We need to know what the professionals think. Is this a good move? What is our timeframe for involvement? Are the Bosnians sufficiently trained to operate the weaponry once they get it? What kinds of weapons would be effective?

While I will support the Mitchell amendment, I do so with grave reservation, since any arming of the Bosnians may be too little too late, even if done through the auspices of the United Nations, and NATO. Regardless of what measure we adopt relative to Bosnia, I think it is vital for the relevant committees to get a formal briefing from Pentagon and intelligence officials to help answer some of the logistical and political questions which have been raised.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Tuesday, May 10, the Federal debt stood at $4,571,812,500,249.97. This means that on a per capita basis, every man, woman, and child in America owes $17,535.94 as his or her share of that debt.

THE NATIONAL SECURITY EDUCATION PROGRAM AND THE CONTRIBUTIONS OF AMBASSADOR SOL LINOWITZ

Mr. BOREN. Mr. President, this week marks an important beginning in the life of a program that I hope will help pioneer this country's commitment to international education. For the past several years, I have talked often about our country falling behind the rest of the world in preparing the next generation for the new global environment. As the cold war ended and regional problems became more important, I feared that we lacked an appreciation of the histories and complexities of places in the Middle East, the Baltics and Asia. While the world's economies became increasingly interdependent, I suspected that we lacked the understanding of markets in Beijing or Prague or Santiago.

Based on these concerns, I proposed the National Security Education Act. Its aim was simple: To encourage students to study, and schools to focus on, non-Western languages and cultures important to our country's future. The bill created a trust fund to support graduate fellowships for students willing to serve in Government after their studies ended; scholarships for undergraduates to study in foreign countries; and language and cultural programs for universities to establish and maintain. In 1991, the NSEP was created by an act of Congress and signed into law by President Bush.

This week, after overcoming obstacles to its implementation, the NSEP began the process of awarding scholarships and fellowships. It hopes to award the institutional programs this fall. What was once an idea is now becoming a reality fulfilling the hopes of 173 graduates and 317 undergraduates to study in foreign lands. The students are a diverse and energetic group, representing all 50 States at over 100 colleges and universities.

The graduate students will study 47 different languages and at 57 countries, and in numerous areas of study. Many will go to Japan, Russia, and China—countries most important to our national and economic security. Many

others will go to places like Vietnam, a country with whom the United States recently normalized economic relations. Some will go to South Africa where true democracy is now remarkably taking place.

The undergraduates are no less ambitious than the graduates. From a pool of 1,811 applicants, over 317 students will learn 34 different languages at 48 different countries. They will study Spanish, Mandarin, and Slavic languages. They will also learn Arabic in Yemen and Quechua in Peru. They will, I hope, be exposed to cultures distinct from their experiences and ideas different from their own.

With the coming announcement of these awards, I could feel the excitement in the room at last Monday's NSEP luncheon. Representatives from higher education, Government, and the private sector convened for the first NSEP Board meeting. The board is a group of 13 distinguished individuals from Government and the private sector who advise the Secretary of Defense, who serves as the administrator of the program, on policy matters and the selection of awards. I had the honor of speaking with them on the history of the program and sharing my ideas about its future. It was a special moment for me.

Many people attended the luncheon who have been instrumental in the realization of NSEP. One of those present was my dear friend, Sol Linowitz. In many ways, he personifies the ideals and goals of the NSEP. He was an Ambassador to the Organization of American States during the Johnson administration and helped negotiate the very difficult Panama Canal Treaty and Camp David Accords. He has traveled widely and understands the great issues of the day. He is one of the wisest people in our country. I have depended on Sol Linowitz' wisdom on many occasions.

It was several years ago that I told Ambassador Linowitz about my idea of an international studies program. He enthusiastically supported it. When I was developing the bill to create the program, he advised me on legislation. When the bill faced obstacles, he helped me navigate it through the political waters. His support was crucial. I ask unanimous consent to place into the RECORD the words he gave at the NSEP luncheon.

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

NSEP AND NATIONAL SECURITY

(By Sol. M. Linowitz)

I am very pleased to be here and to have the opportunity to say a few words about NSEP. It takes real presumptuousness for me to undertake to talk with you about the area of your own responsibility and concern. I am presuming to do so only because I am so persuaded of the importance and the promise of your mission, and I'd like to tell you why.

At the outset, I want to pay my respects to the man who is entitled to our lasting gratitude for his leadership in the enactment of NSEP—Senator David Boren. Senator Boren is a friend of mine and I know him to be man of commitment and dedication who has clearly perceived the importance of reaching out to the other people of this earth—of coming to know them and their cultures—if we are to live together peacefully in today's world. We are all deeply in his debt for his independence, foresight and wisdom. As President of the University of Oklahoma later this year, he will be changing not his focus, priorities, commitments or involvements—just his geography and work place—and we wish him well with his university responsibilities.

I think that to get a real sense of what NSEP really means, it has to be seen against the backdrop of the kind of world and the kind of time in which we live.

For we are living at a difficult, anxious, uncertain time in world history—a time which has been called both the Age of Anxiety and the Age of Science and Technology. Both are accurate, for indeed one feeds upon the other. As our scientific and technological competence has increased, so have our fear and anxiety.

It is also a fateful time. In the past, men have warred over frontiers. They have come into conflict over ideologies. They have fought to better their daily lives. Today, however, each crisis overlaps the other and we find ourselves at an upheaval that touches every phase of our existence.

Just think what has happened in the past few years.—

The collapse of the Soviet Bloc has fundamentally and irreversibly transformed international relations for our time.

The most significant military and ideological adversary of the United States has ceased to exist. The central principle U.S. foreign policy for the last half century—the Cold War—is over, and the foundation of our international alliances, military strategies, and defense budgets has been swept away.

Regional wars that involved the superpowers—Angola, Cambodia, Central America—are all winding down. At the same time, and as the war in the Persian Gulf and the fighting in the former Yugoslavia and Armenia have made all too clear, loss of superpower influence, combined with the deadly proliferation of armaments, could lead to more rather than less armed conflict in the world.

Economic competition is displacing military conflict as the main arena of international rivalry. According to recent polls, most Americans now consider Japan—not the former Soviet Union or Russia—to be our main adversary.

From Argentina to Poland, authoritarian politics and centralized economies have been discredited; and the value of free elections and open markets has been strongly affirmed.

The handling of the Persian Gulf crisis suggested that we may be entering a new era of multilateral cooperation. But we can't yet be sure whether a new world order will truly emerge—or whether we will regress to a fragmented world of regional power balances and conflicts.

Whatever happens, we have not had to confront such breathtaking global changes since the end of World War II.

Against this backdrop it is important to recognize some hard facts:

First, the people of this world are no longer thousands of miles away—but just down the runway. Whether we like it or not—the world is pressing in upon us; and we simply can't isolate ourselves or stop the world and try to get off. For better or worse, we are all in this together.

This means that problems, misunderstandings, confrontations involving countries we have never seen or people we have never met can suddenly and dramatically impinge upon our own lives and drastically affect our future and the future of our children.

Second, we are living in an instantaneous world where the world is as close to us as our TV sets—where we are all part of a global society in which there is no longer such a thing as separate areas of concern or a clear division between domestic and foreign—a world in which peace is truly indivisible; in which what happens in places like Somalia, Bosnia, Russia, China is in the truest sense happening to us. Our lives—our futures—are now inextricably intertwined with those of the rest of the people in this world.

Third, in such a world national security is inseparable from global insecurity. We cannot hope to be safe and secure if the world is unsafe and insecure.

What do we mean when we use the word "secure"? What does the word "security" mean when we talk of the National Security Education Program? Let me give you my own view: I start with the fact that security in the world in which we live depends on far more than military weapons or economic strength. Security—real security—also depends on the kind of relationships we have with other people and other countries—where we are able to understand them and relate to them and work with them toward a more stable, peaceful world.

We will not find security for ourselves if we are estranged from the other people of this world and alienated from them and their cultures. We will not find peace for ourselves and our children by continuing to ignore other people and by arrogantly insisting that the rest of the world must learn from us what we are willing to teach—and must speak to us only in our tongue.

In short, we will not be secure if we do not build bridges of security—bridges of understanding and cooperation and empathy to the other people on this earth. And that, I believe, is what NSEP is all about.

In Mexico City there stands the statue of Benito Juarez. On it are the words: "Respect the rights of others in peace." Respect for the rights of others underlies the whole concept of NSEP. It means treating others with dignity; respecting their right to fulfill their own destiny in their own way; learning their culture and their language.

The Chinese write the word "crisis"—by combining the symbol for the word "danger" with the symbol for the word "opportunity". In these times of crisis, we have been confronted with both dangers and opportunities—and we have failed to seize the opportunities to increase our understanding of the other human beings on this earth.

How bad is the situation? In introducing NSEP legislation, Senator Boren presented some deeply disquieting facts. Let me remind you of a few: Last year over 350,000 college undergraduates came to America from other countries. At the same time, only about 50,000 American students went to study at the undergraduate level in the rest of the world; and—if you exclude Great Britain, France and Germany—only 4,000 or 5,000 American students studied abroad.

In the year 2000, the European community will require fluency in two foreign languages for all high school graduates. Japan now re-

quires that all of their students study at least two years of English before graduating from high school. (By way of contrast, three-tenths of one percent of Americans study Japanese.)

At this moment when we should be trying to learn all we can about the rest of the world, only 8 percent of our college students are studying any foreign language and over 80 percent of all the universities in this country do not require a foreign language for an undergraduate degree.

I submit to you that we simply can't live with those numbers if we expect to build the kind of future we say we want.

For in the future—as never before in our history—we will need men and women who are at home in the world—who are people of perspective and breadth with a far better understanding of the world than has ever been required before. We will need men and women who understand where we have been and where we are going, who knows about the kind of world in which we live and the future we should be trying to achieve. We will need men and women able to communicate with one another and with other people and other places; people who know how to transmit and stimulate ideas; people who recognize that things human and humane are even more important than the computer, the test tube, the IBM or even the Xerox machine. We will need people who understand that know-why is even more important than know-how, people who will see our problems as part of total human experience and who will be able to understand something of what yesterday teaches us about today and tomorrow.

In short, we will need people of vision who will be able to help us find effective solutions to the problems besetting the world by coming to know and understand the people who make up that world. I strongly believe that NSEP can do much to move us in that direction and I wish you Godspeed on your mission.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of the conference report accompanying House Concurrent Resolution 218, which the clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 218), setting forth the congressional budget for the U.S. Government for fiscal years 1995, 1996, 1997, 1998, and 1999, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 4, 1994.)

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. SASSER. I thank the Chair.

Mr. President, we are ready to proceed with the conference report to the fiscal year 1995 budget resolution.

Mr. President, the eminent British statesman Edmund Burke wrote once that, "All government—indeed, every human benefit and enjoyment, every virtue and every prudent act—is founded upon compromise and barter."

Now, the conference report before us today is just that: A fair compromise that makes the Government go, a fair compromise that provides for order rather than chaos, and allows us to proceed expeditiously with the business of this people's Government.

But this budget resolution is not a compromise simply for compromise sake. Like its predecessor, the budget resolution which we passed earlier this year, this one hews to the principle of deficit reduction, it hews to the principle of fiscal responsibility, and it propels us down the path to greater economic growth.

Make no mistake about it, this economy of ours has flourished since we made a commitment last year to serious and credible deficit reduction. I wish to commend those Senators who last year cast their lot with serious deficit reduction.

I believe that as we consider this budget resolution conference report, it bears repeating the major accomplishments of last year's Budget Reconciliation Act, accomplishments that have a direct impact on the working men and women of this country, accomplishments that we build upon with this budget resolution conference report.

Last year's deficit reduction plan reduced the deficit by nearly $500 billion, cut spending by $255 billion, and allocated every new dollar to deficit reduction. It constrained the discretionary spending at a hard freeze level, and cut $90 billion in entitlement spending.

As an example of how real last year's budget-cutting effort was, or deficit-cutting effort was, and how real the legislation was that we passed last year, we now find that the legislation we passed, which was calculated to reduce the deficit by $500 billion, is now calculated to reduce it by well over $600 billion in the same timeframe as a result of primarily increased economic expansion and activity, part of which was attributable to the deficit reduction efforts that we took.

Given the extra lift provided by the rising tide of a strong economy, as I said, the package that we produced last year will actually come in in the neighborhood of $650 billion in deficit reduction over the next 5 years; $150 billion, almost, over what we had originally predicted. What a difference from other deficit reduction packages.

I remember years past when we would try to reduce the deficit. We would come in with various gimmicks and plans. Invariably, the deficit would be larger than we had anticipated. In this case, we have the welcome and refreshing and heartening news that the $500 billion deficit reduction package that we passed is not just $500 billion. It is going to come in at somewhere in the neighborhood of $650 billion in deficit reduction.

If we do not stray from the path we are on, if we pass this budget resolution for fiscal year 1995, the 1995 deficit is going to be $100 billion below the Congressional Budget Office projection of just last spring, just a year ago.

In fact, Mr. President, the deficit in 1995 will be lower than any year since 1979.

And that is not all. The 1998 deficit will be $200 billion less than before last year's plan was passed. And projections are that the 1999 deficit will be cut in half.

Let us look at this critical deficit reduction from another angle. Let us look at it from the point of view of percentage of gross domestic product.

I think most knowledgeable economists would say that the most accurate way of measuring a deficit's impact on an economy, and on an economy's future health, would be to put it in proportion to the gross domestic product.

The deficits from 1995 through 1999 will average about 2.4 percent of gross domestic product; 2.4 percent of gross domestic product for 1995 through 1999. Contrast that with 4.2 percent of GDP during the 1980's, almost cutting the deficit in half as a percent of GDP from where it was in the 1980's. How about the 1970's? In the 1970's, we were averaging a deficit as a percent of GDP at 2.5 percent.

So what we are seeing as a result of this deficit reduction program we are on, we are almost halving the deficit as a percent of GDP from where it was in the 1980's, and bringing it below where it was as a percent of GDP on the average in the 1970's. That is quite an accomplishment.

The legacy of a growing debt burden will also be reversed. The national debt as a percent of the economy grew to an alarming 52 percent by 1994. What we are doing is halting the growth of the national debt as a larger percentage of the economy, arresting it, and starting to reduce it.

A little brief history might be in order here for our colleagues. When we emerged from World War II, the national debt as a percent of the gross product or national wealth stood at about 110 percent of the gross domestic product at that time. We began reducing it, and reduced it down to an area of somewhere in the neighborhood, at its lowest level, of about 30 percent of GDP. It began growing again in the

1970's, and exploded in the 1980's, moving up to a point where it was in excess of 50 percent of GDP. We are now halting that growth, arresting it, and starting it down in the other direction.

We often call last summer's budget resolution and reconciliation bill the "historic" deficit reduction plan. We do so for good reason. History gives us a benchmark against which to measure. What we did last summer, and what we continue to do with this resolution, measures up, I think, with the best of them.

Discretionary spending as a share of our overall economy and the total budget will be the lowest, in this budget resolution, than it was when Franklin Delano Roosevelt was last in the White House. For the first time since Harry Truman was President, there will be 3 years in a row of declining overall deficits. And discretionary spending next year will be lower than the preceding year. This is the first time that happened since President Nixon took office in his first year. In President Nixon's first year in office, we were starting to reduce the spending that had been going into the Vietnam War that elevated discretionary spending. And that is why discretionary spending in his first year in office was more than it was the year before.

So no one will argue that we have not made substantial progress. But I am not here to try to persuade my colleagues this morning that we have dealt with this deficit and dispatched it with a single blow. The deficit is very tenacious. I say to my colleagues that this deficit is receding; it is retreating before the relentless assaults that we have launched upon it over the past year and a half.

There is no doubt in my mind that the growth of this economy and the vigor of this economy can be traced, at least in a significant part, to the deficit reduction plan that we passed here last summer.

The financial markets which had long begged for a creditable deficit reduction plan among the dross of gimmicks and contraptions offered to them in prior years finally found a creditable deficit reduction plan—the one we passed last year. And how did the financial markets respond? They responded with lower interest rates, which helped push us into a fully self-sustaining recovery.

This is how the American people have felt measurable results from our efforts in deficit reduction last year. First, it came in jobs. Over 450,000 jobs were created in the month of March alone. We have now created in this economy 2.5 million jobs in 14 months. That is more jobs in 14 months than were produced during the previous entire 4 years—more jobs in 14 months than in the previous entire 4 years.

Well, the next measure is interest rates. Interest rates have plummeted; they have come down; that is, before the Fed began to hear inflation creeping in on little cats' feet which nobody else heard and panicked.

For hundreds of thousands of our fellow Americans, low-interest rates produced an unparalleled opportunity to purchase a new home. Housing starts and permits in sales soared in the fourth quarter of 1993 at more than a 50 percent annual rate.

Sales for domestically produced cars and light trucks jumped at more than a 50 percent annual rate between September and February. And in the year 1993, for the first time since 1980, more automobiles were assembled here in the United States than were assembled in Japan. Let me repeat that. In 1993, for the first time since 1980, more automobiles were assembled here in the United States than in Japan. In Japan, the cry is, "The Americans are back"—and we are, in a big way.

One of the strongest indicators of economic victory—real business investment—advanced at a 22-percent rate in the fourth quarter of last year and continued its upward climb in the first quarter to an all-time high.

Well, how does that translate to living standards increases for the average American? That is what we are concerned about, elevating the quality of life of our citizens, elevating their living standards. Well, Mr. President, living standards rose more during the first year, in 1993, than during the previous 4 years put together.

So, taken as a whole, the economy has been performing so well that during one of those rare days when we are all singing from the same hymn book, Federal Reserve Chairman, Dr. Alan Greenspan, appeared before the Joint Economic Committee of this Congress, and here is what he had to say:

> I don't recall as good an underlying base in the long-term economic outlook any time in the last two or three decades.

Alan Greenspan, Chairman of the Federal Reserve Board, came before the Congress and stated not too long ago that the underlying base and the long-term economic outlook was better than it had been in the last two or three decades—in the last 20 or 30 years.

Unhappily, the Federal Reserve Board seems to have changed its tune somewhat since those salad days a little earlier in the spring, and many of us, frankly, believe the Fed is singing way off key these days.

In fact, last quarter's 2.6 percent rate of real economic growth confirms that the Fed's actions to tighten monetary policy have been, in the judgment of this observer, misguided. In my view, the economy is not carrying too much sail, as the Fed would seem to have us believe.

However, the Fed's actions go far beyond the headlines on the business page. They bleed into all facets of our lives. These preemptive strikes by the Fed against inflation threaten to choke off the economic expansion before working men and women can begin to enjoy the full benefits of it.

I add, too, that in spite of all our promises to the contrary, the Fed, once again, is not supporting our efforts at fiscal contraction. We are starting to see the positive results of our toil in deficit reduction. Real Federal spending on goods and services declined at an annual rate of 12 percent in the first quarter, the third consecutive quarterly drop.

Mr. President, I want to repeat that statement. Real Federal spending on goods and services declined at an annual rate of 12 percent in the first quarter of this year, the third consecutive quarterly drop of real Federal spending.

We are cutting spending, and how does the Fed respond? Do they respond with a complimentary monetary policy? Well, we learned a very hard and painful lesson from the 1990 budget agreement. We learned that fiscal and monetary policy must be carefully balanced if we are to cut the deficit and if we are to sustain economic growth. As a counterweight to an austere fiscal policy, Congress needs the Fed to offset that contraction by using its tools to keep the economy moving.

Mr. President, I sincerely hope that the Fed will reexamine its actions. We in this body have made a courageous and earnest effort to reduce the Federal deficit. We have fought hard to resuscitate this mighty economy of ours. Our efforts are paying off. The 1995 budget resolution will simply cement the structure in place that we brought into being last summer.

Now, let me just spend a few minutes going over some of the conference issues. Foremost is the Exon-Grassley amendment which made further cuts below the preexisting caps on overall discretionary spending.

Let me briefly review its history.

For the 5-year period between 1995 and 1999, the Senate budget resolution as amended by Exon-Grassley reduced spending from the caps by $63 billion in budget authority and $26 billion in outlays. Now, that was what the Senate did. By adopting Exon-Grassley we reduced spending below the caps by $63 billion in budget authority and $26 billion in outlays. Our colleagues on the House side passed a budget resolution which contained no companion cut before the caps.

Now, following the passage of the Exon-Grassley amendment and its adoption here, the Pentagon and the defense community and defense experts began expressing serious reservations that a majority of the cuts from Exon-Grassley would be lodged against the defense budget, and I think their apprehensions are indeed and were indeed well founded.

These experts at the Pentagon and others were not alone in that view. Many of my colleagues on both sides of the aisle voiced similar concerns.

My friend, the distinguished ranking minority member of the Budget Committee, Senator DOMENICI, who is known for his expertise and sensitivity to national security issues, I think showed great courage in attempting to restore the cuts once he fully analyzed the possibility of the magnitude of the impact they might have on our defense efforts.

Let me observe that my friend, the senior Senator from New Mexico, is not given, Mr. President, to spending binges. He is one of the most frugal and fiscally responsible Members of this body. I have frequently given him credit for the pay-as-you-go system that has worked effectively through the last 4 years. And he deserves credit for vigilantly fighting deficits for more than a decade.

His willingness to look at restoring the $26 billion discretionary cut I think simply reflects his abiding concern for this Nation's national security.

Following the first meeting of the conferees, Senator DOMENICI joined me to test the Senate waters on feasibility of such a plan of restoring the cut.

But I think both of us quickly learned that the votes were simply not there to do it. The will of the Senate was in favor of additional discretionary cuts.

Now, that is where the Senate stood. But the House, on the other hand, had made its position clear prior to conference when a motion to instruct its conferees passed by a majority of the House to not accept the Exon-Grassley language.

It became obvious that if the conferees were to agree on a budget resolution at all, we would have to meet each other halfway and split the difference.

So, Mr. President, that is exactly what we did with the Exon-Grassley amendment. Rather than scrapping it altogether, as the House wanted to do, and as a majority of the House of Representatives had voted to do on the floor of the House, in open vote they voted to, in essence, scrap Exon-Grassley, but rather than accepting that and scrapping it, the Senate conferees ultimately were able to prevail on the House to agree to $13 billion in cuts in outlays and $31 billion in budget authority off the caps for 5 years. In other words, we were able to prevail upon them to split the difference. That is almost exactly half of the original cut off the caps over the next 5 years. In the first year, the Exon-Grassley cut amounts to $500 million in outlays. It accumulates in the later years.

I would also tell my colleagues that the conference report sustains the language of both the Nunn-Domenici initiative and the Graham of Florida initiative with respect to entitlements.

Both Houses are now on the record in favor of controlling growth in entitlement spending. I might say to my colleagues that the resolution is still agnostic when it comes to which health care plan or combination of plans will be ultimately passed.

This budget resolution follows the outline of the President's budget in that over 300 programs are either cut or terminated. In addition, the resolution closes a $3.1 billion gap that opened up on the discretionary side of the budget for fiscal year 1995 because of differences between OMB and CBO scoring.

This budget resolution also makes the right investments. Investments for education are in this budget resolution, I say to many of my colleagues, including the distinguished Senator from Connecticut [Mr. DODD], who has expressed his continuing interest in continued investments in education for many years. There are investments in nutrition. There are investments for our infrastructure. There are investments for fighting crime in this budget resolution. There are investments to make life better and more secure for working men and women and their families. As an example, we sustain the functional totals that reflect the priorities of the amendment offered by the distinguished Senator from California [Mrs. BOXER], which proposed more funding for children's programs.

Mr. President, I really see no reason to drag on the debate on this conference report. I will yield momentarily to my distinguished colleague from New Mexico, Senator DOMENICI.

But before I do so, I urge my colleagues to vote for this budget resolution for two specific reasons.

First, the conference report on the budget resolution that we bring back to you clearly expresses the will of the majority of the Senate. It is the will of the Senate to cut spending further. We have done that in this resolution that comes before you. It is the will of the Senate to provide for entitlement controls. That is included in this resolution. It is the will of the Senate to keep us on the path of deficit reduction. We bring it to the Senate in this resolution.

Second, let me warn my colleagues that the absence of a budget resolution would make mischief for the entire appropriations process and for the Senate as a whole, and the primary mischief would fall in the area of national security and defense budget.

It is no secret that the Department of Defense appropriations bill is the largest and usually the last appropriations bill to be brought to the floor. If that bill is brought to the floor after other bills have been brought to the floor without the protection of the 602(b) allocation ceiling, then there is going to be overspending in the other appropriations bills and when the defense bill hits the floor it is going to have to pay the price for all of the other spending. I do not think anyone will benefit from this chaos. The American people deserve better. The institution deserves better, and indeed my colleagues deserve better than chaos such as that.

So, Mr. President, I urge the adoption of this resolution. It is in the best interests of our country. It is in the best interests of the Senate, and we simply must adopt it.

Mr. President, I yield the floor to my distinguished friend from New Mexico.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Thank you very much, Mr. President, and I thank the chairman.

Before I give my remarks and respond, Mr. President, might I ask a little bit about the process we want to follow?

I have about five Senators who want to speak. Maybe I should state the names as we know them, so their offices know we are trying to accommodate them but that we also want to get off the floor at the earliest possible time.

I assume that is the chairman's wish.

Mr. SASSER. It is, indeed.

Mr. DOMENICI. Senators GRAMM, GRASSLEY, LOTT, GREGG, and NICKLES have indicated they desire to speak. I assume that there may be others. But, frankly, it is my intention, on our side, working with the chairman, to yield back some of the time on this resolution. I assume we each have 5 hours. I do not think we need 5 hours.

Might the Senator give me his expression on that, whether he thinks he is going to need the full 5 hours?

Mr. SASSER. Let me say to my able friend from New Mexico, we will not need 5 hours. At the present time, we only have two or three Senators on our side who have expressed any interest in speaking on the resolution. So I would be positive that the time could be reduced very considerably.

Mr. DOMENICI. Might I ask the Senator, has he conferred with his leadership about when this vote might occur?

Mr. SASSER. I have not. I will do that in a timely fashion.

Mr. DOMENICI. I thank the Senator very much.

Mr. President, just to set some time parameters about what I say here, I am going to yield myself a half hour at this point. Would the Chair have the clerk notify me when I have used 30 minutes, please?

The PRESIDING OFFICER. We will.

Mr. DOMENICI. First, Mr. President, fellow Senators, I want to talk just a bit about some of the remarks that the distinguished chairman made with reference to the Federal Reserve Board and their policies.

I was not privileged to be in attendance at the Banking Committee hear-

ing. Perhaps the chairman was there. He and I are both members of the Banking Committee.

But one of the President's designees, a rather eminent economist, Dr. Alan Blinder, now serves on the economic adviser team in the White House and I assume from economists around this land that he has a very excellent reputation. It is my understanding that, as the President's designee to the Federal Reserve, he was questioned about inflation which ultimately causes interest rates to go up. It is my understanding that he intends to fight inflation, concurring with the Federal Reserve Board's goals.

I do not want to make a big point of it, because we are not going to have a lot to do with that in this budget resolution anyway. There has never been any successful effort on the part of Congress, since the Federal Reserve Board was created as an independent entity, to take the Federal Reserve and the banking system out of politics. There has never been any real successful effort to tell them what to do. There may be some political impacts on them, but I do not think we here on the floor are going to be telling them what to do.

I just want to make the point that, in the long-term interest of growth and jobs that everybody talks about in the American economy, if they are thrilled about one thing that has happened in the past 10 to 12 years, it is that we have inflation under control. We have learned in this great economy that it is inflation that ruins economic growth, ruins the pocketbooks of American people, and lowers the receipts for work by American workers. That essentially is the big culprit.

I am not suggesting that inflation is rampant again, but I am suggesting that the Federal Reserve is doing the right thing. The right thing is to prolong this economic recovery beyond what it might accomplish if they did not adjust interest rates.

Clearly, I believe the political leadership of this country would like very much to have this economy continue to grow. It appears my friend from Tennessee has forgotten the business cycle and seems to think that last year's budget resolution and tax bill caused all this economic growth when it seems to me that the business cycle had gone down about as far as it was going to go in America. It has started up again and we are now reaping the benefits.

Having said that, it could very well be that Federal Reserve policies are going to prolong this recovery and, thus, the positive side of the business cycle for a longer period of time than it would have continued if we kept the heat on this economy with the lowest possible interest rates.

And I would remind everyone that the Federal funds rate, which is what the Federal Reserve has been addressing, is not at an inordinately high level. Compared to the past 20 years, it is at a pretty low rate for the United States.

I will give my theory of what has gone wrong in the budget approach that this resolution brings before us this year, but first let me take a few moments to talk about the reality of what America is experiencing today in terms of jobs, economic growth, and, even the specific, positive fact that the chairman brought to our attention about American automobile manufacturers producing more cars at more competitive costs.

No. 1, the Senator from New Mexico could not be more pleased about anything than I am about the economy turning around and moving in a positive direction. The American people have been very, very worried about that, over the last few years, and the time has come when it has fully turned around. I hope we do everything we can—I am not sure how much we can do—to keep that growth going, to continue to improve our competitiveness, and that the real wages of American workers increase.

So in that regard, if I were a Democrat, I would be laying claim to all of these positive things that are happening in this economy, and I would lay claim to them on the basis that they have all occurred because of policies that the President and the Democratic majority have adopted. But I think, as a Republican, while I am proud and pleased that these things are happening, it is my responsibility to take a couple of minutes to try to put this in perspective.

Second point: I do not know of a single American economist, including the distinguished economist currently recommended for the Federal Reserve Board, Alan Blinder, who has ever said that the Government can change policies, whatever they are, and affect the economy in a significant way in less than 1 year, and most say 1½ years at the minimum. We are now in May of 1994, Mr. President—not May of 1995 or 1996—May of 1994.

I remind our fellow Senators—just a dose of reality—that the tax package that was passed by the U.S. Congress in response to the President's recommendations, but clearly not exactly what he asked for, was adopted by the U.S. Congress in August of 1993.

Now, let us see—August, September, October, November, December, January, February, March, April, May—we are now at 9 months since that package was signed into law. And it is most interesting that the largest surge in economic growth occurred in the last quarter of 1993. I think it was a 7-percent gross domestic product surge.

To American business, American labor, American automobile manufacturers, small business people, it is more realistic to assume and fairer to say that a lot of things have been changing in this American economy for the better for a long time. Clearly, I do not deny that the chairman, in a sense the leader of the majority party, should take the floor today and, in glowing terms, talk about all these good things that have happened and say they happened because of the fiscal policy plan adopted in August 1993. But I believe it is much closer to the mark to assume that the business cycle carried us from lofty growth in the Reagan days, to modest growth, then to a very quick recession, and then more modest growth as the business cycle unfolded. I think it is fairer to say that the time had come in the business cycle of the United States when the private sector and the families of America had taken debt out of their ledgers—the business ledgers and the private ledgers. They bought down their debt tremendously and a number of other things occurred where the American economy was ready to surge again, and it has.

If the President's tax package had not passed and the caps had been retained as they already were in the law on discretionary spending, I am willing to speculate with a degree of certainty that this economy would be very close to where it is right now. Perhaps it might have even grown more.

The Congressional Budget Office, the independent arm set up by Congress to tell us about these things, says in their analysis of fiscal year 1994 that economic growth will be dampened because we have a slightly more restrictive policy, including taxes and other things. I believe this is true. Yet I want everybody to know if I were Chairman SASSER, I would be down here saying what he said. If I were the President of the United States, I would be running across this land, and wherever I could I would say it is my policies that did all these things.

Let us talk a little bit about what we have cut and what we have not cut in 1993, 1994, and in this projected budget. It might shock people to know that of the things we could have cut in the entire package of appropriated accounts—everything from highways to education, revolving funds for loans for water and sewer projects to the FBI—not one single dime has been cut from anything other than defense.

Let me repeat. With all the discussion about strong fiscal policy, in all of the array of American appropriated programs—not the entitlements—we have only cut defense in 1993 versus 1992; 1994 versus 1993; and the proposed 1995 versus 1994. Shortly, I will talk explicitly about the great risk to the American people and the free world in this dangerous world, by the continuation of that downward trend of cut, cut, cut defense.

Even without the allocation of the unspecified appropriations cuts, the de-

fense spending of the United States will be at the lowest percent of gross domestic product that it has been since immediately preceding the bombing of Pearl Harbor.

Think of that. We recall those days. We saw our men training in the Philippine Islands with broomsticks while the Japanese were bombing. We are going to be at the second lowest level in history—since the First World War era. And that era is the only time in this modern time of difficulty and American world leadership that we have been lower.

I want to have printed in the RECORD the numbers I have just described about what has been cut and what has not been cut. I would like very much to have printed this table which has the defense outlays for 1992, 1993, 1994, 1995, and the domestic discretionary outlays for the same period.

I might just indicate defense in 1992 was $302, it is now $270; domestic was $233, it is now $273. I ask unanimous consent that little summary be printed in the RECORD.

Mr. DOMENICI. Mr. President, the numbers will show that Defense's cuts are going to get worse than that little chart shows as we follow the President's policies and as we follow the policies of allocating more of the discretionary cuts to defense in this appropriations process called a 302(b) allocation process. Before I finish today I will urge that the allocation process not take any of the new cuts out of defense and we be given, as a people, as a Nation, the President's requested Defense budget for 1995.

Having said that, I want to take a couple of more minutes, since I talked about how, if I were Chairman SASSER and a Democrat, I would be bragging about all these good things that have happened to the American economy and trying to lay all that powerful change on an August 1993 budget resolution. But I think in the process the chairman also alluded to what a great job we are doing in deficit reduction. Again, so everybody will understand, if I were the Senator from Tennessee, and the chairman, I would be saying exactly the same things. But I think a dose of realism is required here, too. So let me try a little bit. Obviously my friend from Tennessee will have plenty of time to rebut this.

I would like to state for the RECORD and for fellow Senators what makes up the reduction in the deficit that we are touting? Where does that deficit reduction come from? So, my version says the only thing that the August 1993 deficit reduction package did was raise taxes. Let me take 1993 versus 1994 and let me go through just four or five things.

The deficit for 1994, when it was first figured in 1993, was projected to be $291 billion. These are all Congressional Budget Office estimates, Mr. President. Now it is being said that in 1994 that deficit went down, a $68 billion reduction in that deficit.

I believe it ought to be clearly understood that very little of that deficit reduction came from the 1993 budget resolution, if we will just go and look at where the deficit reduction items as shown by the Congressional Budget Office.

First, the largest item is a $31 billion reduction; $31 billion of the total $68 billion comes from what are called technical reestimates. That means CBO has gone back and looked at how things like Medicare and Medicaid spend out. It has nothing to do with policy changes.

They have found that technical adjustments are necessary to better estimate the reality of the spending. Included in that are technical reestimates of how much it is going to cost to complete the bailout by the Resolution Trust Corporation.

I do not think we did anything in the budget resolution on that. I think what happened is, we overestimated how much it would cost to do that final cleanup, pay our bills, and begin the builddown and closing up of the RTC shop. So that is $31 billion.

The new taxes and user fees amounted to $28 billion, according to the Congressional Budget Office. Mandatory spending was reduced by $4 billion. So I assume one could say put credit where credit belongs and show $4 billion in savings from policy changes on the mandatory side.

There are a couple more items, and one is called economic assumptions. It amounts to a $13 billion reduction because the economics are better than projected. If my arithmetic is right, if you add those up, there is only one thing missing, and it is that we spent $9 billion that we did not expect to spend on emergencies. So when you add up the negatives and subtract that one, a $9 billion increase, you end up with $68 billion.

Frankly, it seems the explanation of the Senator from New Mexico, of how we got that deficit down is worthy of as much consideration, if not more, since it based on the Congressional Budget Office's numbers. When you look at CBO's assessment it is difficult to account for all of the deficit reduction coming from an August 1993 tax bill, which included a reaffirmation of caps on spending that were nothing more than carrying forth the 1990 caps that were agreed upon at the summit at Andrews Air Force Base.

The deficit is currently moving in the right direction, not for very long, but it currently is moving in the right direction. I am not going to go through the Congressional Budget Office's estimates of where the deficit reduction will come in 1995, other than to say that between taxes, which will be $46 billion of that reduction, and technical reestimates, again, more Medicare/Medicaid spendout reestimates, more RTC reestimates, which is $45 billion, what we have is over $90 billion of the deficit reduction for 1995 coming from taxes and technical reestimates.

I think that is a little different, Mr. President, than saying we have really engaged in a major new round of cuts and restraint. Do not forget that the discretionary caps are identical to those established in 1990, for which I give the chairman a lot of credit. The President wanted much higher caps. He wanted to spend a lot more, which would have been very interesting in terms of how this would have come out. Remember, the President also tried to gain enactment of a $17 billion stimulus package.

In any event, the chairman of the Budget Committee insisted on keeping the caps from the 1990 agreement, and that is why we got at least that much. But even in using those, all of the savings, all of the cuts came out of defense.

Mr. President, let me move along, and let me ask how much I have left on the first half hour.

The PRESIDING OFFICER. The Senator has used 26 minutes.

Mr. DOMENICI. I want to yield myself the remainder of that, and 15 minutes more.

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

Mr. DOMENICI. Mr. President, my remarks to this point were in response to assertions of the chairman, make Republican observations on them, which I believe is very valid.

But now I want to talk about the budget resolution for 1995 and analyze it. I say to Chairman SASSER, I regret that I cannot vote for it. I did make a proposal. I felt so strongly about one basic principle: That we cannot continue to cut defense. We cannot make any more across-the-board discretionary cuts and take those funds from defense with immunity. I said I would vote for the resolution if there were no further cuts in defense.

Frankly, it turns out we cannot be assured of that, even if we took out the Exon-Grassley discretionary cuts, because the Appropriations Committee will make that decision. I urge that the Appropriations Committee, in allocating the dollars under this budget resolution, give the defense committees what the President asked for. The President made a case to the American people in his State of the Union Address that we have cut defense enough.

I believe if the whole Senate were to vote on that issue, I believe we would give the President his full budget allocation for defense and spread any across-the-board cuts across the other functions of the Federal Government. I believe we would say that, if we were voting up or down in the Senate.

I merely say that because we have never done that, but I sense enough

concern that maybe some effort will be made to get the Senate to speak on how much defense is enough defense under this budget.

I say to my fellow Senators, if you look at the budget resolution, the defense numbers are exactly the same as the President's. I am not speaking about this budget resolution in that regard in a pejorative sense. The truth of the matter is that all of the cuts are found in another section called allowances. So the reductions from the budget baseline are found in an allowance category. Those reductions are not allocated between domestic and defense, so you could be a bit misled in assuming this budget resolution provides for full funding of the President's defense number.

While I compliment the chairman for producing a budget resolution—I have been there, and it is hard to put this kind of thing together—I believe it is sending the wrong signals and it is moving in the wrong direction. I hope in a few moments I can express these views and perhaps, to some extent, sound a warning.

First, I believe the chairman made the right decision in compromising, as he indicated, because clearly the majority has a responsibility of producing a budget resolution which adds a degree of orderliness to the process.

But today I come down on the side that the risks of the failure to complete a budget resolution are outweighed by the risk to our national security and the potential impact of an unspecified $30 billion in discretionary spending cuts in this resolution, and what effect that might have on our security role in the future in a dangerous world.

And since some are asking why Senator DOMENICI did not favor further discretionary cuts across the board, I remind the Senate that the problem we are having with the budget of the United States is a problem of the ever-increasing entitlement programs. And I did offer in this Chamber an alternative to further cutting defense and domestic discretionary programs and asked the Senate to take a small bite out of the growing entitlements instead, kind of a tit for tat. I proposed the same amount of deficit reduction but begin just a slight nicking of the entitlement programs. It failed. But from the standpoint of reducing the deficit, I am in sympathy with reducing it further. That was encapsulated as an idea in the Exon-Grassley amendment.

(Mr. ROBB assumed the chair.)

Mr. DOMENICI. Now, also, I want to remind the Senators, with reference to defense, Senator NUNN and I have been trying to restore the firewalls between discretionary defense and nondefense, and had we had those in place, I clearly might have been more willing to support the Exon-Grassley type cut. But the amendment to put the walls back under our processes takes 60 votes, and we have not been successful in getting that done.

So I do not want to relive the last months of battle on that, but my reason for not supporting the budget resolution is even more simple. The conference report on the 1995 budget, once again, as I view it, sends the wrong signal and moves in the wrong direction. It sends wrong signals to the American public on how to really address the Federal deficit.

Last year, the signal was taxes and defense cuts, and I believe I have gone through that. My statement—that we have essentially cut defense and raised taxes as a way to get the deficit under control thus far—is supported by the Congressional Budget Office in its latest evaluation. I do not think that sends the right signal to the American people about how to get the deficit under control.

We can continue to reduce discretionary spending, implicitly defense spending, and this resolution comes before us and says while we are reducing discretionary spending, we increase entitlement spending over and above the current policy.

Now, I believe, even if this budget resolution only allows a $5 billion increase of entitlements, it is sending the wrong signal. The conference report reduces discretionary spending, and I think—and I repeat—that in that process we are going to significantly reduce the President's request for national security spending.

And then we turn around, as I indicated, according to the Congressional Budget Office, and we increase entitlement spending relative to what it would be absent this budget resolution.

Now, I have made this point innumerable times in this Chamber. In fact, I have tried to focus the Exon-Grassley cuts away from discretionary defense and back onto entitlements, and I have done that in health care reform, when this resolution was before the Senate, and unfortunately that failed.

I remind the Senate that we are going to adopt health care reform. Almost everyone familiar with the budget has said health care reform is our last opportunity to reduce the budget deficit on the entitlement side. There are no plans except the bill I introduced yesterday that say let us reform health care and apply savings to the deficit. This resolution does not do that either.

So the culprit is really entitlement spending. Everybody knows it. The deficit projections show it. Everyone in this Chamber knows it. And interestingly enough, this budget resolution does nothing in that regard other than, as I indicated, increasing entitlement spending. It goes even further to ease our budget enforcement procedures for consideration of future entitlement spending legislation. There are 12 reserve funds—12 reserve funds—in this budget resolution.

I know my very good friend from Tennessee will get up and say, well, these reserve funds are burdened by your "pay-as-you-go" idea, Senator DOMENICI. They require that spending be on a pay-as-you-go basis so that it will end up deficit neutral. But, Mr. President, these 12 reserve funds are going to permit, on everything from welfare reform to health care, Congress to increase the spending on the entitlement side. It is spending that concerns this Senator, not necessarily that we spend and tax to pay for it. That is not the solution to the problem. The problem is ever-increasing entitlement expenditures.

When you look at the projections, clearly entitlements or mandatory spending is beyond any doubt the culprit in the deficit of the United States. The Congressional Budget Office in their baseline says, believe it or not, from 1994 to 1999, entitlement and mandatory spending, Mr. President, will go up 36.9 percent. Discretionary spending at the same time, including everything that we spend on an annual basis, will go up 3.9 percent—36.9 percent versus 3.9 percent in terms of the growth over the next 5 years. The Congressional Budget Office projects that annual entitlement spending, which today is over $800 billion—making up 55 percent of the Federal spending, excluding interest—will increase to $1.1 trillion—a 37-percent increase, roughly, in just 5 years. Entitlement spending will then be 60 percent of the Federal budget.

Now, this conference agreement will add $5 billion to that—not much in the grand scheme of things, but nonetheless it will add to current spending increases in that category of the budget.

More importantly, I want to talk about national security spending and the trends. Today's spending on our national security represents 4.2 percent of our gross domestic product, but in just 5 years that figure will decline to 3 percent. Only two times in recorded history, has defense ever matched these two lows: once immediately before World War II, the bombing of Pearl Harbor, when defense spending amounted to 1.7 percent of our gross domestic product; and, the second time was immediately following World War II, when we had the precipitous builddown which brought on the Korean war.

This resolution assumes $30 billion in discretionary spending cuts over the next 5 years, and as I indicated, I hope we have an opportunity to let the Senate speak on this issue because I am not convinced that the Senate would want to cut defense beyond the President's budget, even if it means taking some across-the-board discretionary.

I believe that both will come out that way. If we do not do that, maybe this

year there will be a way for us to do that.

While clearly not the problem adding to the Federal deficit, current enforcement mechanisms fall disproportionately on discretionary spending relative to entitlement spending in this resolution and under current law. Let me give you the reasoning as I see it.

We have found a way, with caps, to control discretionary spending.

First, if discretionary budget authority or outlay levels exceed these caps, OMB makes across-the-board cuts. These caps are very strong relative to entitlement spending enforcement mechanisms. As I indicated, both budget authority and outlays on the caps are enforced separately by OMB, and also by a 60-vote point of order in the U.S. Senate.

Second, Congress must annually negotiate discretionary spending appropriations bills to meet the Congressional Budget Office's scoring to avoid this 60-vote point of order and OMB's scoring to avoid a sequester. These are very strong enforcement measures. It has nothing to do with whether the cuts come disproportionately out of defense or not because it is the total that is being enforced. Unlike entitlement programs, these discretionary caps are not automatically adjusted for inflation and beneficiary growth.

However, on the entitlement side there is nowhere near the same level of enforcement. Yes, we have pay-as-you-go for new, and I stress "new," legislative proposals. Spending grows unabated and automatically for inflation and beneficiary growth under current law for entitlement programs.

So, what does this budget resolution do?

First, it adds a minimum of $4.5 billion to entitlement spending on top of the huge increases that I have alluded to before that are built into the law.

Second, it eases the enforcement procedures to allow expansion of entitlement and mandatory spending even beyond these levels. For the entitlement accounts of this Government, we add another $4.5 billion in agriculture, for crop insurance, and we do not have any pay-as-you-go requirement.

We need to reform the way the Government funds agricultural disasters. I acknowledge that. We need to modify the Federal Crop Insurance Program. And I acknowledge that. But I am merely suggesting that the trends are in the wrong direction when we merely add $4.5 or $5 billion and say we are doing that so we can get reform.

We have to admit up front that proposals that increase, even though it is small, entitlement spending, even if it is by slight of hand, will add to the Federal deficit. But the conference report does more than that. While it ratchets down on enforcement of discretionary spending to reflect the Exon-Grassley cuts as compromised, at the same time it eases restrictions on entitlement spending.

Examples: There are several procedural changes made in this budget resolution. Let me talk to them for a minute.

We add 12 broadly defined reserve funds. This is the new way to add programs under the rubric of reform that cost money so long as under budget calculations they are neutral in terms of their impact on the deficit. But they are on the books as new and expanded programs. So absent these reserve funds, we would have to get 60 votes to waive a point of order under the Budget Act to increase them because of the binding nature of the totals on the committees even on entitlements.

So the 60-vote point of order is waived under this approach of reserve funds. Reserve fund legislation can provide unlimited increases in entitlement spending as long as it does not lead to any estimated increase in deficits. So, for example, the resolution provides an open-ended spending increase for health care reform so long as it is deficit neutral.

Mr. President, have I used my time?

The PRESIDING OFFICER. The Senator has used 13 minutes and 45 seconds.

Mr. DOMENICI. Could I add 2 minutes to that? That will permit me to finish.

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

Mr. DOMENICI. Mr. President, so in health care reform everybody should know that this budget resolution provides an open-ended invitation in terms of how big and how expensive the health package can be so long as we pay for it with new taxes and other savings.

I believe, even though by estimates it is deficit neutral, it is very risky to do that not knowing exactly what the total is going to be.

While budget authority levels are binding on appropriations, one of these funds effectively eliminates the enforcement of budget authority levels for entitlement spending.

This budget resolution also weakens the pay-as-you-go point point of order to make it even easier to expand mandatory spending by doing the following:

First, it eases the discipline by only requiring legislation to be deficit neutral for the first year, years 1 through 5, and years 6 through 10. Under current enforcement procedures, legislation must be deficit neutral for each year through 2003. That is changed and made more generous by this resolution. Maybe we should discuss easing the application of this point of order. That time may be with us. But clearly, there ought to be a major discussion about what it means.

Second, it exempts legislation from a requirement to pay for deficits created by legislation enacted since the 1993 reconciliation bill. Frankly, this catches me totally by surprise. I am sure it is going to catch plenty of Senators by surprise. But what it really means is that for legislation enacted since the 1993 reconciliation bill, if in fact there are savings or tax increases that have not been used up in a pay-go situation, they could be carried forward.

For 1994, it is a small amount—$17 million. But I submit it is another trend and another dangerous precedent.

Third, it allows for the double counting of savings, by allowing legislation to take credit for surpluses generated by legislation enacted since the 1993 Reconciliation Act. This seems to me something that should be thoroughly debated.

Fourth, it exempts the budget resolution from the pay-as-you-go requirement so that mandatory spending can be increased by a simple majority in a budget resolution. As I have just described, this seems to be moving in the wrong direction.

Let me conclude for the record. The projected deficits in this resolution increases from $175 billion next year to $200 billion in 1999.

Then, if you add the next 5 years to it, you will find that, under almost anyone's evaluation, we are spiraling up again, such that in 5 to 6 years we will be back in excess of $300 billion in deficits.

Mr. President, I took this opportunity today to explain three or four issues that I thought were important. I understand that the budget resolution is a typical undertaking. What I have tried to do here is to explain why I think it is moving, trend-wise, in the wrong direction and why it is sending the wrong signal as to control the deficit.

I yield the floor.

The PRESIDING OFFICER. The Chair informs the Senator that he has used 18 minutes 15 seconds.

Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER], is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I have a unanimous consent request that has been cleared with the leadership on the other side.

On behalf of the majority leader, I ask unanimous consent that today, upon disposition of S. 978, the environmental technology bill, the Senate then proceed to the conference report accompanying S. 2000, the Headstart Amendment Act, and that, without intervening action or debate, the Senate vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SASSER. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays on adoption of the conference report.

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

Mr. SASSER. Mr. President, I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, for the information of our colleagues, this unanimous-consent request that we have just approved here means that the Senate will conduct four back-to-back rollcall votes beginning at 5 o'clock this afternoon. I wanted to advise our colleagues of that so that they could plan accordingly.

Mr. President, I see no other Senators on the floor at the present time seeking recognition. There are a number of Senators who wish to speak, but some of them are in committee or on their way here. So I will suggest the absence of a quorum and ask that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, the time during the quorum call will be charged equally against both sides.

Mr. DOMENICI. Mr. President, before the quorum call, I want to correct a statement I made before that. Near the end of my statement, I stated that this budget resolution changes the pay-as-you-go rule from what it is today, where you have to look at 10 years but each single year has to be totally neutral, to a situation now where it is still 10 years, but you use 5 years at a time and accumulate them. I correct that, but stand on the point that that weakens the process. At least we are not quite sure how it will affect things. So I list it among my process changes that will make it easier to adopt more entitlement programs.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

RECESS

Mr. SASSER. Mr. President, the following unanimous-consent request has been cleared with the distinguished Republican leader.

Mr. President, I ask, on behalf of the majority leader, unanimous consent that the Senate stand in recess until 2 p.m. this afternoon and that the time consumed in this recess be charged equally against both sides on the budget resolution.

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

There being no objection, the Senate, at 12:03 p.m., recessed until 2 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer [Mrs. FEINSTEIN].

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I ask unanimous consent to speak for 5 minutes and that the time be charged against the resolution on the Republican side.

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

The Senator is recognized for 5 minutes.

DECISION BY NATIONAL MARINE FISHERIES SERVICE TO SPILL WATER OVER EIGHT DAMS TO AID SALMON RUNS

Mr. CRAIG. Madam President, at 12 o'clock a.m. this morning a decision was brought about on eight dams on the Snake and the Columbia River systems in the Pacific Northwest that I believe is a disastrous stumble by this administration into the endangered species debate over several species of salmon in the Snake and the Columbia system, a misguided and perhaps disasterous decision to spill water over these eight dams and to set in place a motion and action that is yet to be justified.

With no forewarning, the National Marine Fisheries Service ordered the Bonneville Power Administration and the Army Corps of Engineers to dump these large quantities of water over the spillways. There is no research and no scientific basis to argue what is now being done. Instead of helping the salmon, this action will place them in dire jeopardy due to the gas supersaturation in the water, an unavoidable result of heavy spilling of water over these structures. Gas supersaturation is a well-known phenomenon in fisheries biology, and it is lethal to fish above the 120 percent supersaturation.

Let me enter into the RECORD, and I ask unanimous consent that it be printed in the RECORD, an EPA study that resulted in criteria that the States of Oregon and Washington used in establishing rates of supersaturation in the tumbling of water over these structures.

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

[From the U.S. Environmental Protection Agency, Office of Water Regulations and Standards, Washington, DC, May 1, 1986]

QUALITY CRITERIA FOR WATER 1986

GASES, TOTAL DISSOLVED

Criterion.—To protect freshwater and marine aquatic life, the total dissolved gas concentrations in water should not exceed 110 percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures.

Rationale.—Fish in water containing excessive dissolved gas pressure or tension are killed when dissolved gases in their circulatory system come out of solution to form bubbles (emboli) which block the flow of blood through the capillary vessels. In aquatic organisms this is commonly referred to as "gas bubble disease". External bubbles (emphysema) also appear in the fins, on the opercula, in the skin and in other body tissues. Aquatic invertebrates are also affected by gas bubble disease, but usually at supersaturation levels higher than those lethal to fish.

The standard method of analyzing for gases in solutions has been the Van Slyke method (Van Slyke et al. 1934); now, gas chromatography also is used for determination of individual and total gases. For determination of total gas pressure, Weiss has developed the saturometer, a device based upon a thin-wall silicone rubber tube that is permeable to gases but impermeable to water. Gases pass from the water through the tube, thus raising the internal gas pressure which is measured by a manometer or pressure gauge connected to the tube (NAS, 1974). This method alone does not separate the total gas pressure into the separate components, but Winkler oxygen determinations can be run simultaneously, and gas concentrations can be calculated.

Total dissolved gas concentrations must be determined because analysis of individual gases may not determine with certainty that gas supersaturation exists. For example, water could be highly supersaturated with oxygen, but if nitrogen were at less than saturation, the saturation as measured by total gas pressure might not exceed 100 percent. Also, if the water was highly supersaturated with dissolved oxygen, the oxygen alone might be sufficient to create gas pressures or tensions greater than the criterion limits, but one would not know the total gas pressure or tension, or by how much the criterion was exceeded. The rare and inert gases such as argon, neon and helium are not usually involved in causing gas bubble disease as their contribution to total gas pressures is very low. Dissolved nitrogen (N_2), which comprises roughly 80 percent of the earth's atmosphere, is nearly inert biologically and is the most significant cause of gas bubble disease in aquatic animals. Dissolved oxygen, which is extremely bioactive, is consumed by the metabolic processes of the organism and is less important in causing serious gas bubble disease though it may be involved in initiating emboli formation in the blood (Nebeker et al. 1976a).

Percent saturation of water containing a given amount of gas varies with the absolute temperature and with the pressure. Because of the pressure changes, percent saturation with a given amount of gas changes with depth of the water. Gas supersaturation decreases by 10 percent per meter of increase in water depth because of hydrostatic pressure; a gas that is at 130 percent saturation at the surface would be at 100 percent saturation at 3 meters' depth. Compensation for altitude may be needed because a reduction in atmos-

pheric pressure changes the water/gas equilibria, resulting in changes in solubility of dissolved gases.

There are several ways that total dissolved gas supersaturation can occur:

1. Excessive biological activity—dissolved oxygen concentrations often reach supersaturation because of excessive algal photosynthesis. Renfro (1963) reported gas bubble disease in fishes resulting, in part, from algal blooms. Algal blooms often accompany an increase in water temperature and hits higher temperature further contributes to supersaturation.

2. Lindroff (1957) reported that water spillage at hydropower dams caused supersaturation. When excess water is spilled over the face of a dam it entrains air as it plunges to the stilling or plunge pool at the base of the dam. The momentum of the fall carries the water and entrained gases to great depths in the pool; and, under increased hydrostatic pressure, the entrained gases are driven into solution, causing supersaturation of dissolved gases.

3. Gas bubble disease may be induced by discharges from power-generating and other thermal sources (Marcello et al. 1975). Cool, gas-saturated water is heated as it passes through the condenser or heat exchanger. As the temperature of the water rises, percent saturation increases because of the reduced solubility of gases at higher temperatures. Thus, the discharged water becomes supersaturated with gases and fish or other organisms living in the heated water may exhibit gas bubble disease (DeMont and Miller, 1972: Malouf et al. 1972; Keup, 1975).

In recent years, gas bubble disease has been identified as a major problem affecting valuable stocks of salmon and trout in the Columbia River system (Rulifson and Abel, 1971). The disease is caused by high concentrations of dissolved atmospheric gas which enter the river's water during heavy spilling at hydroelectric dams. A report by Ebel et al. (1975) presents results from field and laboratory studies on the lethal, sublethal and physiological effects of gas on fish, depth distribution of fish in the river (fish can compensate for some high concentrations of gas by moving deeper into the water column), detection and avoidance of gas concentrations by fish, intermittent exposure of fish to gas concentrations, and bioassays of many species of fish exposed to different concentrations of gas. Several conclusions resulting from these studies are:

1. When either juvenile or adult salmonids are confined to shallow water (1 m), substantial mortality occurs at and above 115 percent total dissolved gas saturation.

2. When either juvenile or adult salmonids are free to sound and obtain hydrostatic compensation either in the laboratory or in the field, substantial mortality still occurs when saturation levels (of total dissolved gases) exceed 120 percent saturation.

3. On the basis of survival estimates made in the Snake River from 1966 to 1975, it is concluded that juvenile fish losses ranging from 40 to 95 percent do occur and a major portion of this mortality can be attributed to fish exposure to supersaturation by atmospheric gases during years of high flow.

4. Juvenile salmonids subjected to sublethal periods of exposure to supersaturation can recover when returned to normally saturated water, but adults do not recover and generally die from direct and indirect effects of the exposure.

5. Some species of salmon and trout can detect and avoid supersaturated water; others may not.

6. Higher survival was observed during periods of intermittent exposure than during continuous exposure.

7. In general, in acute bioassays, salmon and trout were less tolerant than the nonsalmonids.

Dawley and Ebel (1975) found that exposure of juvenile spring chinook salmon, Oncorhynchus tshawytscha, and steelhead trout, Salmo gairdneri, to 120 percent saturation for 1.5 days resulted in over 50 percent mortality; 100 percent mortality occurred in less than 3 days. They also determined that the threshold level where significant mortalities begin occurring is at 115 percent nitrogen saturation (111 percent total gas saturation in this test).

Rucker (1974), using juvenile coho salmon, Oncorhynchus kisutch, determined the effect of individual ratios of oxygen and nitrogen and established that a decrease in lethal effect occurred when the nitrogen content fell below 109 percent saturation even though total gas saturation remained at 119 percent saturation, indicating the importance of determining the concentration of the individual components (O_2 and N_2) of the atmospheric supersaturation. Nebeker et al. (1976a), using juvenile sockeye salmon, Oncorhynchus nerka, also showed that there was a significant increase in fish mortality when the nitrogen concentration was increased while holding the total percent saturation constant. They also showed that there was no significant difference in fish mortality at different CO_2 concentrations.

Research collected by Bouck et al. (1975) showed that gas supersaturated water at and above 115 percent total gas saturation is acutely lethal to most species of salmonids, with 120 percent saturation and above rapidly lethal to all salmonids tested. Levels as low as 110 percent will produce emphysema in most species. Steelhead trout were most sensitive to gas-supersaturated water followed by sockeye salmon, Oncorhynchus nerka. Chinook salmon, Oncorhynchus tshawytscha, were intermediate in sensitivity. Coho salmon, Oncorhynchus kisutch, were significantly the more tolerant of the salmonids though still much more susceptible than non-salmonids like bass or carp.

Dapnnia magna exhibited a sensitivity to supersaturation similar to that of the salmonids (Nebeker et al. 1975), with 115 percent saturation lethal within a few days. Stoneflies exhibited an intermediate sensitivity similar to bass with mortality at 130 percent saturation. Crayfish were very tolerant, with levels near 140 percent total gas saturation resulting in mortality.

No differences are proposed in the criteria for freshwater and marine aquatic life as the data available indicate that there probably is little difference in overall tolerances between marine and freshwater species.

The development of gas bubble disease in menhaden, *Brevoortia* sp., and their tolerance to gas saturation in laboratory bioassays and in the field (Pilgrim Nuclear Power Station Discharge Canal) are discussed by Clay et al. (1975) and Marcello et al. (1975). At 100 percent and 105 percent nitrogen saturation, no gas bubbles developed externally or in any of the internal organs of menhaden. At 105 percent nitrogen saturation, however, certain behavioral changes became apparent. Fish sloughed off mucus, swam erratically, were more excitable, and became darker in color. Menhaden behavioral changes observed at 110 percent nitrogen saturation were similar to those noted at 105 percent. In addition, at 110 percent gas emboli were found in the intestines, the pyloric caeca, and occasionally the operculum. The behavioral changes described were also observed at 115 percent, and clearly defined subcutaneous emphysema was observed in the fins and occasionally in the eye. At 120 percent and 130 percent nitrogen saturation, menhaden developed within a few hours classic symptoms of gas bubble disease. Externally, emboli were evident in all fins, the operculum and within the oral cavity.

Exophthalmia also occurred and emboli developed in internal organs. The bulbous arteriosis and swim bladder were severely distended, and emboli were found along the length of the gill arterioles, resulting in hemostasis. At water temperatures of 30°C, menhaden did not survive, regardless of gas saturation level. At water temperatures of 15, 22, and 25°C 100 percent of the menhaden died within 24 hours at 120 percent and 130 percent gas saturation. Fifty percent died after 96 hours at 115 percent (22°C). Menhaden survival after 96 hours at 110 percent nitrogen saturation ranged from 92 percent at 22° and 25° to 83 percent at 15°C. Observations on the relationship between the mortality rate of menhaden and gas saturation levels at Pilgrim Station during the April 1975, incident suggest that the fish may tolerate somewhat higher gas saturation levels in nature.

It has been shown by Bouck et al. (1975) and Dawley et al. (1975) that survival of salmon and steelhead smolts in seawater is not affected by prior exposure to gas supersaturation while in fresh water. No significant mortality of juvenile coho and sockeye salmon occurred when they were exposed to sublethal concentrations of supersaturated water and then transferred to seawater (Nebeker et al. 1976b).

Mr. CRAIG. Madam President, the order directed by the White House would raise supersaturation gas to more than 130 percent.

I have said something just now which is very important, Madam President. I have said "by the White House." I am now told by good authority that on direct orders from our White House these agencies and their scientists were overruled so that AL GORE—and I repeat that—so that the Vice President could get directly involved in what I believe is a phenomenally dangerous precedent in the utilization of his power.

The States of Oregon and Washington were asked to comply by the signature of their Governors. Oregon finally did. And I understand, as of this moment, Washington is complying. They are forced to comply by the blackmail of the Federal Government.

The National Marine Fisheries Service and its scientists have been overruled. Everybody who has studied this issue for the last 2½ years, including a decision brought about by all of these agencies together known as a biological opinion, as of 12 o'clock last night were overruled.

I can only say that in the history of this country I am not sure that a precedent like this has taken place. In the public-land West where the Endangered Species Act is already raising havoc with the unemployment of thousands of loggers in the Pacific Northwest now, for an arbitrary and capricious decision almost singlehandedly

by this White House, clearly the integrity of this law is thrown into jeopardy.

The Corps of Engineers has told NMFS they will not comply with the order unless they have in hand a written sign-off from the Governors. The corps is justified in demanding this cover. Its biologists and others are balking. They fear, and rightfully so, that spilling water will have the exact opposite effect from the intended, and that both juvenile and adult salmon will die as a consequence. If that were to occur, very serious legal claims under the Endangered Species Act could be brought against agencies and responsible individuals for knowingly and deliberately taking an action jeopardizing a listed species.

NMFS claims there will be a 5-percent improvement in survival of smolts which are spilled. I dispute that there is any relevant science supporting that outcome, but setting that aside, let's examine the purported benefits of this $30 million order. Only 17 percent of the smolts would be carried over the dams by the spill—the rest would continue to be safely transported by barge around the dams. So, we can calculate a 5-percent gain for 17 percent of the smolts—an overall improvement of less than 1 percent. Carrying it further, if we calculate the adult-equivalents—how many more adults will eventually return—we find that residents of the Pacific Northwest would be paying at least $34,000, and as much as $138,000 for each additional returning adult spring chinook. And most of those will be hatchery fish. Benefits to our listed wild stocks will be minuscule, and the cost for each additional wild fish could reach $1 million. Have we all lost our senses?

Just 2 weeks ago NMFS' own salmon recovery team addressed a hearing of the Senate Energy and Water Appropriations Subcommittee to explain the details of their final salmon recovery plan. Nowhere in their plan were spills such as these recommended. Neither were spills called for in the Northwest Power Planning Council salmon plan completed 2 years ago. Neither were they specified in the 5-year biological opinion on river operations completed by NMFS and the other Federal agencies in March. If spill is not a suggested component of any of the established plans or processes to recover salmon, why has it surfaced as a solution now? Because it is a political bone, tossed by the administration to Judge Marsh, in an attempt to demonstrate that drastic measures will be taken to save the salmon. Drastic, yes, Effective? Absolutely not.

I can only implore those in responsible positions within the administration, and Judge Marsh, to listen to the salmon recovery team. While I do not support every last measure, their final plan is a reasoned and comprehensive approach to recovering the salmon. It is based on the best available science and reflects the extensive biological experience of the seven eminent team members. Their plan, yet to be accepted by NMFS, has the greatest potential of any proposal forwarded so far to unite a broad spectrum of regional interests behind a common solution. We should heed their advice.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 2106 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that I be allowed to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection?

The Senator from New Mexico.

Mr. DOMENICI. Can we charge the time equally?

Charge the time to our side.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 10 minutes.

The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 2105 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico controls time.

Mr. DOMENICI. Madam President, I do not know how we are going to do it on that side. Senator GRASSLEY has been waiting a long time, also.

Mr. President, on behalf of Senator SASSER, I yield 10 minutes to Senator BAUCUS and off our side I yield 10 minutes to Senator GRASSLEY. I understand Senator BAUCUS was here before Senator GRASSLEY, so it would have to be in that order.

The PRESIDING OFFICER. If there is no objection, Senator BAUCUS will be recognized for 10 minutes and following that Senator GRASSLEY for another 10 minutes.

The Senator is recognized for 10 minutes.

Mr. BAUCUS. I thank the Chair and I thank the Senator from New Mexico and the Senator from Iowa, as well.

RURAL HEALTH CARE REFORM

Mr. BAUCUS. Madam President, I would like to say a few words with respect to health care in general, but more particularly with respect to health care reform that affects rural States, particularly those in the West.

The critical issue we face, Madam President, in the West in health care reform is increasing access—that is, increasing access to quality, affordable health care in areas of the country that do not have as many doctors or as many hospitals as our urban areas.

We in the West face a crisis, Madam President, in rural health care. More than 1 out of 4 Americans lives in a rural area that suffers high rates of uninsurance and underinsurance, severe chronic shortages of care and a high rate of hospital closures. Rural Montana, for example, faces these unique concerns in spades. They must be addressed if we are going to have meaningful health care reform pass this Congress.

Rural health care reform needs a comprehensive strategy. I am working on incorporating a series of rural provisions into the Finance Committee's national health care legislation. In my view, four areas need special attention.

First, we must strengthen small rural hospitals;

Second, we help establish rural health care networks;

Third, we must increase the number of doctors, nurse practitioners, physician assistants, nurses, and other health care providers in rural areas; and

Fourth, we must lower insurance costs for rural residents;

HOW RURAL NEEDS FIT INTO NATIONAL HEALTH REFORM LEGISLATION

There are parts of health care reform that will affect everyone's access to health care and everyone's health care costs. They include universal coverage, insurance reforms and increasing the number of primary care physicians. Our work in these areas will improve the health care situation everywhere, in rural and urban settings alike, and everything in between.

But other priorities are particular to rural areas, like making sure that rural hospitals are available to provide services in remote and frontier areas, establishing and increasing communications networks between rural areas and larger urban health care facilities, and encouraging primary care health professionals to practice in rural areas.

It's not enough to give everyone an insurance card. Having insurance does not help if there is no doctor or hospital to go to. As we move toward comprehensive health care reform, we need to make sure that we are doing all we can for rural areas by including strong provisions to increase access and to high-quality rural health care.

STRENGTHENING SMALL RURAL HOSPITALS—THE MONTANA MEDICAL ASSISTANCE FACILITY PROJECT

Much of Montana is considered frontier territory where people are up to 100 miles from a medical facility. Now, 100 miles is pretty far away on a good day. But factor in a winter blizzard and a friend or a relative who needs immediate medical attention, and you may as well be traveling to the Moon.

For Montanans living in Culbertson, MT, this was a very real possibility not so long ago when their hospital almost closed. But thanks to a Montana project, the Medical Assistance Facility Program, Culbertson was able to modify its hospital and receive higher reimbursement from the Medicare Program.

I invited Walter Busch, the administrator of Culbertson hospital, to testify before the Senate Finance Committee recently. He explained to the committee that you can not have a one size fits all health care system. Under the Montana Medical Assistance Facility Program, rural areas have the flexibility to design their own hospital by being exempted from certain Federal requirements. It also expands the role of physician assistants and nurse practitioners.

As Walter testified, this rural hospital program has been a huge success in Montana, rescuing the delivery system in many rural communities. Today the program operates under a demonstration grant from the Federal Government which is due to expire in 1997. This program is far too valuable to rural residents to let go. We must make the Montana Medical Assistance Facility demonstration project a permanent part of the Medicare Program. This could go a long way toward assuring community-based access to health care in rural areas nationwide.

INCREASE THE ATTENTION PAID TO RURAL ISSUES BY THE FEDERAL GOVERNMENT

We need to make sure that the Secretary is made fully aware of rural health needs and concerns on a regular basis, and that national health reform is analyzed from a rural point of view. Secretary Shalala is doing a good job on rural issues, and has even visited our rural Montana hospitals, but I believe that rural issues deserve a permanent direct line to every Secretary. I have proposed to elevate the Office of Rural Health Policy to the position of Assistant Secretary within the Department of Health and Human Services.

IMPROVE TELEMEDICINE AND RURAL HEALTH NETWORKS

We must also support rural communities in their efforts to maintain and strengthen their local health care infrastructure by giving them the tools they need. It is critical that we develop a grant program specifically for telemedicine so that rural health facilities are able to increase communications with their urban counterparts. We must also provide Federal funding and technical assistance that allow communities to develop rural health networks.

INCREASE THE NUMBER OF DOCTORS AND NURSES IN RURAL AREAS

The nationwide demand for primary health care professionals is greater than ever, especially in rural areas. To encourage doctors and nurses to practice in rural areas, it is crucial that we increase reimbursements. To this end, we should:

Double the Medicare bonus payment from 10 to 20 percent.

Provide tax incentives for doctors and nurses who practice in underserved rural areas; and

Increase Medicare reimbursement for primary care doctors.

We must also strive to increase America's supply of primary health care providers. Primary care providers in general provide high-quality, lower cost care, yet the United States faces a severe shortage of these providers. This is a particular problem in rural areas, that depend on a primary care providers for most of their care. Such an effort must include:

Targeted funding for graduate medical education to primary care residencies;

New training funds for nonphysician providers;

Increased funding for the National Health Service Corps; and

Creation of a National Council to monitor physician supply, identify areas of concern, and propose solutions.

LOWER INSURANCE COSTS FOR RURAL RESIDENTS

People living in rural areas are disadvantaged when it comes to insurance. Urban residents usually receive insurance through their employers. Because employers in urban areas tend to be large, they can buy insurance at lower rates. Rural residents, on the other hand, either buy insurance on their own or work in a small business that has to pay higher administrative costs than a large business. In fact, small groups and individuals wind up paying up to 40 percent more in overhead than large groups. Health reform must eliminate this rural disparity.

I am working on insurance reform that will level the playing field so that rural residents can get the same deals as the large groups in urban areas. These reforms include requiring insurers to charge everyone similar rates and allowing small groups to band together so they can get the same discounts as large groups.

CONCLUSION

Improving rural health care is my No. 1 priority. I will not support health reform legislation unless it includes measures to strengthen rural hospitals, increase the number of doctors and nurses in rural areas, and lower health insurance costs for rural communities. National health care reform must reflect the unique needs of Montana, and other parts of rural America.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. GRASSLEY. Madam President, we have before us the conference report on the budget, and I believe you would not know it by its cover, but this conference report in and of itself is an oxymoron. We went through this tremendous battle against the big spending machine here in this town, and it was really quite a struggle, yet all we got out of it was a small gnat's worth of savings. We labored mightily and of course we produced, in savings, just a mouse.

The good news in this budget is that it does contain spending restraints that the big spenders in this city, including the congressional leadership and the White House, did not want to accept. I believe it has only been once since I have been in the Senate that this has happened, and that was back in 1985. When I say "this happened," when we were up against congressional leadership of both parties and up against the White House when we had an opportunity to make cuts in the budget, that was when I offered an amendment to freeze the defense spending that was adopted that year.

Let me just say in as clear terms as I possibly can, and for the RECORD, that the sky did not fall in on the defense budget or the Defense Department then, and it will not fall on this budget now. That is notwithstanding all the hair-pulling that we heard right here on this floor during the original debate on the budget resolution.

I would like to think this is a big victory, given the resistance we encountered. You would think by listening to that debate that we were pulling teeth without Novocaine when we tried to cut $26 billion from the budget—and we did that. But now that it is over, that is half that figure and that is $13 billion. You know that is just ⅙ of 1 percent. That is really only saving 1 penny out of every $6 in this budget. Nonetheless, I feel the American people—I hope—have some inkling of how Herculean a task it is to cut a single penny from the Federal budget.

Having observed our antics on this floor in reaction to the Exon-Grassley amendment, the public must be incensed with how little we do to save the taxpayers money. They must be ticked to the height of "tickticity."

Even those who make the best fiscally responsible speeches on this floor

oppose these cuts. Was it tough to make these cuts? Well, is a school bus yellow?

It is a significant but I have to admit a small victory to the taxpayers who are involved in the $13 billion that was finally the compromise that was left over from the Exon-Grassley amendment.

I cannot praise enough the leadership of my friend from Nebraska, Senator EXON, who is the main reason the outyear deficits will be that much lower.

I also commend the deficit hawks on the other side of the aisle for standing firm against the big spenders in their own party and among their own leadership.

And I commend those on my side of the aisle who stood firm and also voted responsibly for deficit reduction.

Also responsible for this victory are many grassroots organizations that supported Senator EXON and myself during the debate on our amendment. They also worked hard when it was up on the floor of the Senate. We had to defend it three times, and they helped us maintain the half that we maintained in committee. So I thank them very much, because that grassroots efforts by these organizations are very significant to making even these small victories in this body.

It is unfortunate, in my view, that the conferees could not agree to the full $26 billion of savings as passed by the Senate originally. This is especially so given our latest and newest CBO deficit projections, because it was just a few days ago—in other words, while all this was going on—that CBO reestimated the original deficit baseline for 1995 fiscal year; in other words, what will the deficit be on September 30, 1995.

During our debate on saving $26 billion or $13 billion, they have already estimated the deficit upwards by nearly $100 billion. So, Madam President, it appears that, once again, we are courting Miss Rosy Scenario. It is kind of like a dallying groupie. Rosy Scenario shows up on the arm of administration after administration, whether it is Republican or Democrat.

So this $100 billion upward adjustment on the deficit is just the same old refrain. We thought the $13 billion would be saved off a much lower baseline. We now find that for every step forward that we take in this body toward a lower deficit, we then take eight steps backward.

So how did the conference committee respond in the face of this latest round of bad news on the deficit front? It responded by cutting our savings in half, whereas that new projection should have been an excuse for everybody to want to be fiscally responsible to fight harder to save the $26 billion as opposed to cutting it in half.

Of course, these $13 billion in savings are now dwarfed by the size of this reestimate.

Madam President, common sense is perhaps not so common after all. This is why I believe that Republicans will vote against this budget, because it fails to seize the moment. We had an opportunity to take advantage of favorable economic circumstances and make further spending reductions in the outyears, but the response has been little more than business as usual. I do not know how this bodes for continued efforts next year to lower the deficit, given the reaction to the modest Exon-Grassley amendment this year by the leadership. The odds in Las Vegas against greater savings next year must be pretty darn high.

There is another important reason, though, why Members of my party will, hopefully, oppose this budget, Madam President. This budget also contains bad news for the American taxpayer. The leaders in Congress and the administration have decided that it is not enough to raise taxes to near record amounts, as we did in last year's budget, but they also now want to unleash 5,000 more IRS agents on the taxpayers because that money is in this budget to hire those additional agents. They will do this without carefully crafted protections that we passed in the Senate originally as conditions for these new agents. Most outstanding of that was the passage by the Congress of the Taxpayers' Bill of Rights No. 2 sponsored by Senator PRYOR and myself.

This is the same administration, by the way, that claimed during the last campaign that they could find $45 billion of new money by taxing foreign companies. And now that they occupy the White House, they cannot seem to find even 10 percent of that original $45 billion that they said they could get.

Even more incredible, the money for these new agents are off budget. The Treasury claims these agents will raise enough money to pay for themselves. I wish I had a nickel for every time I heard that argument.

I decided not to oppose this proposal during the Senate consideration only because the sponsors and the Treasury Department agreed to protections for the taxpayers, like I explained in the Taxpayers' Bill of Rights. But those protections are gone in this conference agreement. I spoke about this at length last week. And 5,000 new IRS agents, without the kinder, gentler instructions that were in the original Senate proposal is not how to treat taxpayers in a civilized country.

This proposal is strictly a Democrat initiative, let me make clear, snuck in by clever Treasury bureaucrats, aided and abetted by the leadership in the Congress who, at a minimum, I want to say, looked the other way with a wink and a nod.

I want to make it clear that this is not a Republican position to have 5,000 new IRS agents without protections for the taxpayers through the Taxpayers' Bill of Rights No. 2.

Finally, Republicans will vote against this amendment because of the mismatch between the Defense Department's budget and the President's budget. The General Accounting Office is currently evaluating the magnitude of this mismatch.

To date, the General Accounting Office has identified at least $26 billion in negative funding wages. These negative accounting entries are used to hide discrepancies between the 5-year defense program and the budget and to mask over programming. They provide an artificial way of forcing the books into balance.

Such devices are inconsistent with the law governing the preparation and submission of the 5-year plan to Congress. The practical effect of this mismatch is to create management havoc which could lead to serious damage and consequences against our national security. This is the same problem that led to the hollow army syndrome of the seventies, and if we do not correct this problem, we could be doomed to repeat it.

Madam President, I regret that I cannot join with my colleagues on the other side who showed courage and fought to preserve some of the Exon-Grassley savings by voting to adopt this. What was salvaged of Grassley-Exon is a victory not because of its substance but because it is modest. Rather, it is a victory because of enormous barriers it overcame, and that is a sad commentary. But it is reason enough for Republicans to just say no to this budget.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Madam President, I yield 15 minutes to the distinguished Senator from California [Mrs. BOXER].

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I thank the Chair, and I thank my chairman, the Senator from Tennessee.

Madam President, I am pleased to rise as a member of the Budget Committee in support of the budget conference report. I hope the Senate today will say yes to this budget. I do not anticipate we will get many of our colleagues on the other side of the aisle to join us. Maybe we will get one or two; perhaps we will get none. But that is not surprising. They have been against the general approach that President Clinton has brought to the budget process. That approach is one that has led to lower deficits, it has led to, in most parts of the country, an economic recovery, it has led to the creation of thousands and thousands and thousands of jobs.

Not one Republican, as I can recall, voted for the budget or voted for the reconciliation bill that carried it out. They had their own good reasons and they expressed them very eloquently

on the floor then, and I am sure they will do so again today.

But you see, I think it is the results that matter. I think we need to look back to the comments that were made at the time when this country started to turn around its economy. We have to remember, under the previous administration of George Bush, there was not any job creation. More jobs have been created in 1 year of this Presidency than in all 4 of the previous Presidency. I know that does not sit well with my Republican colleagues from the standpoint of politics. But I have to say the facts are the facts.

Now, is this economy perfect? You and I know, Madam President, it is not. You and I know in southern California we are dragging. We have not caught up to northern California or to the rest of the Nation. But we are on a sound course, and this budget will in fact continue that course. And again, it is not a matter of rhetoric. When you and I voted on the President's budget we were not sure of the results. We hoped for good results. Now we have those good results: Deficits coming down finally, jobs being created finally, new investments being made finally, export controls being lifted finally. We have an economic strategy in this country. Again, I do not think it is perfect. I think there is room for improvement. This is not a perfect world. But what we have before us is a very sensible, commonsense document, and I support it.

We see deficits continuing to go down. Yes, we would all like to see them go to zero. No one would rather see that than I. When I was in local government, on the board of supervisors, I brought zero-based budgeting to that board. I said, "Let's go back to zero and start all over again." We did not have the term "reinvent Government," but we did it on the county board. We had to balance our budget, and we did.

I think there is definitely room for improvement here, but we are beginning to see it happen: A reduction of the Federal work force, a crime bill for which we are going to pay. So things are moving in the right direction.

The budget deficit is down. A couple of years ago, before we passed the reconciliation bill and the President's strategy, the OMB told us we would have 302 billion dollars' worth of deficits, Madam President. We now see that coming down to $182 billion—$120 billion below where it would have been had we not acted in that courageous fashion.

I have to say to many of my colleagues who are up for reelection, that was not an easy vote. It was not an easy vote. But you can be proud that you took the courageous stand.

My friend from Iowa, whom I greatly respect, Senator GRASSLEY, one of the leaders in military procurement reform—he and I have worked together—says the Republicans should just say no. Well, that is a continuation of what they have been doing. I am sure they will continue to say no. It is up to the American people to determine whether just saying no is a policy. I do not think it is a policy. I think we have an economic strategy embodied in this budget resolution, and I feel proud to support it.

Now, it hurts when you cut spending. We all know that. But this budget does it. It has to be done right, Madam President. You just cannot do it with a meat ax, because you will disturb this economic recovery. And what the chairman of the Budget Committee, Senator SASSER from Tennessee, has tried to do is walk that fine line, to make sure we have progress on the deficit and at the same time make enough investments in this economy so that growth can take place.

That is what this budget does. And again, I am proud to associate myself with his work and with this product.

Madam President, many of my colleagues on the other side of the aisle have come to this floor to decry the military budget. I think it is very important to look at what we are doing in this military budget. There are those on the other side of the aisle who are saying we are destroying the military. Let us look at the facts. In 1994, last year's budget, the budget authority was $261 billion. In 1995, in this budget, it is $263 billion. So with all the rhetoric, as if we are destroying our military, we actually are increasing the budget authority by $2 billion. We are spending more on the military than we do in any other category in the domestic discretionary budget.

I think it is also important to take a look at what our potential enemies are spending on their military. Madam President, rhetoric aside, let us take a look at it: Russia, $29.1 billion; Iraq, $8.6 billion; China, $7.3 billion; North Korea, $2.2 billion; Libya, $1.8 billion; Iran, $1.2 billion; Syria, which many people say is moving toward our camp, $1.2 billion; Cuba, $1.2 billion.

Madam President, those are all the potential enemies I could garner. That adds up to $50 billion, and we are spending $270.7 billion on outlays. If you look at the 10 largest countries—in other words, the countries that spend the most on the military after America—if you add them all up: Japan, France, UK, Germany, Russia, Italy, South Korea, Taiwan, Saudi Arabia, and Kuwait—you will come up to $240.1 billion. So we spend more than the next 10 countries combined, and most of those are our friends.

So if anyone tries to scare the American people, Madam President, that we are not spending enough on our military, please let us look at the facts.

Now, there are always those who say they could do better with $400 billion. We all know, if money is no object, it would be lovely. It would be lovely to have it in the military. It would be lovely to have it in education. It would be lovely to have it in everything we try to do for the American people. But we have to budget wisely, and we have to expect that at that amount of money our military can and should perform. We need to bring better management into the system. I think we are doing that with procurement reform.

So let us put that one to rest. Every time someone on the other side of the aisle gets up and says we are not spending enough, let us bring out these facts, that we spend more than the next 10 biggest spending countries combined, and we spend much more than all of our potential enemies added up together.

Finally, Madam President, I wish to say how proud I am that this budget contains the Children's Initiative which I brought to the Budget Committee and which was supported on the floor by Republicans and Democrats alike. It swells my heart with pride to know that, finally, there is a consensus emerging in this country on the need for investing in our children. When we deal with the crime issue—and, Madam President, your brilliant leadership to ban assault weapons is something that will go down in history books forever—we know that we are dealing with the consequences of neglect. When our children live in poverty, when they do not have anything to believe in, when they do not think they have any hope or any stake in the future, they will grab an assault weapon if a gang member says, "You can belong."

So we have to get to the root causes of the problem. And I am so proud that this Senate voted 93 to 5 to stand up and say, yes, we will cut Federal travel. It is time for a few of us to stay put so our children can move forward.

Perhaps the most critical investment this budget makes is in our children—an investment that is overdue and necessary.

Last month the Carnegie Corp. of New York released a new report documenting the circumstances faced by children under the age of 3 and their families. Their condition threatens our economic strength and competitiveness. Too many of our children fail to receive adequate prenatal care, child care, or parental attention which means that they are less likely to perform well in school or on the job—if they get a job. The Carnegie Corp. dubbed it the "quiet crisis." But the appalling statistics scream out for attention.

One in five children in this Nation lives in poverty. The number of poor school age children in California alone increased by 38 percent between 1980 and 1990. Every year nearly 1 million infants are born with severe medical

problems that could have been avoided if their mothers had access to prenatal care. According to the Centers for Disease Control, only 44 percent of children in our Nation's major cities have been fully vaccinated by their second birthday. More than 5 million children under the age of 3 are in the care of other adults while their parents work.

After years of shameful neglect, it is time to make the health and welfare of children a top priority. With this budget, we are finally putting our dollars where they count—into proven programs for children that address these problems. I am proud of the fact that this budget includes the Boxer amendment which I have called the children's initiative.

It overhwelmingly passed the Senate by a vote of 93 to 5.

The children's initiative, which is a pay-as-you-go provision, provides $1 billion to six exemplary children's programs by cutting spending in Government travel expenses.

Specifically, the amendment provides an additional $120 million for Head Start, enough to fund slots for approximately 24,000 children.

It increases funding for the WIC Program by an additional $100 million which will provide services for 200,000 pregnant women, infants and children.

It adds $2000 million for childhood immunizations, enough to appropriately immunize over 2 million children up to age 2.

It increases funding for the child care development grant by $200 million, enough to provide quality child care for roughly 44,000 children.

The amendment increases the maternal and child health block grant by $200 million—an important weapon in the right against low birthweight babies and infant mortality.

Finally, the amendment adds $180 million for The Emergency Food Assistance Program or TEFAP which is a vital resource for feeding the hungry and homeless in our States and communities; 1.4 million Californians rely on food from TEFAP every months.

Each of these programs has a proven record of success in helping children and their families. The Head Start, WIC, and childhood immunization programs, for example, have been praised over and over for their cost effectiveness. All of the programs enjoy strong bipartisan support.

Madam President, I am especially grateful to the distinguished chairman of the Senate Budget Committee, Senator SASSER, for his assistance in including the children's initiative in the conference report. Investing in our youngest citizens is the best economic investment that we can make for the future.

Madam President, if the chairman of the Budget Committee is willing, I would like to engage him in a brief colloquy on the children's initiative. Since the budget resolution does not list the specific funding levels for each of the children's programs in my amendment, I would simply like the chairman's help in clarifying the Senate Budget Committee's intent to fund those programs at the level I requested.

Is it the chairman's understanding that Function 350 of the fiscal year 1995 budget allows room for an additional $180 million above the President's request for food purchases under the Emergency Food Assistance Program?

Mr. SASSER. Yes; that is correct.

Mrs. BOXER. Is it also his understanding that Function 500 of the fiscal year 1995 budget allows room for an additional $120 million above the President's request for Head Start?

Mr. SASSER. Yes; that is correct.

Mrs. BOXER. Does he further agree that Function 550 of the fiscal year 1995 budget allows for an additional $200 million above the President's request for the maternal and child health block grant, and an additional $200 million above the President's request in discretionary funding for the childhood immunization program?

Mr. SASSER. Yes; that is correct. There is also in the Function 550 room for an additional $100 million for teenage pregnancy prevention.

Mrs. BOXER. Finally, is it his understanding that Function 600 of the fiscal year 1995 budget allows for an additional $100 million above the President's request for the WIC Program, and an additional $200 million above the President's request for the child care development block grant?

Mr. SASSER. Yes; that is correct.

Mrs. BOXER. I thank the chairman. Again, it is an honor to serve with him on the Budget Committee and to have his invaluable support for these proven children's programs. With this budget, we are making an important investment in a future generation that will be healthier, better educated, and better able to contribute more to the economic strength and well-being of our country.

Mr. SASSER. My thanks are to Senator BOXER for her tireless efforts on behalf of these children's programs. The Budget Committee, as well as America's children, have been well served by her participation in this year's budget process.

Mrs. BOXER. Madam President, in closing, let me thank the chairman, let me thank the members of the Budget Committee, and let me thank this administration. Finally we have an economic strategy in this country of which we can be proud, and we are making some critical investments in this budget. Even though we are bringing the deficit down, we are making some investments that will yield great dividends in the future.

I yield the floor.

Mr. SASSER. Madam President, I wish to take this opportunity to pay tribute to the Senator from California for the really marvelous work she has done in bringing the Senate's attention to the children's initiative and the problems of children in this country through including it in this budget resolution as presently before us today.

I also want to express my appreciation to my friend from California for being such a valuable and productive member of the Senate Budget Committee. We have gone through some very historic times, Madam President, in the Senate over the past year-and-a-half as far as the budget is concerned.

We have enacted a deficit reduction package of really monumental proportion. We are now seeing how the salutary effects of that are working its way through our economy. The Senator from California was a leader in getting that done. I want to pay tribute to her today for her help and her support, indeed her leadership, in moving this deficit reduction through the Senate last year and for her support this year on the budget resolution.

Madam President, I see the able Senator from Florida is on the floor. I see no one on the other side wishing to speak.

Would the distinguished ranking member have objection if I yield 15 minutes to the distinguished Senator from Florida?

Mr. DOMENICI. Madam President, I wonder if I might use 2 minutes or 1 minute to make a point and then I will choose to use some time after the Senator from Florida to address a few of the points raised by Senator BOXER.

Might I just take 2 minutes? I take it off my side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Madam President, I note that over the past 10 or 12 days there has been a very concerted effort on the part of the White House to contact the Indian people of this country through their leaders. They had a summit at the White House. They had a listening session for the Indian leaders of the country in the State of New Mexico in the city of Albuquerque, and the various Cabinet people attended.

I would like to make a point that in this President's budget, if we do not change it in the appropriations process, one of the most important functions of government in behalf of the Indian, Indian health, was rather dramatically cut—as a matter of fact, about $244 billion less than is required just to maintain the current efforts and put personnel in the new facilities like the one at Ship Rock, NM.

In this budget resolution, while we cannot guarantee that moneys will be added to that category of expenditures by allocating less money to some of the President's $8.6 billion in new programs or add-on programs, we have expressed

a sense of the Senate, which is now a sense of the Congress, that the Indian health programs should not be cut and should be retained at the level of last year, plus added personnel to maintain the facilities.

I just want to make that point because it has a lot to do with some of the problems in Indian country regarding children and families. It is somewhat an add-on to Senator BOXER's comments about children and families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, let me just note that the measure just discussed was sponsored by Senator BINGAMAN, along with Senator DOMENICI. It is, I think, a very outstanding measure, and I commend them for bringing this to the Senate.

Madam President, I yield 15 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 15 minutes.

Mr. GRAHAM. Thank you very much, Madam President.

Madam President, I would like to begin by extending my appreciation and commendation to our distinguished chairman for the outstanding job he has done this year, as he has in previous years, in bringing to the Senate a responsible budget resolution. I commend him and the members of the committee and the able staff of the committee for their outstanding service to America.

Madam President, I would like to talk about the dual purpose which the Senate has in considering the conference report on the budget resolution this afternoon. The first and the most obvious purpose is to develop a broad framework, an outline, for Federal spending for the fiscal year that we begin October 1.

I support the fiscal plan that has been developed by the Budget Committee. In my judgment, it responsibly meets the needs of our people at a time in which there is increasing scrutiny of Federal spending.

As a member of the Armed Services Committee, I am particularly aware of the pressures that are being imposed on the United States to be militarily strong to protect democracy in this country and around the world. I believe that this budget provides for a reasonable capacity for our military to continue to meet that function.

I think similar statements of adequacy to function can be found throughout the rest of the budget. I particularly am pleased at the new emphasis that is being given to areas that will contribute to our long-term economic and social strength, areas such as education, job training, and job creation. These are important, creative initiatives to which this budget recommits our Nation.

But I would like to use most of my time, Madam President, to talk about the second purpose of the budget resolution debate today; that is, the purpose of signaling our commitment to continue to pursue the goal of reducing the Federal budget deficit.

Congress made significant progress in reducing the deficit in 1993. Last August we took a giant step in the right direction by adopting a significant deficit reduction program. Before Congress had taken that action, Madam President, the Office of Management and Budget, pursuant to the blue line on this graph, had projected the Federal deficit from 1993 through to the year 2003. It was a very depressing and alarming line. We started in 1993 with a deficit of $319 billion and 10 years later a deficit of $639 billion. That was what the President and the Congress faced as they began in January of last year.

In large part because of the action that was taken last August, we are on a slightly less treacherous economic course. The red line indicates what the projection is and actually the first 2 years of accomplishment of the new economic plan. The deficit which had been projected to be $319 billion in 1993 was actually $255 billion. The deficit which was projected to be $301 billion in this fiscal year, 1994, now appears to be $223 billion. In the budget that we are considering, instead of recommending a deficit of $296 billion for 1995, the deficit will be $171 billion. By all accounts, those represent significant steps toward reduction in our deficit.

However, Madam President, I point out the end, the tail of this red line. The tail of this red line is that deficits begin to rise again in approximately 1997. By the year 2004, we will be back up to $365 billion, or higher than the deficits were projected to be when we commenced this process in 1993. That says very clearly that our work is not over.

There was an unexpected bonus, a dividend, that came from our efforts last year to reduce the Federal budget deficit. That was a "surprising"—to use a word of one prominent economist on Wall Street—impact on long-term interest rates.

In January of 1993, long-term interest rates hovered above 7.3 percent. By the first of August, they were down to slightly above 6.5 percent. By the middle of October they had dropped to 5.9 percent. So over a period of 10½ months, long-term interest rates have gone from 7.3 percent to 5.9 percent. A substantial amount of that slide occurred in the period immediately after the adoption of the August economic program.

This sharp reduction in long-term interest rates had a dramatic stimulus effect on our economy. People were able to buy homes and cars; businesses were able to expand, employ people, and invest in new capital goods. It was a major contributor to the strongest economic report for the fourth quarter of 1993 than we have had in recent American economic history.

This drop in interest rates made clear the relationship between fiscal policy and the state of the economy and the state of that economy on the lives of every American. Long-term interest rates are heavily influenced by the market's sense for the potential for inflation.

When there is likely to be a resurgence of inflation, long-term rates will rise. When there is confidence that inflation will be checked, including checked by responsible Federal fiscal policy, long-term interest rates will trend downward.

Unfortunately, just as in our previous chart, which had a tail of two points on the graph, the good news of the left side and the bad news of the right side, again, we have a tail of two points on the graph as it relates to long-term interest rates. Since late October of last year, when interest rates moved toward 5.9 percent, we have seen an upswing almost as dramatic as the downswing that preceded it.

As of yesterday, long-term rates were approaching 7.5 percent, or higher than they had been in January 1993, when this chart commenced. The drop in interest rates, in turn, affects directly our Federal deficit. A 1-percent rise in interest rates, assuming all other economic assumptions are held constant, will cause net interest on the Federal debt to rise by $2 billion in the current fiscal year and $7 billion in 1995. In fact, if you use yesterday's 7.48-percent long-term rate, rather than the 6.1-percent rate calculated by the Congressional Budget Office last January, net interest on the Federal debt will increase this fiscal year by approximately $2.5 billion and, in 1995, by over $9 billion.

So we have this duality. The budget resolution that we are adopting not only sets Federal fiscal policy, including the level of the deficit, it also influences long-term interest rates; and long-term interest rates, in turn, influence the extent of our deficit.

Obviously, there are a variety of factors that affect the movement of the market, the health of the economy, and long-term interest rates. But a core factor is confidence in the capacity of the U.S. Government to control its deficit.

In spite of the rise in long-term interest rates, Americans currently have many things to be confident about. Unemployment has fallen sharply, down nearly a full percentage point since 1993; housing starts rose 25 percent between July and December; spending for durable equipment is expanding at the fastest pace since 1972; inflation is low; prices rose just 2.7 percent in 1993, the smallest increase since 1986. In January 1994, for the first time in more than

4 years, consumer prices were totally flat.

Now is the time to maintain this confidence with increased vigilance. It is clear that congressional action directly affects long-term interest rates, which, in turn, directly affect Americans' confidence in their economic future. We have a clear mission to continue to pursue deficit reduction. We must be aggressive. Americans are beginning to focus on what may happen when the deficit starts to rise again after 1997.

Congress should use every opportunity available, including this budget resolution, to continue to fight the deficit. I supported the Senate passed Exon-Grassley amendment, which cut an additional $26 billion from the 1995 budget. With five other Senators, I offered a sense-of-the-Senate resolution during the budget resolution debate, urging that legislation should be enacted to provide enforceable limits to control the growth of entitlement or mandatory spending.

Those kinds of efforts should continue. The resolution we are considering today contains $13 billion in additional budget cuts. I would have, frankly, preferred the $26 billion contained in the original Senate-passed version. But $13 billion in spending reduction is a step in the right direction.

I am also pleased that the Senate has expressed a commitment to restrain entitlement spending. As we know, the primary culprit of out-of-control entitlement spending is in the health care area. And in the next few weeks, as Congress debates the health bill, we should turn the statement of commitment into real action.

Madam President, I hope our actions today in adopting this budget resolution and our resolve to take further steps in the near future will indicate our commitment to continued deficit reduction. If we continue working to reduce the deficit, we will see interest rates fall; more people will purchase and refinance homes; more people will have jobs; the economy will grow stronger. We have a chance and we have a responsibility to stop spending money we do not have, to help further strengthen our economy, and to make certain that our grandchildren are not left to foot the bill for a generation of irresponsible spending.

It is my intention to vote for the budget resolution conference report because I believe that it is a responsible fiscal plan, and I hope that it will be interpreted by Americans as a statement of resolve today and in the near future to take further actions to reduce our budget deficits.

But this must not be the only step we take. I will continue to seek ways to implement deficit reduction, because we owe it to America and we owe it to our grandchildren.

Thank you, Madam President.

(Mrs. MURRAY assumed the chair.)

Mr. DOMENICI. Madam President, I wonder if my friend from Florida would mind if I borrowed his two charts for just a couple of minutes.

Mr. GRAHAM. Madam President, I would be honored to loan our charts, at a very nominal rate of interest, to our friend and colleague from New Mexico.

Mr. DOMENICI. We will do it at the interest rate of 6 months ago, rather than today, since it was a little cheaper then.

Madam President, first, I yield myself 10 minutes. I might say to the Republicans who still desire to be heard on our side, I just hope they will make time to come down here. I do not know how much time they want. Senator GRAMM of Texas wants some time; Senator BROWN wanted 10 minutes; and Senator GREGG and Senator LOTT. Perhaps they could call in and tell us what time they can come, so we can pull this budget resolution down for final approval later on and get on with some other things here on the floor. I would appreciate it if Senators on my side will accommodate me with that.

With reference to Senator BOXER's comments on the Defense Department of the United States and America's military, the United States is not Iraq; the United States is not Russia; the United States is not the Ukraine; the United States is not Japan, and so on down the list of countries that the distinguished Senator from California listed with reference to our military preparedness.

Point 1: During the Nixon years, we changed from an army that we drafted, a military that we drafted, to a volunteer military, a gigantic step for the United States. We have decided since that time that we were going to call for parity to our military. It took us time to get there, but we are getting close to paying them for similar things as if they were out in the private sector. That is a historic situation and a magnificent statement for a democracy to make about its military.

So, right off, none of those countries that were alluded to take care of their military. As a matter of fact, in the Soviet Union today, they do not even know where they will get the money to pay them, but they are still in the military. They do not know where they are going to get the money to take care of the nuclear weapons, by the thousands. And we are hoping they will dismantle them, but they are still there. There are statements from Russia, Ukraine, Georgia, and elsewhere daily saying maybe there will be a civil revolution there in the not-too-distant future. At least the free world and America sits there wondering when we will get that neutralized.

I now want to comment on what we have done to our military. It is unequivocal that defense is the only thing we have cut on the discretionary side of the American budget in all of the appropriations. The only thing we have cut, since 1990 through the President's proposals and for the next 4 years of the President's tentative budget proposals, is defense.

I know Americans do not believe that. They must be saying that cannot be; we heard so much about restraint, about cuts. Well, frankly, I sent a little simple chart up there. Discretionary spending of the United States on the domestic side has gone up. It will go up every year from now to the 5-year program that the President has in place, and defense will come down each year, such that in real terms the Defense Department will have been cut 50 percent since 1985 in real terms. That means if you had no inflation to the numbers, just year after year, it has been cut 50 percent.

I am not going to go through what all that means in terms of divisions that are down, procurements that are down, how many airplanes do we really have today, how many divisions are already cut. Let me tell you in real terms, when you cut defense 50 percent since 1985 you have done something to the defense of this country.

So I repeat, that whatever the numbers are in the top line of this budget resolution, which show the President's numbers for defense, just remember that down below there is another number that says we have to distribute $4.7 billion in outlays, $6.7 billion in budget authority back through this budget. And I surmise that unless the Congress says we will spend the same amount that the President asks, we will get an allocation from the Appropriations Committee that cuts defense well below the President's numbers.

Is the President of the United States asking for too much in defense? After we had the Bush cuts coming from the 5-year plan that came after the Andrews Air Force Base 1990 summit, the President asks for another $60 billion on top of that, and we are on that path. He finally says, "Do not cut below that; that is enough."

So, I do not think the Senator from New Mexico and some Democrats and most Republicans, who are concerned about that aspect of this budget and of the trend line that is moving in that direction, we are trying to spread fear. I think we are trying to say that history will probably reveal once again that we are right and that we ought not to dramatically cut defense; certainly not much more than we have done because we will live to rue the day just like we did after the First World War and immediately after the Second World War. I have gone through what these numbers reveal earlier this morning in terms of how much lower they are going to be, so I will not repeat them.

The reason I asked if I could borrow the charts of my good friend from Florida is, if I were a Democrat and I said

that about our distinguished chairman this morning, and then I will say it about Senator BOXER from California, I would come to the floor and say to Senators and to whomever is listening, it is the President's deficit reduction plan that has caused all these good things to happen in our economy. I would say that it is the economic plan that has been adopted that is putting people to work. I would say that it is what caused interest rates to come down. I would say it is what is going to cause us to get our deficit down dramatically over time.

But essentially I think that, while that is said on that side of the aisle, that it behooves someone on this side of the aisle—and I choose to do it—to say: "But I have another version. There is another set of facts that everybody should know something about."

So let me just move up here to these long-term interest rates, which is interesting. Let us go back to 1993, the year after the President's election. We will find that in August of that year—that is about here—we passed a tax and alleged deficit reduction package right here. Is it interesting that by that point in time—that is why this is intriguing me so much—at that point in time the long-term interest rates had almost gotten as low as they have been in this period of time.

We can just go up a couple more and find October.

So it is August, September, October, 3 months after the plan is adopted, the interest rates are at an all time low for this period of time.

Now, while I am very pleased that the economy is doing well—I hope we are on the right track; I hope it continues—I would just like to share with everybody here, there is no economist, nobody who would look at the American economic scene who would say that that tax-and-cut package—and I will keep saying "alleged" cut package—that in 2 months it would cause the interest rates of the United States to come down—no one. Almost everybody would say it takes a year to a year and a half for any impact to occur.

Interestingly enough, now, of course, some will stand up and say it is the Federal Reserve that jinxed this package. But 2 months after it passed, the long-term interest rates reached their low, and they started back up, so that they are on a path up for all of the time since. So that the interest rates, starting 2 months after adoption of that package, are starting back up again, and they are up here to—April is the latest date we have here, and they have gone up from 6 percent to 7.1 percent.

I am not presently complaining about the interest rates. I think the Federal Reserve Board is doing right. I believe they want this recovery to last longer, and they are worried and it is getting cut short. But I am merely making the point that if there is an American economic plan that is built around all of these words, like it is going to increase productivity, it is going to increase jobs, it is going to lower interest rates, then it seems to me that we ought to at least recall that maybe something else was going on in this economy long before that package was passed that brought much of this into fruition.

I believe that is the case. As a matter of fact, I believe the Federal Reserve Board, for about 2½ years before George Bush was defeated, put us on a money supply course that has a great deal to do with this positive recovery. It just did not come soon enough for President George Bush. The business cycle did not quite reach bottom and start back up. And I think if one were to take this long term and go beyond January 1993, where my good friend from Florida started it, that you would find the long-term interest rates were on a path down for 3 years prior to adoption of the August package which I believe had something to do with fueling this recovery.

Now, my friend from Florida, and my neighbor, Senator GRAHAM from Florida, puts up this chart. This is an interesting one also. I will use it for two purposes.

First, Madam President, here is when this new budget that we are talking about today comes into play. There is a great euphoria about how well we have done at deficit reduction and, frankly, I remind everybody that the deficit starts back up and I do not know that I agree with this number. I would think this may be higher. But recall that in a decade the deficit will be back higher than it was when President Clinton took office. And we constantly look for reduction of this and we say we are going to get that when we restrain entitlements.

More particularly, most people say we are going to get this down when we get health care reform in place. Yet, Madam President, there is no plan for health care reform that costs the Government less than we are now spending other than the one I introduced yesterday. And I purposely mandate that some of the savings go to deficit reduction. So there is nothing left unless it is more defense and more taxes to get this to come down.

Now I use it for a second point. And I have told my staff the next time we talk about this subject we will have this graph, but we will have another line in it. What we will do is, we will show how much of this reduction—the red line—is attributable to the deficit reduction package that passed in August 1993. That is a very heralded date. It is quite right that not a single Republican voted for it. Some Democrats did not. But the President got, by just the narrowest of margins, enough votes for it.

We need another line in here to show that for the years 1994 and 1995—this delta here—almost all of that deficit reduction had nothing to do with the deficit reduction package. Nothing. About $13 billion to $14 billion of the reduction over 2 years may have come from economic assumptions that might be prompted by this. All the rest is taxes and technical reassessments, such as the Resolution Trust Corporation costing less, such as Medicare-Medicaid inflation coming down, none of which, in the opinion of the Congressional Budget Office or anybody that I have asked, has anything to do with the deficit package that was passed.

I only do that because, obviously, just as something was happening in the American economy prior to that August date, in fact, in the American economy it may have been happening for 5, 6 or 7 years, and perhaps—perhaps—foreign countries had more to do with making it better than anybody else, because American business for 7 or 8 or 9 years decided that they were going to have to get this economy more productive, that they had to be more competitive. I think all of that was churning around during this period of time preceding the passage of the so-called deficit reduction package.

So we will make another line to show how much of this reduction is attributable to causes that have nothing to do with the deficit reduction package and maybe we will make another that shows the deficit reduction that is all attributable to taxes.

Having said that, I want to repeat, hopefully, this recovery is a good, solid one. Hopefully, we are on the right track.

And if I were either President Clinton or a Democrat that voted for the package, I would be down here and wherever anybody would listen around the country, saying that package deserves full credit for all the good things that are happening in the economy. But I would not expect that to go unanswered, and I do not assume they do.

I assume that people are beginning to understand—and we will help that along—that there are at least two or three reasons, one of which is the business cycle. We have not fixed it yet. It was down. It started up slightly before President Clinton was elected, and it is now moving into a very positive part of the business cycle that we have had regularly at very short intervals since the First World War.

I yield the floor at this point.

Madam President, I suggest the absence of a quorum and ask unanimous consent that it be charged to both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Who yields time?

Mr. BROWN. Madam President, I yield myself 5 minutes from Senator DOMENICI's time.

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

Mr. BROWN. Thank you, Madam President.

I rise in concern over the budget report that is now before our body.

Budget reports and conference reports are not new to the Senate. We have had them for many, many years. Long-term plans are not new. They have been around for many, many years.

What is unique about this budget and about this conference report is that it is a long-term plan for financial insolvency.

Let my be very clear. This is a long-term plan with specific numbers, specific figures, and specific programs to lead this country into bankruptcy. Members should be aware when they vote on this that they are voting to reduce savings, to reduce jobs, and to make this Nation insolvent.

Those are strong words and strong charges. Let me be specific.

One need only look at the resolution itself. The deficit, under this measure, rises from $174 billion to $190 billion in 1997, to $187 billion in 1998, and to $198 billion in 1999.

Let me be specific. The deficit is significantly higher in 1999, according to this plan, than it is in 1995.

Madam President, that assumes that we meet all of the goals and guidelines included in the budget, which we have never done. It assumes that there are no emergencies that break the budget, and we have always had them.

It assumes we do not overspend the budget, and we have done that averaging almost $20 billion a year of overspending the budget. It assumes we meet all the targets in terms of the assumptions, and I do not think I need to remind the body but the facts are these budget projections have always been wildly optimistic. If you accept the budget projections, if you assume there is no overspending the budget, if you assume there is no emergency that breaks it, and if you assume, fourth of all, that none of the loopholes carved into the budget are taken advantage of, even then the deficit rises and that is just in the first 5 years.

CBO's budget projections for the next 5 years for all of these indicate an exploding of the deficit as the obligations come forward. The simple fact is this. This is a long-term plan for insolvency. You do not have to take my word for that. All you have to do is take a look at the report and the numbers in the report. It shows a deficit curve where the deficit begins to go further and further up the farther and farther out you go. That is in dramatic contrast with budgets we have had through most of the budget cycle. They may allow a deficit in the year they brought the budget to the floor, but they always at least assume it will go away by the end of the 5-year cycle. First it was 1 year out, then 2 years out, then 3 years out, then 4 years out, then 5 years out. This budget has a deficit going on forever and rising. It shows a huge explosion of the national debt. It shows a dramatic and continuing increase. Madam President, it will be much worse than these figures.

This is a prescription for financial disaster for this Nation. Those who will vote for it today must report to their constituents that they voted for a long-term plan that will destroy the financial integrity of this Nation. It is a sad day.

Let me simply add one other comment. Some who vote for this may excuse themselves because they claim you can solve this by future tax increases. I do not think future tax increases are a healthy or good idea for this economy but many Members here do. And some in good conscience will vote for this budget, assuming higher taxes will relieve the problem. In the President's own budget is an analysis of generational accounting. That shows that someone being born today will have to bear a tax burden that is in excess of 80 percent of his or her income to be able to fund the obligations that are already on the books.

Madam President, that is not my figure. Those are the figures brought to us by the President in his own budget. Someone born today will face tax rates in excess of 80 percent of what their whole income will be. That is inexcusable. Anyone who votes for this budget assuming that future tax increases are going to bail out the problem simply has not taken the time to do his or her homework. The fact is many in this country can have 100 percent of their income taken in future years and it will not be enough to meet the obligations that we lay on the taxpayers of this country already. It is a tragedy that we would, facing this problem, choose to react with a budget of this kind—a budget which simply says to the future that America's financial future is one of insolvency. That is what this budget is. It is a burden on the men and women of this country. It is a burden on the working people of this country. It is a burden on future generations. What we need is a budget that faces the problems and controls spending.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from Tennessee.

Mr. SASSER. Madam President, our distinguished friend from Colorado makes the point that this budget before us is different, in the sense that it shows growth in the deficits in the far outyears. Indeed it is different in that respect because this is the second truly honest budget that this Chamber has seen in 12 years.

In the times of David Stockman and in the times of Richard Darman, of course there was no growth in the deficit in the outyears—although we all knew it was there. It was not there, Madam President, because the books were crooked—that is why it was not there.

But what we have before this body today is a true representation of what is happening in the fiscal affairs of the Government of the United States of America and that in itself is refreshing and novel for a change. I want to commend the President and Chairman of the Office of Management and Budget, Mr. Panetta, for bringing that to us. We have a new era of budgeting now in this country that I hope will persevere beyond this administration and I suspect there are others on the other side of the aisle who share this view, that we will tell ourselves the truth about where we are with the deficit.

The truth is that this budget proposal that is before us today, that carries on where the budget proposal of last year left off, will reduce the deficit in the neighborhood of over $650 billion over the next 5 years. To give an example of the honesty of the projections that are used in this calculation, last year we were projecting a deficit reduction figure of slightly under $500 billion. But we find now that the legislation we enacted into law last year, because of increased economic activity, because of savings in a number of areas that were not anticipated, because we were not giving ourselves the benefit of the doubt in certain entitlement programs like Medicare and Medicaid—no rosy scenario, Madam President—we find now the hard reality is not that we overestimated our savings in years past. It is good news that we underestimated our savings. So what we are finding now is the deficit will come down not by $500 billion—I say to my friend from Alabama—but by $650 billion over the next 5 years. These deficits will be cut in half as a percent of gross domestic product.

I told the body this morning that during the decade of the 1980's, the deficits had soared to some 4.2 percent, on the average, of gross domestic product. We see that this budget before us will carry on the program of reducing the deficits to about 2.3 percent of gross domestic product, even lower than the average of the 1970's, when if memory serves me correctly, it was about 2.5 of GDP.

So we are bringing these deficits down by any measurement you want, either in actual dollars or as a percentage of GDP. To complain that in the outyears of 1999 or the year 2000, the deficits are going up and we ought to reject this, and this is a phony meas-

ure—well, Madam President, that stretches the limits of credulity.

Madam President, I simply wanted to take this opportunity to rebut some of the statements I have heard here today from the other side of the aisle. But the good news for the American people in this budget proposal for us today is not just that it is reducing the deficits, it is that it is reducing the national debt as a percent of the gross domestic product. We will be seeing the national debt as a percentage of the GDP, the gross domestic product, come down and start down for the first time in almost a quarter of a century and that is going to be a result of this deficit reduction effort we made last year which is carried out and carried on by this budget before this body here today.

So, Madam President, I think those who vote for this budget that is before this body today—and those who voted for this deficit reduction effort last year, some at great political cost to themselves because they put the interest of their country ahead of political interest—I would say to them that they can hold their heads high and they are doing the work that we were sent here to do.

Madam President, I yield the floor.

Mr. LOTT addressed the Chair.

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

Mr. LOTT. Madam President, I yield myself 15 minutes under the time of Senator DOMENICI.

I just listened to the remarks of the distinguished chairman of the Budget Committee. I found them to be very interesting.

There is no question that in this budget resolution we have before us the deficit projections are lower, but are they real? First of all, we still have large deficits. But second, I question whether or not this is a real, honest budget projection. What is alarming about the projections that we have here is that they do not include funding for health care. We have heard Chairman DANNY ROSTENKOWSKI, chairman of the Ways and Means Committee in the House, saying the health care reform package could cost $40 billion or more. He has suggested not once, but repeatedly, that what we need is a new, broad-based tax increase to pay for it. But even the President has indicated he probably does not want to go along with that, although he did not reject the idea of a new broad-based tax increase completely. He just said he did not think it would be necessary for health care reform.

If we do not have the tax increases and we have a health care plan passed this year that costs $40 billion, clearly, it would add to the deficit. We do not know what that is going to be yet, and I know it is hard to project that.

Additionally, welfare reform is not included. Obviously, welfare reform is something we should try to do this year; we need a more responsible program. Many of the crime initiatives are not provided for in this budget resolution. We are probably going to adopt a major new crime conference report this year, and there are going to be costs associated with it. Many of these costs are not included in these budget projections before us.

Furthermore, there are no funds for GATT or for Superfund. There is also a significant Bottom-Up Review shortfall for the defense of the country, and there is no provision for that. We have unfortunately experienced a lot of natural disasters recently. While the Federal Government has repeatedly offered financial assistance, this budget contains no provision for disaster relief.

I have named a number of major programs that are going to have increased costs this year that are not included in these projections. So if, in fact, the deficit is projected in this budget to be between $175 billion and $200 billion in the next fiscal year, in reality it will probably be considerably higher.

The estimates are that the Federal deficit will decline to an estimated $175 billion in 1995, remain unchanged at about $174 billion in 1996, and then trend upward to nearly $200 billion, in 1999 under the assumptions of this resolution.

The debt, by the end of fiscal year 1993, was $4.4 trillion. By 1999, it will be $6.3 trillion. So for the fiscal years 1994 through 1999, the projected growth in the national debt is $1.954 trillion.

In addition to that, interest rates are continuing to rise. The Government's interest rates, and their payments on this debt, will increase, raising the deficit and the debt even higher. In fact, the gross interest on the debt in fiscal year 1994 is approximately $300 billion; in fiscal year 1995, it will increase to $311.8 billion.

So under this budget resolution that is praised for holding down the level of increase in the deficit, the fact of the matter is the deficit continues to go up and, therefore, the debt goes up every year. So you can see what will happen by the end of this decade: There is a steady increase every year in the debt and, therefore, of course, the interest we pay on that national debt. The red line on this chart tells the story, and that is why this budget resolution does not accomplish nearly what it should.

Let me go back and make out some of the points that need to be, I think, emphasized as to why this conference report is not the right thing to do.

Spending will grow by 2.4 percent between fiscal years 1994 and 1995 to $1.5 trillion. The problem is we only have $1.3 trillion in revenue estimated to be coming in. So you have the $200 billion gap there.

When the resolution was considered by the full Senate, we passed the Exon-Grassley amendment. It was adopted by the Senate, and it would have cut discretionary spending outlays by $26 billion over 5 years. You would have thought we were trying to just destroy the Federal budget with that amount of additional cuts.

So, in conference, that was reduced to $13 billion. This is only 0.15 percent of the total outlays. So the Exon-Grassley amendment just made a little bitty scratch on the surface of trying to control spending. And I emphasize again, the problem is not insufficient revenue—we have $1.3 trillion in revenue—the problem is still too much spending.

On the discretionary side, the budget increases funding for the Legal Services Corporation by 26 percent. It increases funding for the Civil Rights Division of the Justice Department by 32.3 percent. It also increases funding for the Environmental Law Division at the Justice Department by 15.3 percent.

I acknowledge, as many of the appropriators point out, that the deficit is not caused just by domestic discretionary spending. Much of it is driven by entitlement increases. But I do feel that we should have maintained the Exon-Grassley cuts, and we should not be adding new programs.

As a matter of fact, this budget resolution adds new entitlements. So while we say we are trying to control spending—and much of the problem is in the entitlement areas—we still find entitlement programs are being added. This budget assumes entitlement spending increases of over $5 billion relative to the CBO baseline, including additional spending for the agriculture crop insurance program, and others.

So you have significant increases in some of the discretionary programs, new entitlement programs, and increases in a number of old entitlement programs.

Another point that should be emphasized about this budget resolution is that taxes also go up. There will be an increase, a growth in taxes from $1.338 trillion in fiscal year 1995 to $1.630 trillion in fiscal year 1999; a 7 percent increase in taxes.

I want to emphasize with regard to the Exon-Grassley amendment, this language should not be applied to defense. Defense has already been cut too much, and that point has been raised by the distinguished Senator from New Mexico, by the chairman of the Armed Services Committee in the Senate, by the chairman of the Defense Appropriations Subcommittee in the House, Chairman MURTHA.

The real decisions on the defense budget will likely be made through the appropriations bills. The President made a pledge not to cut defense below the request he had made. As a matter of fact, if the cuts of Exon-Grassley are applied or disproportionately applied to defense, certainly that would bring

the number down to below what the President asked for. I assume the President will resist that very aggressively. If the cuts do not come from defense, defense spending will still decline from $270.7 billion in fiscal year 1995 to $257.6 billion in fiscal year 1999. The President's 1995 request is 35 percent below the 1985 level and represents the 10th straight year of real cuts to defense budget authority.

There is another thing I found very interesting in this conference report. It includes a provision that increases funding in excess of the fiscal year 1999 discretionary spending caps for IRS compliance initiatives, $405 million in BA and outlay beyond the caps in fiscal year 1995. Paying for a program "off-budget" under the claim it will save money, in my opinion, is certainly a dangerous precedent.

One thing we do not need is additional IRS agents. It is maintained that if we increase the number of IRS agents, we will get more money, but this has not been proven true. The IRS has seen an increase of over 40,000 full-time equivalents since 1982, roughly a 33-percent increase. The conference report could constitute an increase of IRS personnel of another 4 percent. I really question this procedure and also what results we are going to get. I assure you, if you ask the American people if they would support the idea of more IRS agents, they would strenuously object to it.

While I do not believe any more IRS agents should be hired period, there is no reason that this provision could not have been included in the President's budget. We should not pass it "off-budget."

Finally, this particular budget resolution does not contain any economic growth incentives, which is the only way to create real, lasting jobs. We debated that during the earlier Senate debate on the budget resolution. We proposed a $500 tax credit for children and incentives for individual retirement accounts. There were many provisions in there that would have provided growth incentives and created some jobs, but there is nothing in this budget resolution that would really help to stimulate the economy.

The conference report also includes 12 reserve funds. While these sound good because they require legislation be paid for, they basically pave the way for tax increases.

You say, how could that be? It is because reserve funds essentially exempt legislation that increases taxes to pay for higher spending from Budget Act points of order. I think this is a very dangerous procedure also. I do think it is a guarantee of one way that more taxes will be raised and, therefore, more money spent.

So there are many problems with this budget resolution. I note that in several instances this budget resolution is above what the President has asked. It seems that we should at least stay within or under what the President has asked. In international affairs, it is above what President Clinton has asked.

I also note that in the energy function, the conference report includes $1.6 billion in budget authority and 1.4 billion in outlays above what the President has asked. I do not know to exactly what these increases would be applied. It may be for good purposes, and I might even be inclined to support them. But I do think as a general rule we should at least hold spending down to under what the President has asked.

So, Madam President, I will vote against this budget resolution. I think there are many problems with it. And if you call this honesty in budgeting, I have to say I really have reservations about it because I think it is going to lead to tax increases, new entitlements, and more spending. I do not think the American people want that in their budget resolution.

I yield the floor, Madam President.

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

Mr. EXON. Mr. President, I yield myself such time as I shall consume from the time under the control of the majority.

Mr. President, I rise today to express my support for the conference report on the 1995 budget resolution. I want to first thank our chairman for his leadership and cooperation throughout this process. I recognize that it is very difficult to determine just what a majority of the Senate wants to achieve with a budget resolution and this year has, I believe, been more interesting than most in that regard.

As Members are well aware, Senator GRASSLEY and I successfully offered an amendment to the 1995 budget resolution during its markup by the Senate Budget Committee. Our amendment cut proposed discretionary spending by about $26.1 billion over the next 5 years. Although efforts were made during floor debate of the Senate version of the budget resolution to weaken the Exon-Grassley amendment, we were successful in protecting the $26 billion in cuts.

The House of Representatives, however, did not go along with our proposal. Although a motion to instruct their conferees to accept the Senate numbers was offered, it was narrowly defeated. It failed over there by a very few votes. As a result, the conferees were forced to compromise and have returned a conference report that retains $13 billion of the Exon-Grassley cuts.

Mr. President, the facts are that cutting the whole $26 billion was not in the cards. The House did not accept the Exon-Grassley cuts and Senator SASSER, Senator HOLLINGS, and Senator JOHNSTON responsibly negotiated a final package. The House has already passed this conference report and the responsible action for the full Senate at this point is to support the conference report as well.

But, the good news is that $13 billion of the Exon-Grassley cuts survived and that as a result we will continue to cut Government spending this year. There have been a number of attempts as the record clearly shows, to cut spending in recent months and many, if not most, Senators have supported one or several of those attempts. Yet, since passage of the deficit reduction bill last summer, we have not been successful, until now, in achieving any additional deficit reduction whatsoever.

It is important to keep in mind that the Exon-Grassley amendment achieved its cuts by lowering our discretionary spending caps over the next 4 years and by creating a point of order in the Senate should those caps be exceeded. The conference report substantially retains that language. In short, I believe the Exon-Grassley cuts will be sustained in the coming years as they have created a new base for discretionary spending.

I am, of course, disappointed that the entire Exon-Grassley cut was not retained in our conference report. I remain convinced that we could easily have cut the full $26.1 billion from discretionary spending over the next 5 years, where total spending will be over $2.7 trillion over that same period of time. President Clinton's own budget includes over $113 billion of spending increases in discretionary programs. We could have achieved the Exon-Grassley cuts merely by scaling back on the increases that some programs will enjoy over the coming years as I have proposed.

As for further reductions in defense spending, it is not my view that such action should be taken. The Exon-Grassley cuts could easily be made without reducing defense which has, as the Senator from New Mexico has correctly pointed out, already been cut significantly over the past few years. Yet, as I have often pointed out, our budget resolution does not make binding recommendations for spending within our various categories. That it is a task that has been left to the Senate Appropriations Committee, as required by the rules.

This budget resolution is indeed a victory for those of us who want to further cut spending in order to address our budgetary problems. Although the Exon-Grassley cuts were certainly modest, they do send, in my view, an important signal that Congress remains serious in its concern over our annual deficit spending and over our enormous national debt.

And, I would add that any Member who wants additional spending cuts this year should support this budget resolution. If this resolution fails to

pass, I question whether additional spending cuts will be made this year. In sum, a vote for this resolution is a vote for further deficit reduction and is the responsible vote on this point in time.

I am also pleased that the conferees agreed to change the baseline so that we pass a crop insurance reform bill this year. Although that change does have the immediate impact of raising our projected deficits over the next few years, it is important to keep in mind that the increased spending reflected in this budget resolution for crop insurance is to be offset by emergency spending on crop disaster payments, spending that is not in our budget but that will raise our deficits just as well.

In other words, the crop insurance proposal will offset on-budget spending with what has normally been off-budget spending. The net effect on our future deficits will likely be a wash, not an increase as technically shown in this conference agreement.

In fact, by most accounts, the crop insurance reform proposal will save money over the next few years and will actually decrease our deficit spending—exactly the opposite of what must be detailed in the budget resolution.

So, in conclusion, Mr. President, I want to once again thank Chairman SASSER for his efforts and cooperation throughout the battle on the budget. It has been a tough fight, and no one has emerged victorious on every issue, and that is the way it should be. Yet, I am proud of the cuts Senator GRASSLEY and I have been successful in achieving. It is, however, time for Congress to get our budget resolution behind us and move ahead with the appropriations process, which will follow.

I intend to support the conference report, and I urge my colleagues to do likewise. It is the only thing before us now, and not to accept this report, I think, would cause untold difficulties, including raising further the deficit that we are all very much concerned about.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time on the quorum call be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, it is my understanding that we are going to other business at 4:30. I have a bad angle on this clock. Is that 3 minutes or 2 minutes?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DOMENICI. Mr. President, I yield the 2 minutes we have remaining before getting off this measure for today to Senator GRAMM.

Mr. GRAMM. Mr. President, if the distinguished Senator would just respond to a question, we are going to go at 4:30 to the quotas and the death penalty issue and then we are going to have a series of votes. Will we come back to this tonight or will we come back tomorrow?

Mr. DOMENICI. The current request on the other side is that we come back to it tonight and set a time certain tomorrow to vote.

Can the Senator come back this evening and take 10 minutes or whatever he needs?

Mr. GRAMM. I can look at it. I obviously would rather do it tomorrow.

Given the time we have, I will just wait. We are getting ready to shift over to the other issues. I have about 10 minutes of points that I want to make about the budget. I can do that in the morning. Maybe we can work out a unanimous-consent request that we can come in in the morning and maybe have a certain amount of time equally divided and have a vote then and let the clock run down while we are gone tonight. It seems to me that would be a productive use of our time and no damage would be done on that basis.

Mr. DOMENICI. We will try to work on that basis.

Mr. GRAMM. Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, might I inquire what the pending order of business is?

CONGRESSIONAL GIFTS REFORM ACT

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, 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.

D'Amato amendment No. 1685, to express the sense of the Senate that the conferees on H.R. 3355, Violent Crime and Control Act, should reject the Racial Justice Act provisions.

Mr. D'AMATO. I believe we have ½ hour, equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Mr. President, I yield 2 minutes of my time to the Senator from Texas [Mr. GRAMM].

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I want to thank our dear colleague from New York for his leadership on this issue.

I am sure there are some people who are going to try to make this out as a very complicated issue, but it is a very, very simple issue.

If you take a look at the Statue of Justice, you will find that the Statue of Justice is a woman holding a scale of justice, but the woman is wearing a blindfold. The basic logic is that justice is aimed at looking only at the facts and giving an objective weighing of the facts so that every American will know that they are being judged on one thing, and that is their behavior relative to the law.

If the American judicial system has been built on one principle, that principle is that people are judged not by the color of their skin, not by their ethnic origin, but based on what they do, based on their own conduct.

We have before us now a bill that will turn that whole system of justice on its head, a bill that will strip away the blindfold and not only eliminate the system of impartiality, of which we have all been beneficiaries, but will, for the first time, mandate that ethnic origin and race be a major determinant in the setting of a sentence.

I believe that whether people get the death penalty or not should be determined solely based on their conduct, whether they committed a terrible crime that justifies that their life be taken in punishment for committing that crime. It ought not to be determined based on who their parents are, based on the color of their skin, based on the ethnic group that they come from. That has always been the system of American justice and it ought to always be.

The PRESIDING OFFICER. The Senator has spoken for 2 minutes.

Mr. D'AMATO. Mr. President, I yield 5 minutes to the senior Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the sense-of-the-Senate resolution.

The so-called Racial Justice Act has nothing to do with racial justice and everything to do with abolishing the death penalty. As I have explained in detailed floor statements over the past 2 weeks, the so-called Racial Justice Act would employ an unreliable and manipulable statistical quota to abolish the death penalty nationwide.

That is why State attorneys general and district attorneys throughout the country vigorously oppose it. That is why this Senate, with bipartisan majorities, has repeatedly rejected it. That is why we must reject it again.

Supporters of the so-called Racial Justice Act argue that the evils that this legislation would bring about are speculative. That is simply not true.

We need only look at actual, historical cases to recognize the pernicious effects that this legislation would have.

Take, for example, the case of Robert Alton Harris, who committed two brutal murders in 1978. Despite the fact that Harris confessed to the killings at least seven times, Harris managed to abuse the court system for over a decade until he was finally executed in 1992. Significantly, one of Harris' claims was based on an alleged statistical disparity in the imposition of the death sentence based on the race of the victim. Both of Harris' victims were white, and Harris himself was also white. Yet Harris sought to rely on alleged racial discrimination against minority victims. Based on the U.S. Supreme Court opinion in McCleskey versus Kemp, Harris' claim was denied.

Had the so-called Racial Justice Act been law when Harris' claim was being considered, there is no doubt that he would have been deemed to have satisfied the flimsy statistical showing needed to establish a fictitious inference that racial discrimination played a role in his receiving the death penalty. Thus, we would have had the bizarre spectacle of a brutal white murderer invoking the rights of hypothetical black victims in order to avoid just punishment for his heinous crimes.

Unfortunately, far from being unusual, this would be par for the course if the Racial Justice Act were to become law. Indeed, the heinous killer John Wayne Gacy, a white racist who was convicted of 33 murders dating back two decades and who was executed in Illinois Tuesday morning, would undoubtedly have obtained relief and yet further delay if the so-called Racial Justice Act had previously been in effect.

The tremendous—indeed, prohibitive—costs that the so-called Racial Justice Act would impose on the States are illustrated by another California case, involving a convicted murderer named Earl Lloyd Jackson. In 1984, the California Supreme Court held that Jackson was entitled to an evidentiary hearing on his statistical claim that the death penalty in California was being discriminatorily imposed.

Jackson then requested a veritable mountain of statewide homicide data, just as any murderer would do under the so-called Racial Justice Act. The California attorney general's office and the Los Angeles County district attorney's office were forced to create a special task force to marshall a response to Jackson's claims.

Over the course of 3 years, State taxpayers expended more than $1 million to prepare for the evidentiary hearing. Ultimately, the hearing was canceled because of the Supreme Court's ruling in McCleskey. But if the so-called Racial Justice Act becomes law, States will either be forced to divert their scarce law enforcement resources into fighting a battle of statistics, or they will have no choice but to abandon the death penalty.

As these examples illustrate, the Racial Justice Act is nothing more than a Death Penalty Abolition Act. For this reason, I urge my colleagues to support the sense-of-the-Senate resolution.

I also ask unanimous consent that resolutions, statements, and letters from law enforcement officials and victims groups be printed in the RECORD, along with a letter from 35 Republican Senators to President Clinton.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 3, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We, the undersigned Senators, respectfully urge you to state publicly your opposition to Title IX of the House-passed crime bill, which would impose on the death penalty an unreliable and manipulable statistical quota and which would effectively lead to its abolition. Title IX, which is often mislabeled by its supporters as the Racial Justice Act, has nothing to do with racial justice and everything to do with abolishing the death penalty. That is why its provisions have been strongly opposed by the National Association of Attorneys General, the National District Attorneys Association, and other law enforcement and victims groups.

As your own public support for the death penalty recognizes, the death penalty plays an important role in any comprehensive approach to the crime problems that plague our nation. We urge you to work actively to oppose those who would undermine the death penalty.

Sincerely,

Bob Dole; Strom Thurmond; Chuck Grassley; Don Nickles; Orrin Hatch; Al Simpson; Phil Gramm; Paul Coverdell; Connie Mack; Al D'Amato; Lauch Faircloth; Richard G. Lugar; Mitch McConnell; Kay Bailey Hutchison; Nancy Landon Kassebaum; Arlen Specter; Kit Bond; Dirk Kempthorne; Judd Gregg; John McCain; Slade Gorton; Hank Brown; R.F. Bennett; Jesse Helms; Malcolm Wallop; Larry Pressler; Frank H. Murkowski; Bob Smith; Pete V. Domenici; Conrad Burns; Larry E. Craig; Thad Cochran; Bill Roth; Ted Stevens.

MAY 6, 1994.

DEAR HOUSE-SENATE CONFEREES: On April 21, 1994, the U.S. House of Representatives passed the omnibus crime bill, H.R. 4092. One feature of this legislation (included in Title IX) is a measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief. The Senate omnibus crime bill, now included in H.R. 3355, adopted in November 1993, contains no such legislation.

We are a bipartisan group of chief law enforcement officers of our respective States. We write in strong opposition to any omnibus crime bill reported by the House-Senate Conference Committee which may include any version of the so-called Racially Discriminatory Capital Sentencing Act, or any other statistical showings legislation which overturns the U.S. Supreme Court's holding in McCleskey v. Kemp, 481 U.S. 279 (1987). Such statistical showings legislation seriously undermines enforcement of the death penalty.

In McCleskey, the U.S. Supreme Court rejected a claim which would allow capital defendants to make a statistical showing of potential race discrimination from unrelated cases as a basis for collateral relief. The Court correctly held that a defendant who contests his capital sentence on the basis of racial discrimination is required to prove that the decision makers in his or her own case acted with a discriminatory purpose.

We are strongly opposed to any race bias in our criminal justice system, and believe that all criminal penalties should be administered without regard to the race or color of the defendant or the victim. Instead of protecting against race bias, the Racially Discriminatory Capital Sentencing Act would impose a quota system on the imposition of the death penalty. This is unacceptable.

Below is the relevant language of the March 21, 1994 resolution of the National Association of Attorneys General (NAAG) which sets forth our opposition to the statistical showings legislation now found in Title IX of H.R. 4092:

Whereas, the U.S. House Judiciary Committee recently reported out [and the U.S. House of Representatives has now adopted]: . . . (2) a measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief;

Now, therefore, be it resolved that the National Association of Attorneys General:

(1) strongly supports all efforts to strike . . . from an omnibus anticrime bill: . . . *any statistical showings legislation;*

(2) opposes . . . *R. 4092, Title IX], or any measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief;* . . . (Italics added.)

As the chief law enforcement officers of our respective States, we are profoundly disturbed that this legislation, in its current form, or any version thereof, will (1) essentially stop the prosecution and enforcement of capital cases; (2) allow current death row inmates to reopen already adjudicated claims or bring new claims based upon a statistical showing from unrelated cases; and (3) jeopardize the enactment of other measures included in the omnibus crime bill.

This open-ended legislation permits the capital defendant to establish an inference that race was a factor in seeking or imposing the death penalty in his or her own case based on the same decisions made in other murder cases. Following such an inference, under the bill, "the death sentence may not be carried out unless the government rebuts the inference." However, review of the bill language shows that it would be extremely difficult (if not impossible, and only at great time and cost to the State) to rebut this inference, as the bill imposes severe constraints on the ability of the government to rebut the statistical case. For this reason, the legislation essentially abolishes the death penalty.

Specifically, the bill provides "[u]nless [the government] can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for im-

position of the death penalty." This means that in order to rebut the inference that racial factors were involved in a particular murder case, the government must review all charging decisions of capital eligible cases, whether or not charged as a capital crime, all decisions to seek or not seek the death penalty, and all decisions of juries to impose or not impose the death penalty. This virtually-impossible review would be necessary under the bill in order to demonstrate that these decisions were not racially motivated.

The initial "inference" of racial discrimination under the bill, however, fails to take account of the fact that each murder case has unique factual circumstances, different strength of evidence, and different mitigating and aggravating factors relating to each defendant, which may account for the ultimate decisions to seek or not seek, or to impose or not impose, the death sentence in those particular cases. Statistics from unrelated cases should never be used to determine the outcome of any criminal case, which should instead be based solely on whether the charged offense was committed by the defendant. The difficulty in rebutting an "inference" of racial discrimination based on alleged statistical disparities from multiple unrelated cases is so profound and so potentially expensive as to essentially bring the prosecution of capital cases to a halt.

Therefore, consistent with the NAAG resolution, we support any efforts to eliminate the Racially Discriminatory Capital Sentencing Act from the omnibus crime bill. This includes instructions in the House or Senate to the conferees to take whatever measures are necessary to ensure that no crime bill is made law with these provisions in it.

Further, we strongly believe that statistical showings legislation, by whatever name it is referred to, has proven to be a contentious issue in prior Congresses and in fact was in large part responsible for the deadlock on the omnibus crime bill in past Congresses. The need to address violent crime is too urgent to delay deliberation on other important measures to combat crime. If Congress is serious about enacting an omnibus crime measure, it must strike the so-called Racially Discriminatory Capital Sentencing Act, which will only detract from the ultimate passage of the crime bill.

Sincerely,

Larry Echohawk, Attorney General of Idaho; Daniel E. Lungren, Attorney General of California; James S. Gilmore, Attorney General of Virginia; Frankie Sue Del Papa, Attorney General of Nevada; Joseph P. Mazurek, Attorney General of Montana; Robert A. Butterworth, Attorney General of Florida; Dan Morales, Attorney General of Texas; Ernest D. Preate, Jr., Attorney General of Pennsylvania; Grant Woods, Attorney General of Arizona; Jan Graham, Attorney General of Utah; Deborah T. Poritz; Attorney General of New Jersey; Joseph B. Meyer, Attorney General of Wyoming; Mike Moore, Attorney General of Mississippi; Chris Gorman, Attorney General of Kentucky; Jimmy Evans, Attorney General of Alabama; Don Stenberg, Attorney General of Nebraska; Jeffrey R. Howard, Attorney General of New Hampshire; Robert T. Stephan, Attorney General of Kansas; Gale A. Norton, Attorney General of Colorado; Jeffrey B. Pine, Attorney General of Rhode Island; Susan B. Loving, Attorney General of Oklahoma; Malaetasi Togafau, Attorney General of American Samoa; Charles M. Oberly III, Attorney General of Delaware; Mark W. Barnett, Attorney General of South Dakota; John M. Bailey, Chief State's Attorney of Connecticut; Tom Udall, Attorney General of New Mexico T. Travis Medlock, Attorney General of South Carolina; Michael J. Bowers, Attorney General of Georgia; Richard P. Ieyoub, Attorney General of Louisiana; Jeremiah W. (Jay) Nixon, Attorney General of Missouri.

APRIL 12, 1994.

Hon. JACK BROOKS,
Chairman, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

Hon. HAMILTON FISH, Jr.,
Ranking Minority Member, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMEN: We are a bipartisan group of chief law enforcement officers of our respective States who are responsible for overseeing federal capital and non-capital habeas litigation and for enforcing state criminal law in death penalty and non-death penalty jurisdictions.

We wish to express our views on the need to strike habeas corpus as part of the House omnibus crime bill, and on some of the amendments which have been offered. Specifically, we write in strong support of the Hyde Amendment (to strike the habeas provisions contained in the crime bill, H.R. 4092, Title VIII) and strong support for the McCollum Amendment (to substitute the Equal Justice Act for legislation in Title IX of H.R. 4092 which provides relief based on mere statistical showings from unrelated cases). This is consistent with the recently adopted Resolution of the National Association of Attorneys General (NAAG), a copy of which is attached.

SUPPORT THE HYDE AMENDMENT TO STRIKE TITLE VIII AND OPPOSE ANY OTHER HABEAS AMENDMENTS TO TITLE VIII (INCLUDING THE DERRICK AMENDMENT)

Several reasons compel our strong support for the Hyde Amendment to strike the habeas provisions from the omnibus crime bill.

First, the Hyde Amendment is consistent with a similar bipartisan amendment, which was offered by Senator Dianne Feinstein and Senator Orrin Hatch, and which was unanimously agreed to last year in the Senate.

Second, we believe that the habeas provisions contained in Title VIII of H.R. 4902 may once again hold up consideration and enactment of other important crime reform issues. Habeas corpus reform has proven to be a contentious issue in prior Congresses and in fact was in large part responsible for the deadlock on the omnibus crime bill in the last Congress. The need to address violent crime is too urgent to delay deliberation on other measures to combat crime. Similarly, we believe there is a danger that the other provisions of the crime bill may be viewed as so important that habeas provisions will be swept into the omnibus package without sufficient review and analysis of their long term impact and legal significance, as discussed below.

Third, there are other precedents for severing certain specific crime reform issues from omnibus crime bills. They include, for example, the Brady bill (five-day waiting period for handgun purchases).

We believe stronger reasons support the severance of the habeas provisions from the crime bill. Such a severance would allow the provisions of any habeas reform bill to be considered on their own merits. Habeas corpus, while an important part of our criminal justice system, is a specialized and arcane area of the law. Any reforms adopted by the Congress in this area will have tremendous ramifications on the operations of the criminal justice system, law enforcement, and victims of crime, and therefore warrant independent consideration.

We have previously expressed a commitment to obtaining meaningful reform of the federal habeas corpus process, along the lines of the Powell Committee Report. This Report endorses the so-called "one bite at the habeas apply" approach, enabling state prisoners one fair and complete round of habeas litigation in federal court. We need effective reforms to curb unnecessary delay and repetitious litigation which has become all too common under the current federal habeas corpus process. Such reforms should, however, be considered in separate legislation.

Fourth, the legislation reported out by the House Judiciary Committee, and now included in Title VIII of H.R. 4092, would, according to the recent NAAG Resolution, "adversely affect all capital and non-capital habeas litigation in the States and effectively stop all state capital case prosecutions and executions under valid state capital sentencing schemes." The legislation would overturn or modify numerous key U.S. Supreme Court precedents which promote finality in our criminal justice process. This includes the Teague doctrine, which is essential for capital and non-capital cases. Instead of streamlining the process, this legislation will provide convicted criminals with more opportunities to challenge their conviction and sentence than under current law. The legislation also fails to respect the state trial as the "main event" in our criminal justice process, and is inconsistent with established comity doctrines respecting the role of state court proceedings in the enforcement of state criminal law.

Fifth, the last-minute efforts of some to offer new habeas amendments to the crime bill on the House floor deprive members of Congress and the public from a full and fair opportunity to study and comment on the legislation. In congressional committee hearings or mark-up concerning specific bill language, law enforcement and victim rights groups normally are given a chance to apprise the Congress of their views concerning the impact of new language or standards. When amendments are patched together at the last minute, this opportunity is denied.

These concerns are especially true for habeas corpus reform. New proposals, which have not been subject to public review, may also have drastic ramifications on the operations and costs of our departments and the criminal justice system and have serious consequences on finality, the enforcement of state laws, and victims. Any habeas reforms included in the crime bill would constitute the first major change to the federal habeas statute since 1966. Because of the tremendous changes to current law which would result under any last-minute amendments, we believe Congress should proceed carefully and deliberately before considering any new habeas reform proposals.

For example, over the last several years, the U.S. Supreme Court has rendered many opinions which have clarified the role of federal court review of state court judgments; promoted the interest in finality and closure for surviving victims; and respected the interests of states and the enforcement of state laws in our federalism system. We fear that if Congress does not fully and fairly

consider the import of proposed new language, these and other precedents will be cast aside and more delay and litigation will result. In addition, concerns have been noted over the impact of new amendments on the deterrent objective of the death penalty. All of these consequences should be carefully studied before Congress considers Amendments offered on the floor of the House for the first time. We believe the public would best be served by complete congressional hearings before any new Amendments are debated in the House.

We understand that a new habeas amendment is also expected to be offered by Congressman Butler Derrick of South Carolina. Preliminary review shows that this amendment is also worse than current law and would overturn numerous key U.S. Supreme Court cases governing habeas corpus. For these reasons, we therefore oppose the Derrick Amendment or any other amendments which may be offered at the last minute to Title VIII of H.R. 4092. Any habeas reform measure should be considered in a separate bill, after the public has had a full and fair opportunity to comment on the proposed legislation.

In sum, while we strongly support habeas corpus reform, we believe it should be accomplished in a deliberative, studied and independent manner. For these reasons, we wholeheartedly support the Hyde Amendment to strike the habeas provisions (Title VIII) from H.R. 4092.

SUPPORT THE MCCOLLUM AMENDMENT (AND ANY OTHER EFFORTS TO STRIKE TITLE IX); OPPOSE ALL OTHER AMENDMENTS TO TITLE IX (INCLUDING THE EDWARDS OR WASHINGTON AMENDMENTS)

With regard to Title IX of H.R. 4092, concerning racially discriminatory capital sentencing, we strongly support the McCollum Amendment, and any other efforts to strike Title IX of H.R. 4092, as discussed below. The McCollum Amendment, which passed the House in the last Congress, would (1) strike Title IX (which provides relief based on mere statistical showings from unrelated cases), and (2) substitute the Equal Justice Act.

Significantly, the McCollum Amendment would apply to all penalties, not merely capital punishment, and would codify existing case law protections against racial bias. The Equal Justice Act expressly prohibits racially discriminatory policies. The legislation states that any penalty "shall be administered . . . without regard to the race or color of the defendant or the victim" and prohibits "any racial quota or statistical test" for any penalties. Finally, the Equal Justice Act provides safeguards during the trail, not after-the-fact like statistical showings legislation.

As the recent NAAG Resolution noted, NAAG opposes "any measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief." Such statistical showings legislation seriously undermines enforcement of the death penalty.

In *McCleskey* v. *Kemp*, the U.S. Supreme Court rejected a claim which would allow capital defendants to make a statistical showing of potential race discrimination from unrelated cases as a basis for collateral relief. The Court correctly held that a defendant who contests his capital sentence on the basis of racial discrimination is required to prove that the decision makers in his or her own case acted with a discriminatory purpose.

For these reasons, we strongly oppose title IX of H.R. 4092, or any amendment (including the Edwards and Washington Amendments) which would overturn *McCleskey* v. *Kemp* or provide appellate or collateral relief on mere statistical showings from unrelated cases.

CONCLUSION

In sum, we strongly urge the U.S. House of Representatives to: (1) support the Hyde Amendment and oppose all other amendments which may be offered on Title VIII; and (2) support the McCollum Amendment and oppose Title IX or any other amendments which may be offered on title IX. We oppose any amendments or legislation which would weaken current law or provide convicted individuals with greater opportunities to challenge their conviction or sentence. We remain available to work with you to accomplish meaningful federal habeas corpus reform through separate legislation.

Sincerely,

Larry Echohawk, Attorney General of Idaho; Frankie Sue Del Papa, Attorney General of Nevada; Dan Morales, Attorney General of Texas; Daniel E. Lungren, Attorney General of California; Joseph P. Mazurek, Attorney General of Montana; Robert A. Butterworth, Attorney General of Florida; Grant Woods, Attorney General of Arizona; Mark Barnett, Attorney General of South Dakota; Michael F. Easley, Attorney General of North Carolina; Bruce Botelho, Attorney General of Alaska; James S. Gilmore, Attorney General of Virginia; Ernest D. Preate, Jr., Attorney General of Pennsylvania; Heidi Heitkamp, Attorney General of North Dakota; Jeff Amestoy, Attorney General of Vermont; Jimmy Evans, Attorney General of Alabama; Gale A. Norton, Attorney General of Colorado; Robert A. Marks, Attorney General of Hawaii; Deborah T. Poritz, Attorney General of New Jersey; Joseph B. Meyer, Attorney General of Wyoming; Jan Graham, Attorney General of Utah; Tom Udall, Attorney General of New Mexico; Jeffrey R. Howard, Attorney General of New Hampshire; Don Stenberg, Attorney General of Nebraska; Jeffrey B. Pine, Attorney General of Rhode Island; T. Travis Medlock, Attorney General of South Carolina; Robert T. Stephan, Attorney General of Kansas; Pamela Carter, Attorney General of Indiana; John M. Bailey, Chief State's Attorney General of Connecticut; Elizabeth Barrett-Anderson, Attorney General of Guam; Susan B. Loving, Attorney General of Oklahoma; Jeremiah W. (Jay) Nixon, Attorney General of Missouri; Frank J. Kelley, Attorney General of Michigan.

CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION—ADOPTED APRIL 29, 1994, CONCERNING THE RACIAL JUSTICE ACT

Whereas, the California District Attorneys Association is an organization composed of the elected District Attorneys of California's fifty-eight counties and 3,000 deputy district attorneys and city prosecutors;

Whereas, on April 21, 1994, the U.S. House of Representatives adopted the omnibus crime bill, H.R. 4092, which included in Title IX legislation, referred to, and known as, the Racial Justice Act (or the Racially Discriminatory Capital Sentencing Act);

Whereas, on April 20, 1994, the U.S. House of Representatives narrowly defeated the McCollum Amendment to strike the Racial Justice Act from the House crime bill and substitute in its place the Equal Justice Act. [The vote was an effective 212 and 212 tie, after the votes of the five Delegate members were excluded under recent House Rules.];

Whereas, the Racial Justice Act would, first, permit a capital case defendant to make a statistical showing that death sentences are being imposed or administered in a disproportionate manner upon (1) persons of one race or (2) as punishment for capital offenses against persons of one race, and, second, require the prosecutor to rebut this statistical showing "by a preponderance of the evidence";

Whereas, in the 102d Congress, on June 20, 1991, the U.S. Senate voted to strike a similar measure entitled the Racial Justice Act out of the omnibus crime measure by a bipartisan vote of 55 to 41 (this was the third successive Congress in which the U.S. Senate rejected the Racial Justice Act), and on October 22, 1991, the U.S. House of Representatives voted to strike a similar measure by a bipartisan vote of 223 to 191;

Whereas, the U.S. Supreme Court rejected a discrimination claim founded solely upon statistics, in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987).

Now, therefore, be it resolved that in light of the urgency and importance of this matter, all 58 California District Attorneys, having been polled, unanimously:

(1) Oppose any version of the Racial Justice Act, for the following reasons:

(a) The Racial Justice Act would result in the effective abolition of capital punishment.

This would result because of the inherent evidentiary difficulties and inevitable vast expenditures of time and money in litigation in every post-conviction capital case, to prove by at least a preponderance of the evidence a negative, to wit, that race was not the basis for *any* of the prosecutor's, jury's, or judge's decisions. [The Racial Justice Act contains a virtually impossible rebuttal burden: "Unless [the prosecutor or State] can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.];

(b) Moreover, as to adjudicated cases, the retroactive application of the Racial Justice Act would permit convicted capital defendants to reopen their cases by presenting discrimination claims (regardless of whether such claims had previously been rejected). In California, there are currently 376 individuals on death row. The retroactive provision in the Racial Justice Act as passed by the House would potentially affect these cases as well as others around the nation;

(c) The statistical premise of any version of the Racial Justice Act is unsound, for several reasons, including:

(i) It disregards the fundamental precept of our criminal justice system that an individual is tried on the facts of his or her case, not on the facts or circumstances or statistics from unrelated cases;

(ii) It overturns the U.S. Supreme Court's rejection of such a statistical premise, where the Court noted with regard to the Baldus study: "Even Professor Baldus does not contend that his statistics *prove* that race enters into any capital sentencing decisions or that race was a factor in McCleskey's particular case. Statistics at most may show only a likelihood that a particular factor entered into some decisions. *McCleskey* v. *Kemp*, 481 U.S. 279, 308 (1987) (emphasis in original); and

(iii) Its statistical showing fails to establish that the imposition of capital punish-

ment in a particular case is predicated on any bias; and

(d) The Racial Justice Act would permit the "second-guessing" of capital case decisions by prosecutors, defense counsel, judges and juries based upon the information and statistics required to be maintained under the Act;

(e) The Racial Justice Act eliminates the traditional deference to state-court findings of fact, 28 U.S.C. §2255(d); *Sumner* v. *Mata*, 449 U.S. 539 (1981), if the state fails to collect or maintain adequate records required under the Act, and causes the individual conviction, though lawfully and justifiably imposed, to be unduly placed in jeopardy ;

(f) The potential cost of compliance on states and local entities would be exorbitant, as demonstrated by one California case (*In re Earl Jackson*) which took three years to prepare for an evidentiary hearing and cost more than $1,000,000. The evidentiary hearing was never held, after the *McCleskey v. Kemp* ruling was rendered;

(g) The Racial Justice Act encourages a quota system for capital punishment cases by in effect introducing "race consciousness" into capital case decisions.

(2) Opposes any legislation which would undermine or otherwise modify the holding in *McCleskey v. Kemp*, 481 U.S. 279 (1987);

(3) Calls upon the U.S. House of Representatives and U.S. Senate to reject any version of the Racial Justice Act as part of any package of federal habeas corpus reform or any crime bill;

(4) Opposes any legislation, including the omnibus crime bill to be reported by the conference committee, which includes any version of the Racial Justice Act. Any meaningful provisions contained in the crime bill are completely undermined by inclusion of the Racial Justice Act, which is antithetical to fundamental notions under our criminal justice system. If the omnibus crime bill contains any version of the Racial Justice Act, we recommend it be voted down until this legislation is removed.

Be it further resolved by the California District Attorneys Association that its Executive Director shall transmit a copy of this resolution to the U.S. Senators and Representatives in the California delegation and to members of the Senate and House Committees on the Judiciary.

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL—RESOLUTION CONCERNING THE RACIAL JUSTICE ACT, ADOPTED MAY 3, 1994

Whereas, the Arizona Prosecuting Attorneys' Advisory Council is composed of the Arizona Attorney General, all fifteen elected County Attorneys, four City Prosecutors, the Dean of one of Arizona's law schools and the Chief Justice of the Arizona Supreme Court or his designee;

Whereas, on April 21, 1994, the U.S. House of Representatives adopted the omnibus crime bill, H.R. 4092, which included in Title IX legislation, referred to, and known as, the Racial Justice Act (or the Racially Discriminatory Capital Sentencing Act);

Whereas, on April 20, 1994, the U.S. House of Representatives narrowly defeated the McCollum amendment to strike the Racial Justice Act from the House crime bill and substitute in its place the Equal Justice Act. [The vote was an effective 212 to 212 tie, after the votes of the five Delegate members were excluded under recent House Rules.];

Whereas, the Racial Justice Act would, first, permit a capital case defendant to make a statistical showing that death sentences are being imposed or administered in a disproportionate manner upon (1) persons of one race or (2) as punishment for capital offenses against persons of one race, and, second, require the prosecutor to rebut this statistical showing "by a preponderance of the evidence";

Whereas, in the 102d Congress, on June 20, 1991, the US. Senate voted to strike a similar measure entitled the Racial Justice Act out of the omnibus crime measure by a bipartisan vote of 55 to 41 (this was the third successive Congress in which the U.S. Senate rejected the Racial Justice Act), and on October 22, 1991, the U.S. House of Representatives voted to strike a similar measure by a bipartisan vote of 223 to 191;

Whereas, the U.S. Supreme Court rejected a discrimination claim founded solely upon statistics, in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987).

Now, therefore, having polled the members of the Arizona Prosecuting Attorneys' advisory council, be it resolved that the council:

(1) Opposes any version of the Racial Justice Act, for the following reasons:

(a) The Racial Justice Act would result in the effective abolition of capital punishment.

This would result because of the inherent evidentiary difficulties and inevitable vast expenditures of time and money in litigation in every post-conviction capital case, to prove by at least a preponderance of the evidence a negative, to wit, that race was not the basis for any of the prosecutor's, jury's, or judge's decisions. [The Racial Justice Act contains a virtually impossible rebuttal burden: "Unless [the prosecutor or State] can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty."];

(b) Moreover, as to adjudicated cases, the retroactive application of the Racial Justice Act would permit convicted capital defendants to reopen their cases by presenting discrimination claims (regardless of whether such claims had previously been rejected). In Arizona, there are currently 121 individuals on death row. The retroactive provision in the Racial Justice Act as passed by the House would potentially affect these cases as well as others around the nation;

(c) The statistical premise of any version of the Racial Justice Act is unsound, for several reasons, including;

(i) It disregards the fundamental precept of our criminal justice system that an individual is tried on the facts of his or her case, not on the facts or circumstances or statistics from unrelated cases;

(ii) It overturns the U.S. Supreme Court's rejection of such a statistical premise, where the Court noted with regard to the Baldus study: "Even Professor Baldus does not contend that this statistics prove that race enters into any capital sentencing decisions or that race was a factor in McCleskey's particular case. Statistics at most may show only a likelihood that a particular factor entered into some decisions." *McCleskey v. Kemp*, 481 U.S. 279, 308 (1987) (emphasis in original); and

(iii) Its statistical showing fails to establish that the imposition of capital punishment in a particular case is predicated on any bias; and

(d) The Racial Justice Act would permit the "second-guessing" of capital case decisions by prosecutors, defense counsel, judges and juries based upon the information and statistics required to be maintained under the Act;

(e) The Racial Justice Act eliminates the traditional deference to state-court findings of fact, 28 U.S.C. §2254(d); *Summer v. Mata*, 449 U.S. 539 (1981), if the state fails to collect or maintain adequate records required under the Act, and causes the individual conviction, though lawfully and justifiably imposed, to be unduly placed in jeopardy;

(f) The potential cost of compliance on states and local entities would be exorbitant, as demonstrated by one California case (*In re Earl Jackson*) which took three years to prepare for an evidentiary hearing and cost more than $1,000,000. The evidentiary hearing was never held, after the *McCleskey v. Kemp* ruling was rendered;

(g) The Racial Justice Act encourages a quota system for capital punishment cases by in effect introducing "race consciousness" into capital case decisions.

(2) Opposes any legislation which undermine or otherwise modify the holding in *McCleskey v. Kemp*, 481 U.S. 279 (1987);

(3) Calls upon the U.S. House of Representatives and U.S. Senate to reject any version of the Racial Justice Act as part of any package of federal habeas corpus reform or any crime bill;

(4) Opposes any legislation, including the omnibus crime bill to be reported by the conference committee, which includes any version of the Racial Justice Act. Any meaningful provisions contained in the crime bill are completely undermined by inclusion of the Racial Justice Act, which is antithetical to fundamental notions under our criminal justice system. If the omnibus crime bill contains any version of the Racial Justice Act, we recommend it be voted down until this legislation is removed.

Be it further resolved by the Arizona Prosecuting Attorneys' Advisory Council that its Acting Executive Director shall transmit a copy of this resolution to the U.S. Senators and Representatives in the Arizona delegation and to members of the Senate and House Committees on the Judiciary.

WASHINGTON ASSOCIATION OF PROSECUTING ATTORNEYS—ADOPTED MAY 2, 1994, CONCERNING THE RACIAL JUSTICE ACT

Whereas, the Washington Association of Prosecuting Attorneys is an organization composed of the elected Prosecuting Attorneys of the Washington's thirty-nine counties and their deputy prosecuting attorneys;

Whereas, on April 21, 1994, the U.S. House of Representatives adopted the omnibus crime bill, H.R. 4092, which included in Title IX legislation, referred to, and known as, the Racial Justice Act (or the Racially Discriminatory Capital Sentencing Act);

Whereas, on April 20, 1994, the U.S. House of Representatives narrowly defeated the McCollum Amendment to strike the Racial Justice Act from the House crime bill and substitute in its place the Equal Justice Act. [The vote was an effective 212 to 212 tie, after the votes of the five Delegate members were excluded under recent House Rules.];

Whereas, the Racial Justice Act would, first, permit a capital case defendant to make statistical showing that death sentences are being imposed or administered in a disproportionate manner upon (1) persons of one race or (2) as punishment for capital offenses against persons of one race, and, second, require the prosecutor to rebut this statistical showing "by a preponderance of the evidence";

Whereas, in the 102d Congress, on June 20, 1991, the U.S. Senate voted to strike a simi-

lar measure entitled the Racial Justice Act out of the omnibus crime measure by a bipartisan vote of 55 to 41 (this was the third successive Congress in which the U.S. Senate rejected the Racial Justice Act), and on October 22, 1991, the U.S. House of Representatives voted to strike a similar measure by a bipartisan vote of 223 to 191;

Whereas, the U.S. Supreme Court rejected a discrimination claim founded solely upon statistics, in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987).

Now, therefore, be it resolved that in light of the urgency and importance of this matter, the Washington Association of Prosecuting Attorneys:

(1) Oppose any version of the Racial Justice Act, for the following reasons:

(a) The Racial Justice Act would result in the effective abolition of capital punishment.

This would result because of the inherent evidentiary difficulties and inevitable vast expenditures of time and money in litigation in every post-conviction capital case, to prove by at least a preponderance of the evidence a negative, to wit, that race was not the basis for any of the prosecutor's, jury's, or judge's decisions. [The Racial Justice Act contains a virtually impossible rebuttal burden: "Unless [the prosecutor or State] can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.];

(b) Moreover, as to adjudicated cases, the retroactive application of the Racial Justice Act would permit convicted capital defendants to reopen their cases by presenting discrimination claims (regardless of whether such claims had previously been rejected).

(c) The statistical premise of any version of the Racial Justice Act is unsound, for several reasons, including:

(i) It disregards the fundamental precept of our criminal justice system that an individual is tried on the facts of his or her case, not on the facts or circumstances or statistics from unrelated cases;

(ii) It overturns the U.S. Supreme Court's rejection of such a statistical premise, where the Court noted with regard to the Baldus study: "Even Professor Baldus does not contend that his statistics prove that race enters into any capital sentencing decisions or that race was a factor in McCleskey's particular case. Statistics at most may show only a likelihood that a particular factor entered into some decisions." *McCleskey* v. *Kemp*, 481 U.S. 279, 308 (1987) (emphasis in original); and

(iii) Its statistical showing fails to establish that the imposition of capital punishment in a particular case is predicated on any bias; and

(d) The Racial Justice Act would permit the "second-guessing" of capital case decisions by prosecutors, defense counsel, judges and juries based upon the information and statistics required to be maintained under the Act;

(e) The Racial Justice Act eliminated the traditional deference to state-court findings of fact, 28 U.S.C. §2254(d); *Sumner* v. *Mata*, 449 U.S. 539 (1981), if the state fails to collect or maintain adequate records required under the Act, and causes the individual conviction, though lawfully and justifiably imposed, to be unduly placed in jeopardy;

(f) The potential cost of compliance on states and local entities would be exorbitant;

(g) The Racial Justice Act encourages a quota system for capital punishment cases by in effect introducing "race consciousness" into capital case decisions.

(2) Opposes any legislation which would undermine or otherwise modify the holding in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987);

(3) Calls upon the U.S. House of Representatives and U.S. Senate to reject any version of the Racial Justice Act as part of any package of federal habeas corpus reform or any crime bill;

(4) Opposes any legislation, including the omnibus crime bill to be reported by the conference committee, which includes any version of the Racial Justice Act. Any meaningful provisions contained in the crime bill are completely undermined by inclusion of the Racial Justice Act, which is antithetical to fundamental notions under our criminal justice system. If the omnibus crime bill contains any version of the Racial Justice Act, we recommend it be voted down until this legislation is removed.

Be it further resolved by the Washington Association of Prosecuting Attorneys that its Executive Secretary shall transmit a copy of this resolution to the U.S. Senators and Representatives in the Washington delegation and to members of the Senate and House Committees on the Judiciary.

RESOLUTION OF THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION ADOPTED APRIL 30, 1994, CONCERNING THE RACIAL JUSTICE ACT

The Pennsylvania District Attorneys Association joins with the California District Attorneys Association in adopting the following resolution:

Whereas, on April 21, 1994, the U.S. House of Representatives adopted the omnibus crime bill, H.R. 4092, which included Title IX legislation, referred to, and known as, the Racial Justice Act (or the Racially Discriminatory Capital Sentencing Act);

Whereas, on April 20, 1994, the U.S. House of Representatives narrowly defeated the McCollum Amendment to strike the Racial Justice Act from the House Crime bill and substitute in its place the Equal Justice Act, [The vote was an effective 212 to 212 tie, after the votes of the five Delegate members were excluded under recent House Rules.];

Whereas, the Racial Justice Act would, first, permit a capital case defendant to make a statistical showing that death sentences are being imposed or administered in a disproportionate manner upon (1) persons of one race or (2) as punishment for capital offenses against persons of one race, and, second, require the prosecutor to rebut this statistical showing "by a preponderance of the evidence";

Whereas, in the 102nd Congress, on June 20, 1991, the U.S. Senate voted to strike a similar measure entitled the Racial Justice Act out of the omnibus crime measure by a bipartisan vote of 55 to 41 (this was the third successive Congress in which the U.S. Senate rejected the Racial Justice Act), and on October 22, 1991, the U.S. House of Representatives voted to strike a similar measure by a bipartisan vote of 223 to 191;

Whereas, the U.S. Supreme Court rejected a discrimination claim founded solely upon statistics, in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987).

Now, therefore be it

Resolved, That the Pennsylvania District Attorneys Association:

(1) opposes any version of the Racial Justice Act, for the following reasons:

(a) the Racial Justice Act would result in the effective abolition of capital punishment.

This would result because of the inherent and insurmountable evidentiary difficulties and inevitable vast expenditures of time and money in litigation in every post-conviction capital case, to prove by at least a preponderance of the evidence a negative, to wit, that race was not the basis for any of the prosecutor's, jury's, or judge's decisions. [The Racial Justice Act contains a virtually impossible rebuttal burden; "Unless [the prosecutor or state] can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mare assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.];

(b) moreover, as to adjudicated cases, the retroactive application of the Racial Justice Act would permit convicted capital defendants to reopen their cases by presenting discrimination claims (regardless of whether such claims had previously been rejected). In Pennsylvania, there are currently 153 individuals on death row. The retroactive provision in the Racial Justice Act as passed by the House would reverse the death sentences in these cases as well as others around the nation.

(c) the statistical premise of any version of the Racial Justice Act is unsound, for several reasons, including:

(i) it disregards the fundamental precept of our criminal justice system that an individual is tried on the facts of his or her case, not on the facts or circumstances or statistics from unrelated cases;

(ii) it overturns the U.S. Supreme Court's rejection of such a statistical premise, where the court noted with regard to the Baldus study: "Even Professor Baldus does not contend that his statistics prove that race enters into any capital sentencing decisions or that race was a factor in McCleskey's particular case. Statistics at most may show only a likelihood that a particular factor entered into some decisions. "*McCleskey* v. *Kemp*, 481 U.S. 279, 308 (1987) (emphasis in original); and

(iii) its statistical showing fails to establish that the imposition of capital punishment in a particular case is predicated on any bias; and

(d) the Racial Justice Act would permit the "second-guessing" of capital case decisions by prosecutors, defense counsel, judges and juries based upon the information and statistics required to be maintained under the Act;

(e) the Racial Justice Act eliminates the traditional deference to state-court finding of fact, 25 U.S.C. §2254(d); *Sumner* v. *Mats*, 449 U.S. 539 (1981), if the state fails to collect or maintain adequate records required under the Act, and causes the individual conviction, though lawfully and justifiable imposed, to be unduly placed in jeopardy;

(f) the potential cost of compliance on states and local entities would be exorbitant, as demonstrated by one California case *(In re Earl Jackson)* which took three years to prepare for an evidentiary hearing and cost more than $1,000,000. The evidentiary hearing was never held, after the *McCleskey* v. *Kemp* ruling was rendered;

(g) the Racial Justice Act encourages a quota system for capital punishment cases and unacceptably injects "race consciousness" into capital case decisions.

(2) opposes any legislation which would undermine or otherwise modify the holding in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987);

(3) calls up the U.S. House of Representatives and U.S. Senate to reject any version of

the Racial Justice Act using statistical racial quotas as part of any crime bill;

(4) opposes any legislation, including the omnibus crime bill to be reported by the conference committee, which includes any version of the Racial Justice Act using racial quotas. Any meaningful provisions contained in the crime bill are completely undermined by inclusion of the Racial Justice Act, which is antithetical to fundamental notions under our criminal justice system. If the omnibus crime bill contains any version of the Racial Justice Act, we recommend it be voted down until this legislation is removed; be it further *Resolved* by the Pennsylvania District Attorneys Association that its Executive Director shall transmit a copy of this resolution to the U.S. Senators and Representatives in the Pennsylvania delegation and to members of the Senate and House Committees on the Judiciary.

The Pennsylvania District Attorneys Association April 30, 1994.

[From the Alabama District Attorneys Association, Adopted Apr. 29, 1994]

CONCERNING THE RACIAL JUSTICE ACT

Whereas, the Alabama District Attorneys Association is an organization composed of the forty-one elected District Attorneys of Alabama's sixty-seven counties and two hundred, forty-seven assistant district attorneys;

Whereas, on April 21, 1994, the U.S. House of Representatives adopted the omnibus crime bill, H.R. 4092, which included in Title IX legislation, referred to, and known as, the Racial Justice Act (or the Racially Discriminatory Capital Sentencing Act);

Whereas, on April 20, 1994, the U.S. House of Representatives narrowly defeated the McCollum Amendment to strike the Racial Justice Act from the House crime bill and substitute in its place the Equal Justice Act. (The vote was an effective 212 to 212 tie, after the votes of the five Delegate members were excluded under recent House Rules.);

Whereas, the Racial Justice Act would, *first*, permit a capital case defendant to make a statistical showing that death sentences are being imposed or administered in a disproportionate manner upon (1) persons of one race or (2) as punishment for capital offenses against persons of one race, and, *second*, require the prosecutor to rebut this statistical showing "by a preponderance of the evidence";

Whereas, in the 102d Congress, on June 20, 1991, the U.S. Senate voted to strike a similar measure entitled the Racial Justice Act out of the omnibus crime measure by a bipartisan vote of 55 to 41 (this was the third successive Congress in which the U.S. Senate rejected the Racial Justice Act), and on October 22, 1991, the U.S. House of Representatives voted to strike a similar measure by a bipartisan vote of 223 to 191;

Whereas, the U.S. Supreme Court rejected a discrimination claim founded solely upon statistics, in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987): Now, therefore, be it

Resolved, that in light of the urgency and importance of this matter, all 41 Alabama district attorneys, having been polled, unanimously:

(1) oppose any version of the Racial Justice Act, for the following reasons:

(a) the Racial Justice Act would result in the effective abolition of capital punishment.

This would result because of the inherent evidentiary difficulties and inevitable vast expenditures of time and money in litigation in every post-conviction capital case, to prove by at least a preponderance of the evidence a negative, to wit, that race was not the basis for any of the prosecutor's, jury's, or judge's decisions. (The Racial Justice Act contains a virtually impossible rebuttal burden: "Unless (the prosecutor or State) can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.);

(b) moreover, as to adjudicated cases, the retroactive application of the Racial Justice Act would permit convicted capital defendants to reopen their cases by presenting discrimination claims (regardless of whether such claims had previously been rejected). In Alabama, there are currently 125 individuals on death row. The retroactive provision in the Racial Justice Act as passed by the House would potentially affect these cases as well as others around the nation;

(c) the statistical premise of any version of the Racial Justice Act is unsound, for several reasons, including:

(i) it disregards the fundamental precept of our criminal justice system that an individual is tried on the facts of his or her case, not on the facts or circumstances or statistics from unrelated cases;

(ii) it overturns the U.S. Supreme Court's rejection of such a statistical premise, where the Court noted with regard to the Baldus study: "Even Professor Baldus does not contend that his statistics *prove* that race enters into any capital sentencing decisions or that race was a factor in McCleskey's particular case. Statistics at most may show only a likelihood that a particular factor entered into some decisions." *McCleskey* v. *Kemp*, 481 U.S. 279, 308 (1987) (emphasis in original): and

(iii) its statistical showing fails to establish that the imposition of capital punishment in a particular case is predicated on any bias: and

(d) the Racial Justice Act would permit the "second-guessing" of capital case decisions by prosecutors, defense counsel, judges and juries based upon the information and statistics required to be maintained under the Act;

(e) the Racial Justice Act eliminates the traditional deference to state-court findings of fact, 28 U.S.C. Section 2254(d), *Sumner* v. *Mata*, 449 U.S. 539 (1981), if the state fails to collect or maintain adequate records required under the Act, and causes the individual conviction, though lawfully and justifiably imposed, to be unduly placed in jeopardy;

(f) the potential cost of compliance on states and local entities would be exorbitant;

(g) the Racial Justice Act encourages a quota system for capital punishment cases by in effect introducing "race consciousness" into capital case decisions.

(2) opposes any legislation which would undermine or otherwise modify the holding in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987);

(3) calls upon the U.S. House of Representatives and U.S. Senate to reject any version of the Racial Justice Act as part of any package of federal habeas corpus reform or any crime bill;

(4) opposes any legislation, including the omnibus crime bill to be reported by the conference committee, which includes any version of the Racial Justice Act. Any meaningful provisions contained in the crime bill are completely undermined by inclusion of the Racial Justice Act, which is antithetical to fundamental notions under our criminal justice system. If the omnibus crime bill contains any version of the Racial Justice Act, we recommend it be voted down until this legislation is removed.

Be it further resolved by the Alabama District Attorneys Association that its Executive Director shall transmit a copy of this resolution to the U.S. Senators and Representatives in the Alabama delegation and to members of the Senate and House Committees on the Judiciary.

THOMAS W. SORRELLS,
Executive Director.

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
Sacramento, CA, May 2, 1994.

Hon. JANET RENO,
Attorney General of the United States, Washington, DC.

DEAR ATTORNEY GENERAL RENO: I wanted to share with you my strong opposition to any version of the Racial Justice Act which may be included in the conference report on the omnibus crime bill. These views, which are based upon California's experience litigating similar claims, are explained in the enclosed letter to President Clinton. Please let me know if my office may be of any assistance to you on this issue.

Sincerely,

DANIEL E. LUNGREN,
Attorney General.

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
May 2, 1994.

Hon. BILL CLINTON,
The President of the United States, The White House, Washington, DC.

DEAR PRESIDENT CLINTON: I wish to congratulate you on your eloquent remarks during President Richard Nixon's funeral yesterday. As I listened to you deliver your speech, I was impressed with how its conciliatory tone captured the mood of the nation during this important hour.

As you may recall, we had an opportunity to discuss briefly the Omnibus crime bill during the National Attorneys General Association meeting at the White House. At that time, I indicated how federal habeas reform and the Racial Justice Act would likely create two stumbling blocks to enactment of other meaningful reforms contained in the omnibus crime bill. In fact, both of these issues have held up crime reform legislation in the past. Subsequent to our meeting, a bipartisan group of 32 Attorneys General signed a letter to senior members of the House Judiciary requesting that both the habeas provisions and Racial Justice Act be dropped from the crime bill. A copy of this letter is attached for your review.

As you know, the U.S. House of Representatives agreed to strike the habeas reforms from the crime bill. This was consistent with a bipartisan motion to strike the habeas portion of the Senate crime bill, which was adopted last fall.

Regrettably, on a narrow vote, the House failed to eliminate the controversial Racial Justice Act from the crime bill. Because the Senate crime bill does not contain a similar provision, a joint House-Senate Conference Committee must now reconcile this issue. Each time the Senate has considered the Racial Justice Act it has rejected it. See 137 Cong. Rec. S 8300 (daily ed. June 20, 1991) (motion to strike the Racial Justice Act adopted 55 to 41); 136 Cong. Rec. S 6910 (daily ed. May 24, 1990) (motion to strike the Racial Justice Act adopted 58 to 38) 134 Cong. Rec.

S 15,755–56 (daily ed. Oct. 13, 1988) (amendment to add Racial Justice Act defeated 35 to 52).

For two reasons it is important that the Racial Justice Act must be dropped from the conference report on the omnibus crime bill. First, prosecutors are uniformly opposed to any version of the Racial Justice Act. In addition to State Attorneys General who already oppose this legislation, last Friday, all 58 District Attorneys in California adopted a Resolution indicating their strong opposition to any version of the Racial Justice Act. The reasons are explained in the enclosed Resolution. I also join with many other prosecutors who have concluded it is unacceptable to limit the Racial Justice Act to federal capital cases. We reject the unsound premise that statistics in unrelated cases have a legitimate role in the prosecution of any specific criminal case at the federal or state level. Second, in light of this united opposition at the local and State level, the failure to remove the Racial Justice Act from the crime bill may likely delay the enactment of other needed reforms contained in the crime bill.

Two examples from California demonstrate the tremendous cost and burden which would be imposed on the States if the Racial Justice Act were enacted. A claims similar to the Racial Justice Act was raised in 1984 in the *In re Earl Lloyd Jackson* case, as is explained more fully in the attachment. Jackson was convicted and sentenced to death for his involvement in the brutal beatings and murders of two elderly widows (an 81-year-old and a 90-year-old) during two robberies in Long Beach in 1977. Jackson ultimately confessed to the crimes and boasted to others about his role in the murders. With regard to the Racial Justice Act type claims, it took three years for both sides to prepare for the court-ordered evidentiary hearing. The state taxpayers were required to pay for more than $1,000,000 in costs solely for the preparation for the hearing, which ultimately was never held as a result of the subsequent U.S. Supreme Court ruling in *McCleskey v. Kemp*, 481 U.S. 279 (1987).

Additionally, the *Robert Alton Harris* case shows the broad potential application of the Racial Justice Act. Harris, who was executed in April, 1992, murdered two teenage boys near San Diego on July 5, 1978. Harris, who confessed at least seven times to murdering the teenagers and who was white, had asserted that the California death penalty was administered in a discriminatory manner because his victims were white. This statistical showing was ultimately rejected in federal court in light of U.S. Supreme Court precedent, *Harris v. Pulley*, 885 F.2d 1354, 1373–77 (9th Cir. 1988), cert. denied, 110 S.Ct. 854 (1990). There is nothing in the legislation which would preclude similar individuals such as Harris from bringing similar claims.

For these reasons, on behalf of law enforcement in California, I strongly urge you to exercise your authority to ensure that any form of the so-called Racial Justice Act will not be included in the conference report on the crime bill. Please advise if my office may be of any assistance to you on this important matter.

Sincerely,

DANIEL E. LUNGREN,
Attorney General.

STATE OF UTAH,
OFFICE OF THE ATTORNEY GENERAL,
April 11, 1994.

Re: Habeas Corpus/Sentencing Legislation

Representative JAMES HANSEN,
Rayburn Building, Washington, DC.
Representative WILLIAM H. ORTON,
South Longworth Office, Washington, DC.
Representative KAREN SHEPHERD,
House of Representatives, Cannon, Washington, DC.

DEAR REPRESENTATIVES HANSEN, ORTON, and SHEPHERD: I am writing this letter to advise you of my position relating to Titles VIII and IX and H.R. 4092, the omnibus crime bill. My comments are based not only on my office's analysis of the issue but also my understanding of the position of the Utah law enforcement community as a whole. I have had an opportunity to talk with many of the top law enforcement individuals in the State of Utah and I think we all agree on the following analysis:

H.R. 4092, Title VIII (concerning federal habeas corpus):

I oppose this title because, rather than curtailing habeas litigation, it would multiply postconviction litigation, overturn significant and very helpful U.S. Supreme Court precedent, and further undermine the finality of state criminal convictions.

I support the Hyde Amendment, which would excise the controversial habeas provisions from the present crime bill and allow them to be considered separately on their own merits.

H.R. 4092, Title IX (concerning race in capital sentencing):

I oppose this title (the so-called "Racial Justice Act") because it would impose an unworkable statistically-based procedure on the states and in Utah's case create a system that would be unworkable.

I support the McCollum Amendment (the "Equal Justice Act") because it would prohibit racial discrimination in all sentencing without imposing unworkable statistical models.

The Utah law enforcement community believes that Titles VIII and IX of H.R. 4092 would effectively abolish capital punishment, weaken law enforcement, and suspend closure for victims of violent crime. The provisions would also impose significant new financial burdens on the State of Utah. I urge you to oppose these provisions.

Very truly yours,

JAN GRAHAM,
Attorney General.

COMMONWEALTH OF VIRGINIA,
Richmond, April 25, 1994.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: As I am sure you are aware, different versions of the omnibus crime bill have passed the Senate and House of Representatives. I write to ask you to instruct the Senate conferees to give the highest priority to removing, from the final bill, that part of the House legislation which allows racial statistics to be used to justify establishing a virtual quota system for capital punishment.

In *McCleskey v. Kemp*, the United States Supreme Court rejected a claim which would have allowed capital defendants to make a statistical showing of potential race discrimination from unrelated cases as a basis for collateral relief. The Court held correctly that a defendant who contests his capital sentence on the basis of racial discrimination is required to prove that the decision makers in his or her *own* case acted with a discriminatory *purpose*.

The National Association of Attorneys General has resolved to oppose "any measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief." The ultimate passage of such legislation would undermine our efforts to aid law enforcement in stemming the rising tide of crime threatening our nation by, in effect, rendering capital punishment in most states, including Virginia, unenforceable.

I urge you to do everything in your power to ensure that this pernicious provision will not be part of the final omnibus crime bill.

With best wishes, I remain

Very truly yours,

JAMES S. GILMORE III,
Attorney General of Virginia.

STATE OF DELAWARE,
DEPARTMENT OF JUSTICE,
Wilmington, May 9, 1994.

Hon. JOSEPH R. BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: On May 6, 1994, a letter was addressed to you from several Attorneys General from around the country regarding the Racially Discriminatory Capital Sentencing Act included in Title IX of H.R. 4092. I share the concerns expressed by these Attorneys General and hope that you will drop this portion of the proposed legislation. The law as set forth in the MCCLESKEY V. KEMP, 481 U.S. 279 (1987) allows any capital defendant to prove that his or her own case was tainted by racial discrimination.

On March 21, 1994, the National Association of Attorneys General adopted a resolution setting forth its collective opposition to this particular act. I firmly believe that if passed, the effect will be to essentially stop the prosecution and enforcement of capital cases. Virtually every capital case will be subject to some form of challenge. The courts will be forced to hear claims no matter how outrageous.

I urge that this portion of the crime bill be removed.

CHARLES M. OBERLY III,
Attorney General.

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, April 29, 1994.

Hon. BILL CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: I write to you on behalf of the 7000 members of the National District Attorneys Association. We serve as the peoples prosecutors and lead their daily fight against crime and its tragic effects on our nation. Our Association has long been on record as opposing discrimination in our system of criminal justice; we are, however, vehemently opposed to the purported "Racial Justice Act" now included in Title IX of the House version of the Crime Bill.

The National District Attorneys Association views the "Racial Justice Act" as nothing less than a subrosa attempt to end the imposition of the death penalty in the United States. Attempts to limit its effect to only federal cases or to limit retroactivity is meaningless when due process and equal protection dictate otherwise. If the people we both serve will the end of the death penalty, then let us address the issue in open debate, not hiding behind the guise of race and discrimination.

We also see this Act as a challenge to the very foundation of our system of criminal justice. Our heritage directs that each of us answer as an individual for our misdeeds and is punished accordingly; the "Racial Justice

Act" establishes lineage and statistical analysis as the new premise for accountability. This attacks the very basis of our system of criminal law and has far wider implications than those attributed to capital cases alone.

You have pledged to make America safer, more secure, and the Crime Bill has many measures that we, as local prosecutors, will find assist us in helping you fulfill this pledge. We urge you not to renege on your pledge, not to dilute its effect—the Racial Justice Act must be removed from the Crime Bill if you are to make a meaningful commitment to fighting crime.

Sincerely,

WILLIAM C. O'MALLEY,
President.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA, April 29, 1994.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: The National Attorneys General Association is vehemently opposed to the purported "Racial Justice Act" now included as Title IX in the House version of the Crime Bill (HR 4092). The 7000 members of this Association have long been on record as pledging to do every thing in our power to end discrimination in our criminal justice system. It is our strong belief, however, that this Act makes a travesty of that very system.

The district attorneys of this nation, serving as the peoples prosecutors, see this Act as nothing less than a subrosa attempt to end the imposition of the death penalty in the United States. If that is the will of the American people let us address this issue in open debate not under the guise of race and discrimination. We are joined in the belief by many others charged with leading the daily fight against crime.

Moreover, we view the "Racial Justice Act" as a challenge to the very premise upon which our system of law is predicated—that each of us appears in court to answer as an individual for his or her own deeds. If this Act becomes law, individual accountability would be replaced with statistical analysis and group lineage as the basis for punishment. While on its face the statute refers only to capitol cases there can be little doubt of its undermining effect on our entire criminal system and national ethic.

You were a district attorney for many years. As such you shouldered an ever increasing criminal case load, you did your utmost to reduce the effects of crime and to help its victims and you, as we do now, answered directly to the people who choose you to serve. We urge you not to betray that heritage; not to further handicap our continued struggle. You, as the nations senior prosecutor must support every effort to remove the Racial Justice Act from the Crime Bill and protect our system of criminal justice.

Sincerely,

WILLIAM C. O'MALLEY,
President.

CITIZENS FOR LAW AND ORDER, INC.,
May 11, 1994.

Hon. ORRIN G. HATCH,
Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: Citizens for Law and Order (C.L.O.) and the 19 other grass roots groups falling within our umbrella, are victim organizations whose total membership comes to 150,000 persons. All of us are strongly opposed to the so-called Racial Justice Act because it will virtually eliminate the death penalty in our country—and thus revictimize the surviving family members of our loved ones who were murdered.

Please provide fairness and justice to murder victims and their families—insure that the Racial Justice Act does not become part of the Crime Bill and does not become law. Crime victims deserve the compassion of the Congress. Do not insult us with the Racial Justice Act.

Sincerely,

Jack Collins.

[From the New York Post, Apr. 29, 1994]

DEATH-PENALTY FOES USE TORTURED LOGIC IN RACE-BIAS ARGUMENT

(By Ed Koch)

Last week, House Democrats tried to end the use of the death penalty in the United States. Desperate to secure support for the crime bill from at least some members of the Congressional Black Caucus and other liberals, they attached the Racial Justice Act amendment to that legislation.

The amendment would allow those sentenced to death to use statistical evidence of alleged racial bias tainting past executions to set aside their own death sentence. A minority defendant would not be required to prove that a jury had specifically engaged in racism in ordering his death—simply citing the statistical pattern of alleged racial bias would be enough.

Rep. Don Edwards (D-Calif.) recently said in an interview: "Forty percent of the 3,000 people on death row are black, even though blacks are only 13 percent of the population." Surely Edwards, longtime chairman of the Judiciary Subcommittee on Civil and Constitutional Rights, knows, but fails to mention, that 55 percent of the murders committed in 1992 were by black perpetrators. Further, black males ages 15 to 24, who are 1 percent of the population, committed at least 19 percent of those murders. For courts to be considered non-racist using Rep. Edwards' tortured logic, 55 percent of those executed should have been black.

Using similar tortured logic, a case could be made that it is white murderers who are the subjects of discrimination. Far fewer blacks than whites have been executed: Of the 227 people executed between 1977 and January 1994, according to the NAACP Legal Defense Fund, 124 were white, 88 black, 14 Latino and one Native American. Fifty-five percent of those executed have been white, when 55 percent of those committing the murders were black, at least in 1992, the last year for which Justice Department figures are available.

The Edwards' doctrine, bizarrely, would require that juries sentence even more black defendants to death to achieve true racial balance. Isn't it fair to ask, if the number of black murderers being executed had been raised consistent with their murderous deeds, would those supporting the amendment have cheered this achievement of racial equality?

Jurors are charged by the court to limit their discretionary application of the death penalty to rational criteria established by the state, and must consider all mitigating factors helpful to the defendant. It's impossible to know why a jury condemns a particular defendant to death. The Supreme Court has said, "Jurors cannot be called . . . to testify to the motives and influences that led to their verdict."

This amendment is an attempt by the House to overturn the 1987 Supreme Court decision in McClesky vs. Kemp. In that case, the Court ruled by a 5-to-4 vote that statistical evidence covering all murder sentences in a jurisdiction could not support a charge of discrimination in a particular case. Specific racial bias must be proved in each individual case.

How could it be otherwise, since the jury in each case consists of different groups of people, and, under current law, no prospective juror may be challenged on the basis of race?

As mayor, I attended the heartbreaking funerals of police officers killed in the line of duty. From 1977—when the death penalty was resumed in the United States following the Supreme Court ruling that it was constitutional—to 1994, 56 NYPD cops were killed in the line of duty. Of the murderers apprehended, seven were white, 31 were black and 13 were Hispanic.

None of those killers was executed, because New York state does not have the death penalty. In its editorial supporting the "racial justice" amendment, the New York Times says, "The state might successfully rebut such evidence [of racial bias], say in a case involving a slain policeman, by showing a consistent pattern of seeking the death penalty for cop-killers regardless of race."

In view of the Times' fervid opposition to the death penalty, for them to use that example is chutzpah.

The long and the short of it is that the supporters of the racial-bias amendment are overwhelmingly against the death penalty for anyone. They know, however, that the country—and their constituents—overwhelmingly support the death penalty, and, therefore, they prefer to obfuscate when offering their support of the amendment.

When pressed, they offer the disingenuous argument that those who murder black or Hispanic victims are not put to death in the same proportion as those who murder white victims. Again, I ask: Would they be satisfied if more murderers of blacks were executed, knowing that blacks are murdered overwhelmingly by other blacks?

For the opponents of the death penalty, it's any argument, no matter how flimsy. This particular ruse is so transparent, one can only hope the Senate rejects the amendment in the joint conference.

Mr. HATCH. Mr. President, I yield back any time I may have.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 7½ minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I think by this point everyone knows my position on the Racial Justice Act, so I will be brief this afternoon. But I have a few important points to make before the Senate votes on the amendment of my colleague from New York.

Before voting, I would urge every Senator to read very carefully the language of the D'Amato amendment. The amendment states that the Senate and House conference on crime legislation should, "Totally reject the so-called Racial Justice Act." I would ask my colleagues if this is, in fact, the message we want to send to the conference committee—that the Senator totally rejects any efforts to correct what

every study that has ever been conducted in this area has overwhelmingly demonstrated—that there are jurisdictions in this Nation, including the Federal Government itself, where the death penalty is administered in a racially discriminatory manner. If this is not the message we want to send into conference, then I would suggest you cast your vote against the D'Amato amendment.

I also want to make clear for those who have not actually read title IX of the House crime bill that this Racial Justice Act is much different than previous versions. The current bill imposes a higher burden of proof on the defendant, requiring him to demonstrate a pattern of racially biased death sentences in cases similar to his own, in the jurisdiction that imposed his sentence and at the time his sentence was imposed. In addition, the burden of proof of the prosecutor to rebut this evidence has been lowered, from clear and convincing evidence to a mere preponderance of the evidence. There are no burdensome recordkeeping requirements imposed on the States—a defendant bears the entire burden of collecting and analyzing data—and the bill, in its final form, will not apply retroactively. So we are talking about going forward.

I would also like to address what the Racial Justice Act does not do. Despite the claims of some opponents, the Racial Justice Act does not eliminate capital punishment. Let me underscore that. It does not eliminate capital punishment. It merely prohibits continued racial discrimination in the administration of the death penalty. So long as death sentences are imposed in a nondiscriminatory manner, they will not be affected under the bill.

In order 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 Racial Justice Act 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, title 9, is designed to prevent.

Finally, this will not impose an undue burden on the courts. Every major civil rights bill in modern times has allowed the use of statistics to prove discrimination, whether in housing or employment or education or voting for that matter. The courts have proved quite capable of analyzing statistical evidence in each of these situations. All that proponents of the Racial Justice Act are asking is for Congress to grant someone sentenced to death the same opportunity to present a discrimination claim as we have granted to someone turned down for an apartment.

As you may know, Mr. President, I just returned from South Africa and the inauguration of Nelson Mandela.

Before I left to travel to South Africa for the inauguration, I drew an analogy between the changes occurring in South Africa and the vote on racial justice. I am going to make that same analogy today. Despite the strides this country has taken to overcome its shameful past, there are still situations of apartheid in America, situations where a person's race truly does make a difference in how that person is treated under the law. One of those situations—and the statistics are very clear in this regard—is in the administration of the death penalty. One need look no further than the Federal criminal justice system to realize this. Since 1988, the Federal death penalty for drug kingpins, for example, has been sought against 36 defendants—4 of those defendants have been white, 4 have been Hispanic, and 28—77 percent—have been African-American. Keep in mind that 75 percent of the defendants charged under this statute have been white.

Mr. President, in closing, I want to urge my colleagues to think about the message this vote will send to the Senate and House conferees. Last Friday I paraphrased a quote from Vaclav Havel that I would like to quote in full today. It describes a phenomenon known as the butterfly effect, which is:

> A belief that everything in the world is so mysteriously and comprehensively interconnected that a slight, seemingly insignificant wave of a butterfly's wing in a single spot on this planet can unleash a typhoon thousands of miles away.

Whether a person as an individual supports or opposes the death penalty, I think we can all agree that it should be imposed in a nondiscriminatory manner.

I think we can all agree that the facts are what they are. It is not a matter of opinion. The statistics and the numbers that have been talked about in this debate are reality. Including, frankly, in the Federal system.

The vote on this amendment today is important and can have a very real effect on how the Senate deals with the issue of racial bias in the administration of our entire system of law, including of course the death penalty. I urge my colleagues to vote against the D'Amato amendment and to send a signal the Senate is committed to addressing this shameful pattern of discrimination.

In closing I would also like to say that this is—this vote, the vote on this amendment—really is not a vote about crime any longer. I think this body has sent a message very loud and clear that as for crimes that progress in a certain way through the criminal justice system, the death penalty is an appropriate punishment. That has been resolved.

The question is if we are going to allow this vote—which masquerades as a vote about crime—to get away from us and obscure the fact that it really is a vote about color. Are we going to allow color, are we going to allow race, to play a role and continue to produce the abysmal, embarrassing statistics that we have seen demonstrated on the floor by the opponents of the D'Amato amendment?

I think this body is above that. I think this country is beyond that. I think we want to send a signal that we believe in equal justice under the law for all people, without regard to race, without regard to color. And therefore the D'Amato amendment must fall of its own weight.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I spoke in some detail last Friday about why I will oppose the sense-of-the-Senate amendment offered by the Senator from New York. Today, let me summarize my thoughts by making two points:

First, the Racial Justice Act will not put an end to capital punishment. What the act will do, is require courts to examine competent evidence that a death sentence was imposed for reasons of race, rather than—as should be the case—due to the nature of a defendant's crime.

This imposes no unbearable burden on the courts. Indeed, it is something the courts have long done expertly in a wide variety of contexts, such as housing discrimination, employment discrimination, and discrimination in our schools.

The act does not mandate the outcome in any case, nor does it mandate that a court must admit any or all evidence a defendant may submit. In fact, the act explicitly confers on the courts the discretion to reject evidence that is not valid or relevant.

Far from preventing courts from imposing the death penalty in all cases, it simply requires courts in some cases to make one additional inquiry to ensure that race does not determine who will live and who will die.

Second, it seems to me we should be willing to accept the necessary burden of ensuring that racial discrimination plays no role in determining who gets the death penalty.

I support the death penalty in appropriate cases, and I included a major expansion of the Federal death penalty in the crime bill the Senate acted on last November.

At the same time, I have worked to ensure that the procedures that govern

imposition of death sentences in our courts are as fair and just as possible.

A just society must not sentence people to death on the basis of race.

Mrs. MURRAY. Mr. President, this resolution directs conferees on the crime bill to reject the House provisions on racial justice, and I intend to vote against it.

The Senate crime bill expands the death penalty to over 50 new Federal crimes. Inclusion of the Racial Justice Act is important to ensure that the death penalty is applied in a nondiscriminatory manner.

This provision is a civil rights measure designed to eliminate race discrimination in capital cases. It would allow courts to consider evidence of a consistent pattern of racially biased sentencing in similar death penalty cases to determine whether discrimination has occurred in a particular case.

The defendant would bear the burden of collecting and analyzing the data to show a pattern of racially biased death sentences in factually similar cases in the same jurisdiction.

The legislation would not apply retroactively so it would not apply to the 2,700 people currently on death row.

The Racial Justice Act addresses the fact that the death penalty is not sought in all cases that fit the statutory criteria for its imposition. In most jurisdictions, capital punishment laws authorize, but do not require, the death penalty in a large number of cases. Of the many cases eligible for the death penalty, prosecutors pick only a few for capital prosecution. Under the Racial Justice Act, by comparing cases in which the death penalty is sought with similar cases in which it is not sought, the courts will have a mechanism to evaluate whether race was a determining factor.

I know that the prosecutors in my home State of Washington work very hard to avoid discrimination in the charging, sentencing and imposition of the death penalty. I also know, however, that we have not rid our Nation's criminal justice system of racial discrimination yet. We need to take this responsibility very seriously, especially with regard to the application of the death penalty.

In 1990, the Government Accounting Office reported that in 82 percent of the studies it reviewed, the race of the victim was found to influence the likelihood of a defendant being charged with capital murder or receiving the death penalty. The GAO report found that those who murdered whites were more likely to be sentenced to death than those who murdered African-Americans.

Under the Federal death penalty law adopted in 1988 for drug kingpins, 77 percent of the defendants against whom the death penalty was sought have been African-American, even though 75 percent of the defendants under the statute have been white.

The Racial Justice Act will require prosecutors to charge capital murder without regard to race. It is designed to remedy bias that already exists within the criminal justice system. It will prevent charging decisions that treat cases involving one race as more suitable for the death penalty than cases involving another race.

Mr. President, I support the Racial Justice Act because it will help eliminate the influence of race in death sentencing. Given the dramatic expansion of the death penalty in the crime bill, I believe this provision must be included. The act will send a clear message to prosecutors across the nation to use race-neutral criteria for seeking the death penalty. And, it will help ensure that similar crimes receive similar sentences.

I urge my colleagues to reject the resolution before us, and to support the inclusion of the Racial Justice Act in the crime bill.

Mr. THURMOND. Mr. President, I rise today in support of Senator D'AMATO'S amendment. This language makes clear that the crime conferees should reject the provision in the House-passed crime bill which would effectively abolish the death penalty across the Nation, at the Federal and State levels.

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

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

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

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

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

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

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

Mr. President, we will soon go to conference with the House to resolve the differences in the crime bills passed by our respective bodies. We have a good opportunity to pass a comprehensive anticrime measure which the American people deserve. If the conference report is to be adopted, it must be void of title IX from the House bill. This provision is opposed by the National Association of District Attorneys and the National Association of Attorneys General. These are the men and women who have the responsibility for prosecuting death penalty cases all across the Nation on behalf of the American people. I am hopeful that the House conferees will not let the American people down by insisting that this anti-death penalty provision remain in the conference report.

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

Mr. DURENBERGER. Mr. President, I rise to explain why I will oppose the amendment expressing the sense of the Senate that the crime bill conferees should reject the Racial Justice Act.

I make no secret of the fact that I am an opponent of the death penalty. I oppose it for philosophical reasons; I believe it perpetuates the cycle of violence and I believe it is unbecoming for a civilized nation. I also oppose capital punishment for practical reasons; there is no evidence that it deters violent crime, and it actually costs our criminal justice system more to execute a person that it does to incarcerate a person for life.

However, even those who favor the death penalty should be concerned by evidence that it is not being applied fairly. We all want to believe that justice is blind in America. But I am not so naive as to trust that the ugliness of racial bias no longer festers in our criminal justice system.

According to a significant body of evidence, minority defendants are much more likely than white defendants to be charged with a capital crime and sentenced to death, especially when the victim was white. All that the Racial Justice Act would do is to let defendants raise a question of unfairness when there is a pattern of racial disparity for crimes with similar factual circumstances.

The Racial Justice Act would not guarantee that a death sentence will be overturned. The state can rebut the defendant's claim by showing nonracial reasons for the different treatment. A court would be allowed to find discrimination only if race is the only plausible explanation for the sentence of death. And even if the death sentence is vacated, defendants will not go free—their convictions will stand.

Opponents of the Racial Justice Act claim that capital cases should be evaluated individually, not on the basis of statistical evidence. But when statistics show pervasive racial disparity for the same type of crimes, it suggests to me that racial bias might be infecting individual cases. The Racial Justice Act would allow courts to consider this suggestion.

I believe this proposal is a modest step that will provide an additional measure of fairness in the system. If justice is truly blind, there is nothing to fear from the Racial Justice Act. That is why I support the House of Representatives' decision to include it in the crime bill and why I will oppose this amendment.

Mr. DOLE. Mr. President, I want to take a few moments to express my support for the amendment offered by my distinguished colleague from New York, Senator D'AMATO.

Mr. President, last month, the House of Representatives took a big step backward in the war against crime by adopting something deceptively called the Racial Justice Act. The Racial Justice Act became title IX of the House-passed crime bill.

Under title IX, a convicted murderer sentenced to death can challenge his capital sentence simply by offering evidence 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." Statistical evidence that death sentences were being imposed significantly more frequently, upon persons of one race than upon persons of another race could be used to prove this point.

The practical effect of all this is to prohibit the death penalty unless it is carried out strictly by-the-numbers, according to rigid death-penalty quotas. Under the Racial Justice Act, all a death-row inmate must do is show that there is a statistical disparity based on his race or the race of the victim, regardless of the specific facts of the specific case. Once the presumption of racial discrimination is raised through statistics, the Government must rebut this presumption by a preponderance of the evidence. The bottom line is that the Government would then have the burden of proving a negative—that racial factors had nothing to do with the capital sentence.

Amazingly, the Racial Justice Act would apply retroactively—potentially reopening the capital sentences of the nearly 4,000 murders now on death row. While all 4,000 may not succeed in getting their sentences reduced, compiling the relevant information from these cases will take many hours and cost the States millions and millions of dollars.

Last week, the Chairman of the Judiciary Committee, Senator BIDEN, agreed to work in conference to ensure that the Racial Justice Act provisions apply only prospectively. That's a step in the right direction, but as they say, seeing is believing. And even if retroactivity is eliminated, we still should be concerned about the Racial Justice Act's prospective application.

Mr. President, the Racial Justice Act is part of a long tradition here in Congress where bad legislation is given a great-sounding name. In some businesses, this is called false advertising. The bottom line is that the Racial Justice Act won't do much to advance the cause of civil rights, but it will do a great deal to clog the courts and make the death penalty virtually unenforceable in every jurisdiction where it is currently carried out.

The Racial Justice Act mocks our system of individualized justice by allowing capital defendants to challenge their sentences using statistics alone—if the numbers don't know add up, then the sentence should be overturned. The Supreme Court of the United States properly rejected this fuzzy-headed reliance on statistics. And the Senate, to its credit, has voted thumbs-down on the Racial Justice Act on every occasion we have considered it.

Not surprisingly, prominent law enforcement agencies like the National Association of Attorneys General, the National District Attorneys Association, and the National Troopers Coalition have all publicly opposed the Racial Justice Act.

As we anticipate the Senate-House crime conference, it's critical that the Senate send a clear message that the so-called Racial Justice Act is unacceptable and should be rejected by the Senate and House conferees.

Mr. WOFFORD. Mr. President, all of us must take very seriously the allegation that the death penalty is applied in a racially discriminatory manner. Some of the information I have seen to this effect is troubling and can not be disregarded. It seems to me self-evident under our Constitution that if we are to have a death penalty, or any criminal penalties for that matter, they should be applied equally to everyone without regard to race.

No one can ignore the historic existence of discrimination in our nation and in our criminal justice system. I fully support the provision in the Senate version of the crime bill that provides funding to states for analysis of the role that race plays in the State's criminal justice system. I note with interest that a Pennsylvania judge, Chief Judge Sylvia Rambo of the U.S. District Court for the Middle District of Pennsylvania, has recently asked the Justice Department to provide information on how it decides to seek the death penalty in federal prosecutions.

However, I am not persuaded that the Constitution and the existing civil rights laws do not provide adequate protection against discrimination in the application of the death penalty. The Constitution provides for equal protection under the law, and if a state is applying the death penalty in discriminating manner, it can and should be challenged under the equal protection clause of the 14th amendment, or under existing civil rights statutes that enforce constitutional protections.

Statistical evidence is an important tool in indicating discrimination in civil rights cases, but I am concerned that statistical debates about the application of the death penalty inherently threaten the principle of individual justice that is the cornerstone of our criminal justice system.

Moreover, I do not think that the controversy over the Racial Justice Act proposal should jeopardize what we are now able to accomplish with this crime bill. It should not be used to undermine the consensus for passage of the largest federal crime prevention effort in our history. This is a crime bill that has the support of the majority of

the Members of this Congress and one that will make an important contribution to the safety of all of our citizens regardless of race. We must move forward and pass this crime bill without prejudice and without further delay.

I ask unanimous consent that today's New York Times article on this issue be included in the RECORD immediately following my remarks.

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

[From the New York Times, May 11, 1994]

U.S. ORDERED TO TELL HOW IT DECIDES TO SEEK EXECUTIONS

(By Steven A. Holmes)

WASHINGTON, May 10.—A Federal judge in Pennsylvania has ordered the Justice Department to explain why it is seeking the death penalty against a black defendant in a murder case.

The order, issued on May 3, is believed to represent the first time a Federal judge has tried to pry open one of the agency's most closely guarded secrets: why the Justice Department believes that some murderers must die while others may live.

The timing is particularly crucial, since the order comes as Congress makes its final push on a crime bill, the House version of which would allow defendants to appeal their death sentences by showing that judges and juries are racially biased in calling for capital punishment. Four years ago, the Senate defeated a similar measure.

"The timeliness of this ruling is important," said Richard Dieter, director of the Death Penalty Information Center, a nonprofit advocacy group that opposes capital punishment. "If this information comes out fairly soon, it might influence a major piece of legislation."

Marty Carlson, an Assistant United States Attorney in Harrisburg, Pa., said the Justice Department had not decided whether to appeal the judge's order. The department has to respond by Friday, and the judge wants the information before trial starts on June 6.

DRUGS AND DEATH

The order was issued by Sylvia H. Rambo, chief Federal judge for the Middle District of Pennsylvania in a case involving a New Yorker, Michael Murray, who is accused of killing a minor drug dealer, Juan Carlos-Bacallo of Harrisburg. Prosecutors said both men were part of a ring that supplied crack in the Harrisburg area.

Although almost all of the approximately 20,000 people arrested in homicide cases every year are tried in state courts, the number of Federal defendants who may be subject to the death penalty will probably expand after the Federal crime bill is approved. A House-Senate conference is to begin work in the next few weeks on reconciling the versions of the crime bill each chamber has passed.

In March, a Congressional report found that of the 37 defendants the Justice Department has sought to execute for drug-related murders since 1988, 33 are black or Hispanic. During the Clinton Administration, all 10 of the defendants whom Federal prosecutors have sought to put to death have been black.

In all of these cases, the defendants were prosecuted under a 1988 law that allows the execution of drug kingpins who have committed or ordered a murder.

DISLIKE OF SCRUTINY

Justice Department officials deny that racial bias is a factor in decisions to seek the death penalty. But officials have refused to discuss the process or criteria used despite repeated requests from Congress.

"That's the kind of information that they would like to think of as internal," said Representative Melvin Watt, a North Carolina Democrat who has been prodding the Justice Department to provide data on capital punishment decisions. "Most people who deal in areas like this don't want to see their decision scrutinized or second guessed."

Under Justice Department procedures, the United States Attorneys around the country must obtain the approval of senior Justice Department officials, including Attorney General Janet Reno, to seek the death penalty.

The far-reaching order by Judge Rambo, who was appointed by President Jimmy Carter, came in response to a request by Mr. Murray's lawyer, David Ruhnke. It requires the Justice Department to turn over documents that cover virtually all aspects of the decision to seek death, including:

A list of all homicide cases since the passage of the 1988 law in which the defendant could be considered eligible for a Federal death penalty prosecution.

All requests and supporting documents submitted to the Justice Department by United States Attorneys who have sought permission to ask for the death penalty, even if permission was denied.

Documents explaining the Justice Department's "standards, policies, practices or criteria governing the approval or disapproval" of death penalty prosecutions.

In some ways, Mr. Murray's case is emblematic of the confusion surrounding the use by prosecutors of the drug kingpin law.

Even though Federal prosecutors are seeking the death penalty against Mr. Murray under the 1988 law, Mr. Ruhnke says his client has not been charged with controlling the crack ring in Harrisburg. Federal prosecutors contend that another man in the case, Jonathan Ray Bradley, was the ringleader and that it was Mr. Bradley who ordered Mr. Murray to kill Mr. Carlos-Bacallo.

Yet, Federal prosecutors are not seeking the death penalty against Mr. Bradley, who is also black.

Mr. BRADLEY. Mr. President, I differ from some of my colleagues in that I believe that there is a place in our system of justice for capital punishment. At one extreme of the scales of justice, there are crimes that so brutally deny the humanity of the victim and the criminal that they merit only the most absolute punishment. But I know that none of my colleagues would disagree with my belief that there is no place in our system of justice for racial prejudice.

The racial justice provisions of the House crime bill do not, as my colleague from New York contends, create race-weighted justice. They will not create a situation in which one person is put to death and another spared solely because one is white and one black. Instead, it is intended to determine whether there already is such a situation, and to help us put an end to it.

I want to know, Mr. President, that there is plain justice in this country, not racial justice. I want to know that if a white man brutally murders a black man, his crime will be judged just as dispassionately as the crime of a black man who murders a white woman. Through most of our country's dark history of racial injustice, these crimes have not been treated alike. That's undeniable. Is this injustice part of our history, or part of our present? I want to know.

There is plenty of reason to think that death sentences today are based on race. Since the death penalty was reinstated 18 years ago, and 236 people were executed, only one white defendant has been executed for the murder of a black person. In Georgia, whites make up 40 percent of homicide victims, but 87 percent of the death sentences are in cases with white victims. The Racial Justice Act is as much about respect for victims' lives, black lives as well as white lives, as about the rights of criminals to unbiased justice.

These statistics do not prove that each and every death sentence in those jurisdictions was a product of racial bias. But they force the question, and the Supreme Court has ruled that that question can be raised in court only with specific legislative action. The House version of the Racial Justice Act is the appropriate form for that legislative action to take. It gives prosecutors a chance to disprove the allegations of bias in sentencing, using the modest standard of a "preponderance of evidence." It requires a convict challenging a death sentence to a prove not just a statistical disparity, but that his or her individual sentence was also influenced by discrimination. It makes clear that a convict who successfully challenges a death sentence on these grounds will not be released, and not even automatically commuted to life in prison, but resentenced, under a fair procedure that could also end in another death sentence.

My colleagues who oppose the Racial Justice Act contend that it will bring a de facto end to the death penalty, or that it is a backdoor means for death penalty opponents to eliminate it despite the broad public support for capital punishment. I am not an opponent of the death penalty. In fact, I think that the racial justice legislation is an essential protection to the death penalty. Shortly before he announced his intention to retire, Justice Harry Blackmun announced that he would no longer vote to carry out death sentences, given his conviction that the death penalty could not be administered fairly. This is not a radical view on Justice Blackmun's part. If patterns continue unchecked, more and more judges will hesitate to uphold death sentences that appear to have more to do with the race of the convict and the victim than with the barbarity of the crime. The racial justice legislation constitutes our first serious effort to ensure that the death penalty can be and is administered fairly.

The arguments my colleague from New York uses in opposing the Racial

Justice Act are valid only for those who can say with some assurance that race is not currently a factor in whether a criminal is sentenced to death or spared. If my colleagues believe that bias persists in sentencing, or want further assurance that justice is blind, they should join me in supporting the racial justice language as a necessary safeguard to the death penalty itself.

Mrs. FEINSTEIN. I rise, Mr. President, to address the nonbinding amendment by Senator D'AMATO to instruct the Senate's crime bill conferees to reject the Racial Justice Act as framed in the House crime bill. I support the amendment today, not because I oppose racial justice or believe that our Nation's judicial system is free of racial bias. To the contrary, I concur with Chairman BIDEN that inequities in the present system can and must be redressed.

After much thought about the specific provisions of the House crime bill, however, I found myself in agreement with California's attorney general and all 58 of the State's district attorneys. If adopted as written, the House bill creates a grave risk of introducing even greater delay in capital cases than that now occasioned by abuse of habeas corpus proceedings.

Moreover, I am acutely aware of the problems that retroactive application of the House measure would cause in California and elsewhere. While an informal agreement to alter that part of the Racial Justice Act reportedly has been struck, I feel it important to indicate my strong opposition to retroactivity. My vote in support of the amendment before us should be taken as such.

Having said that, Mr. President, I do not accept that Congress cannot and should not craft a variation of the House's measure in conference, or subsequently as a stand-alone bill. I look forward to working closely with Senator KENNEDY, members of the Congressional Black Caucus, and other committed legislators to craft a bill premised on the equally valid needs to redress inequities in our criminal justice system and achieve closure, after due process, in capital cases.

There is certainly ground for us to mine together in this pursuit, Mr. President. Limitation of the act to Federal capital cases should be actively considered. Clear statutory definitions of what forms of evidence will be admissible in making a racial justice claim can be crafted. Judges can and should be given guidance by Congress as to what constitutes a statistically significant factor in decisions to impose the death penalty. Race can and must be defined. What to do in cases where the defendant is of mixed race should be addressed. Reasonable time limits for making a racial justice claim can be imposed. Discussion of what cases should be considered similar for purposes of the Act is also necessary.

Clearly, there is work that must be done, Mr. President. I am eager to do it.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. KENNEDY. The other side has how much time?

The PRESIDING OFFICER. The other side has 8 minutes and 19 seconds.

Mr. KENNEDY. I yield myself 4 minutes, Mr. President.

First of all I congratulate my friend and colleague from Illinois. She has spoken eloquently and persuasively on this issue, as she has when she has addressed similar issues. Over the time that she has been a Member she has made a very important difference in this body. Although the Chamber is not filled this afternoon, I know she speaks for millions of Americans, not only from her State but also across this Nation. I wish all of our colleagues could have heard her presentation.

We are back at an issue which is as old as this country. The issue of race discrimination was enshrined in the Constitution of the United States, and this Nation over a long period of time has had to work to rid itself of that particular stain. As the good Senator from Illinois pointed out based on her visit recently to South Africa and all the efforts that are being made there today, that country is also attempting to deal with that.

The Members of this body understand the history, the difficulty we had in America in the time of the Civil War—the bloodshed and violence that took place and the pain and agony that affected so many parts of our Nation during the Civil War.

Then, fortunately, we had a leader in the late 1950's and the early 1960's who challenged this Nation to put this chapter of our history behind us. Along with Dr. King, we remember the extraordinary, courageous votes that took place in the Fifth Circuit Court of Appeals and also the extraordinary decision in the Brown case in 1954, this Nation really confronted the issue of race. We made extremely important progress.

We know progress in some areas has not been made, but we have made an important downpayment on the issues of race in our society—really, I think, because we began to address that issue.

We saw also progress made in other areas where we have discriminated against people: In terms of religion and ethnicity—we have moved beyond that—in terms of disability, gender discrimination, other forms of discrimination. America is moving closer to the real America, which will be to finally eliminate these stains of discrimination that go back to our earliest history as a nation.

It has been a long and evolving process. I have had the good fortune over the time that I have been in the Senate to have witnessed much of the progress we have made. It was made with the assistance of both sides of the aisle, Republican and Democrat alike. That has been the reason that we have been able to make progress on something which is of such enormous importance and consequence.

You can say, "Why now? Why this issue? Why should we be discussing race at the time when we are considering instructions to the crime bill conferees?"

It is very simple and very well understood. The issue of whether we will have the death penalty has virtually been resolved. Some 26 or 27 Members, including myself, are opposed to the death penalty. Now that issue has been resolved, this country is going to go ahead with the death penalty. But the fact of the matter is, the expansion of the death penalty in the Senate's bill to 50 more offenses, and the expansion in the House bill to 66 offenses, that massive expansion brings back into mind the very clear evidence of race discrimination in capital sentencing. We have seen the results of different State studies, different law review articles, different work that has been carried out throughout the country. The statistics overwhelmingly prove that the application of the death penalty is affected on the basis of race both in terms of the defendant and in terms of the victim.

We included the racial justice provision in the 1989 crime bill which I offered and which was favorably reported from the Judiciary Committee. It was repealed on the floor of the Senate. Earlier we passed legislation requiring a GAO study. People—men and women in the Senate—said we are glad to have those State studies but we need a final study. Let us get the GAO to really do the final study on this particular issue.

I yield myself 3 additional minutes.

So we had the GAO study. And the GAO study that has been put in the RECORD in the past reaffirms—reaffirms—reaffirms everything that we have pointed out here in the course of this debate.

Why is it—why is it that this body was prepared to use statistics back in 1964 on the issues of employment; why is it that in 1965 we were prepared to use statistics on voting; why is it that we were prepared to use statistics in 1968 on the basis of housing; why is it that in 1986 the Supreme Court reached the issue of statistics in considering the composition of juries in this country; and why is it that the Supreme Court this year, in terms of gender discrimination on juries, used statistics again? In each and every one of those times that involved the issue of race, the Congress, the Supreme Court, and the American people have understood

the importance of using statistics. And we are asking that it be considered again, not in the way, the form, or shape that we had it previously, but in an entirely different form—entirely different shape, than was done in the previous way.

Why is it that they say, "Oh, no, this is just an excuse to end the death penalty?" In the ultimate, ultimate, ultimate decision about our society and the difference of life and death, it is OK for an issue of jobs or housing, it is OK in the jury, but no way—no way—that we are going to even consider the very modest provisions that have been included in the House crime bill.

And the eagerness of this body to instruct the conferees on this measure is striking. Hundreds of different measures on that proposal, but it seems someone says: Let us take the race issue. Let us go up and beat up on the race issue. Let us make all of these comments and statements about how judges cannot really handle statistics.

The Senators who have spoken on this issue know very well about rebuttable presumptions and how they can be rebutted for any of the different criminals that have been referenced on the floor of the U.S. Senate. Of course, they may be rebutted on a basis of past criminal activity. But this is a core issue, and it is part of the unfinished agenda against discrimination in this society, make no mistake about it, and it is not going away. Members will have a chance to vote on this issue time in and time out, time in and time out until we do something about it.

So I hope that this amendment is defeated. I hope we can go to conference and come out with a provision that will do the best that we possibly can to eliminate race discrimination in the application of the death penalty. We can do no less. We will be a stronger country when we do.

I reserve the remainder of my time.

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

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I am just going to speak for a few seconds and then recognize the Senator from Washington for 3 minutes.

First of all, my colleague from Massachusetts indicates that this is a modest proposal. Let me say that I would term this proposal as nothing more than an exercise in political correctness that is being injected into our legal system. It has nothing to do with the guilt or innocence of a person. It would totally put that aside, making it irrelevant and is absolutely—absolutely—intended to do away with the death penalty. And that is in fact what it does.

If one were to read section (C)(1), in effect, it eliminates the death penalty. You have to execute people as relates to equal numbers. John Wayne Gacy, a killer, could come and make a claim statistically: "You haven't killed people in equal numbers." He tortured and killed 33 young men.

What a facade, a smokescreen. They call it "racial justice." And then the rest of us are supposed to be quiet because we do not want to be accused of being against racial justice. Of course we want justice, as that liberty of justice stands that there should never be a decision made on the basis of discrimination—on the basis of race or color. I understand a little something about discrimination.

Let me suggest, this is just a harbinger of things to come. If we are going to say, as relates to the imposition of any penalty, what about the penalties that come 20 years to life for rape, robbery? Should we not have, and would it not logically follow, that the same argument and the same statistics be utilized?

Imagine, after a trial, a person is found guilty beyond a reasonable doubt—and, by the way, in the Senate version, we require before the implementation of the death penalty that there be certification by each and every juror that the judge charged specifically that race not be a part of that decision, each and every one has to certify that they have made their decision without there being any regard to the person's race or color. No discrimination. We put that in there.

This is a charade, and it is a backdoor attempt by those who are opposed to the death penalty to say, "Well, we added 60 more provisions." And yet with this one provision, there would be no implementation of the law, regardless of race or color. Even John Wayne Gacy would not have the death penalty imposed upon him as a result of this so-called innocent and modest program.

I yield 2 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, despite the heated rhetoric that title IX of the House-passed crime bill evokes, three facts are inescapable and irrefutable.

One, despite it's clever title, the Racial Justice Act would not tend toward eliminating racially discriminatory sentencing in our criminal justice system; it actually institutionalizes overt racism and radically alters fundamental concepts of fairness in our criminal justice system.

Two, despite claims to the contrary by its advocates, many of whom openly admit their hostility to the imposition of the death penalty under any circumstances, that the provision will not abolish the death penalty; title IX overturns Supreme Court precedent and would make the death penalty in many jurisdictions nearly impossible to carry out.

Third, despite all the talk of concern for victims of violent crime, title IX, if enacted, will result in less justice for victims and families of victims of violent crimes, no matter what color of their skin.

A simple reading of the provisions of title IX leads to my three conclusions.

The first section begins with a paragraph that only restates current law:

> 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.

This concept is a fundamental and established principle of American constitutional law with which no reasonable or fair person would dispute.

The second paragraph states that:

> An inference that race was the basis of a 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 to impose the sentence of death in the jurisdiction in question.

Alarm bells should be ringing in the heads of anyone who is remotely familiar with our criminal justice system. How is the validity of evidence defined? Under what standard of proof can the evidence be rebutted? How are statistics of other cases useful in determining the intent of justice for an individual who committed an individual act of murder? How does this serve the need of justice for victims and their families?

Some of these questions are answered in the provisions of title IX while others are not.

Relevant evidence is described in the third paragraph:

> Evidence relevant to establish an inference that race was the basis of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b) being imposed significantly more frequently in the justisdictions in question—
>
> (1) upon persons of one race than upon persons of another race; or
>
> (2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

The next paragraph states that judges will decide the validity of the evidence and whether it provides a basis for the inference. The evidence can only be rebutted by "a preponderance of the evidence." Moreover the legislation requires that:

> Unless it can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which the death was imposed fit the statutory criteria for imposition of the death penalty.

These provisions lead to quotas in sentencing—a radical departure from fundamental American justice based on individual rights and responsibilities that is enshrined in our Constitution and Bill of Rights. In order for prosecutors to pursue the death penalty for an individual charged with a heinous act

of murder, the prosecutor would first have to determine whether his past prosecutions and imposition of the death penalty in his area matched the racial makeup of other murderers as well as the racial makeup of victims. If it did not, no matter how horrible the crime, he could not possibly hope to win the death penalty for that individual.

That means a Caucasian drug dealer who kills an African-American police officer in cold blood in a State that did not have a statutorily required statistically proportionate representation of minorities on death row, could not receive the death penalty. This lunacy inspired the prosecutors in my State to write me stating that:

We also oppose the so called Racial Justice Act. * * * Our belief is that these provisions will effectively abolish the death penalty under the guise of addressing racial disproportionality. The provisions effectively establish a quota for specific groups which does not reflect individual behavior. We support application of all laws in a racially neutral manner, as we support application of all laws in a racially neutral manner, but this legislation does not provide for that.

They are the ones, Mr. President, who have to explain to the families of murder victims that the justice they desire is impossible because the victim or the offender had the wrong skin color. It is inconceivable that this is racial justice.

Mr. President, it is clear then that the provisions do not address just the concerns of racism against minorities in some jurisdictions. It overhauls our entire approach to criminal justice and sets unprecedented burdens to justice for victims of all races. It is a mockery of the concept of individual justice and trial by jury—the foundations for safeguarding our liberties.

Proponents of title IX also assert that it would not overturn established Supreme Court decisions upholding the death penalty. The reading of the Court's opinion in McCleskey versus Kemp concludes otherwise. In that 1986 case, the petitioner, who was African-American, claimed that a statistical study proved that imposition of the death penalty in his State was a violation of the equal protection clause of the 14th amendment as well as the "cruel and unusual punishment" prohibitions of the 8th amendment. The Court disagreed, and the opinion by Justice Powell stated that:

* * * Petitioner must prove that the decisionmakers in his case acted with discriminatory purpose. Petitioner offered no evidence specific to his own case that would support an inference that racial considerations played a part in his sentence, and the Baldus study is insufficient to support an inference that any of the decisionmakers in his case acted with discriminatory purpose. This Court has accepted statistics as proof of intent to discriminate in the context of a State's selection of the jury venire and in the context of statutory violations under Title VII of the Civil Rights Act of 1964. However, the nature of the capital sentencing decision and the relationship of the statistics to that decision are fundamentally different from the corresponding elements in the venire-selection or Title VII cases. Petitioner's statistical proffer must be viewed in the context of his challenge to decisions at the heart of the State's criminal justice system. Because discretion is essential to the criminal justice process, exceptionally clear proof is required before this Court will infer that the discretion has been abused.

There has been some confusion as to whether the Court actually held that the study in this case was valid or not. The seventh footnote, however, explains that:

As did the Court of Appeals, we assume the study is valid statistically without reviewing the factual findings of the District Court. Our assumption that the Baldus study is statistically valid does not include the assumption that study shows that racial considerations actually enter into any sentencing decisions in Georgia. Even a sophisticated multiple-regression analysis such as the Baldus study can only show a risk that the factor of race entered into some capital sentencing decisions and a necessarily lesser risk that any particular sentencing decision.

Clearly, the language in title IX lowers the standard by which courts would be able to use statistical evidence beyond that which was established in McCleskey. In a 1989 Vanderbilt law review article, Prof. James Acker notes that:

One year after *McCleskey* was decided, Federal legislation was introduced in Congress that would have the effect of countermandering much in that decision. The proposed Racial Justice Act of 1988 specifies that broad based evidence of racial discrimination, such as was at issue in *McCleskey*, prima facie establishes that capital punishment within a State is being administered unlawfully and prohibits executions unless the apparent racial disparities are explained on the basis of legally permissible factors.

As I understand it, this measure, although changed somewhat since its original introduction, has become even broader in its generality—making Acker's conclusion still relevant. In addition, this morning's paper quotes constitutional scholar Bruce Fein as stating that:

* * * statistics that *McCleskey* held insufficient to prove unconstitutional racial discrimination could block death sentences under the Racial Justice Act.

The sound reasoning of the Court in the McCleskey decision which has been followed by more than 30 Federal district and appellate courts. Two specific appellate level decisions reflect the importance of maintaining the evidentiary standards set forth in McCleskey.

In Richmond versus Lewis, a ninth circuit opinion, the panel held that a defendant who offered statistics to show discrimination based on race, sex, and economic status failed because:

To require the district court to weigh this evidence would be to suggest that Richmond's death sentence could conceivably be invalidated solely on the basis of his physical or social affinity to other defendants who are not now before this court but who may have suffered unconstitutional discrimination in their receipt of the same sentence.

In Harris versus Pulley, another ninth circuit opinion, the court rejected statistical studies of general discrimination by age and sex by quoting McCleskey. The appellate court held:

Not only did his statistics not entitle him to discovery of an evidentiary hearing on this claim, but they do not present the exceptionally clear proof required to demonstrate purposeful discrimination.

By substituting the "exceptionally clear proof" standard of McCleskey, title IX of the House-passed crime bill will allow countless convicted murders to avoid justice through abuse and manipulation of statistical studies.

While proponents of title IX correctly state that Justice Powell deferred to changes that State legislatures or Congress may make regarding evidence eligible in capital sentencing, that invitation was accompanied by a stern warning on the significance of jury discretion and its connection to criminal justice—a reminder that is quite useful and necessary for this debate.

Citing Supreme Court precedent, Powell wrote:

Because of the risk that the factor of race may enter the criminal justice process, we have engaged in unceasing efforts to eradicate racial prejudice from our criminal justice system. Our efforts have been guided by our recognition that the inestimable privilege of trial by jury * * * is a vital principle, underlying the whole administration of criminal justice. Thus, it is the jury that is the criminal defendant's fundamental "protection of life and liberty against race or color prejudice. * * * The capital sentencing decision requires the individual jurors to focus their collective judgment on the unique characteristics of a particular criminal defendant. It is not surprising that such collective judgments often are difficult to explain. But the inherent lack of predictability of jury decisions does not justify their condemnation. * * * McCleskey's argument that the Constitution condemns the discretion allowed decisionmakers in the Georgia capital sentencing system is antithetical to the fundamental role of discretion in our criminal justice system.

Finally, title IX is misguided in its priorities. While Americans increasingly lack faith in a criminal justice system that does not deliver justice for victims, the House of Representatives accepts these provisions which are meant to slow, not expedite, justice for convicted murderers.

In my own State, we have waited for 12 long years with the victims of Charles Campbell's murders for justice to be served, and we are still waiting due to one appeal after another. This Senate must get the message that it is the victims of death row inmates that deserve our energies and efforts.

Title IX is overwhelmingly opposed by those who attempt to administer justice on a daily basis, but who find

themselves bound by laws that regularly serve the criminal instead. The misnamed Racial Justice Act is just such a law.

Let me make it clear for the record, this Senator, as I believe most Senators, believes there does exist some statistical racial disparity in the application of the death penalty in some jurisdictions and certain jurors, inevitably and unfortunately, do not follow their sworn duty to be objective. The GAO study does reach that disturbing conclusion.

Common sense indicates, however, that collective comparisons of individual cases can draw only superficial conclusions that may conflict with other studies. For instance, in his testimony before the House Judiciary Committee last fall, Paul Kamenar of the Washington Legal Foundation discussed a 1985 Bureau of Justice Statistics report that concluded, according to him that, "Whites are 36 percent more likely to be sentenced to death than their black counterparts." Mr. Kamenar concludes by stating, however, that, "The myriad and disparate factors in each particular murder case simply make it impossible to lump all capital cases together for comparative purposes."

Conflicting studies do not make the need to address evidence of racial disparity in some jurisdictions less significant. We cannot tolerate discrimination in any form in the application of our laws. By using limited evidence as an all-out assault on the death penalty, however, title IX does not even begin to address this disparity in a remotely constructive and meaningful manner. It takes statistical patterns of racism in some jurisdictions and installs a sweeping and unworkable mandate on all jurisdictions.

In conclusion, Mr. President, if we have the courage to do our jobs and judge this legislation on the merits, we will conclude for the Racial Justice Act, as Justice Powell did in the McCleskey case, that:

> Petitioners claim, taken to its logical conclusion, throws into serious question the principles that underlie the entire criminal justice system.

Similarly, title IX of the House crime bill, if enacted into law, is a radical change that the American people will quickly recognize as injustice. I trust that is why this Senate has rejected versions of the Racial Justice Act three times and why it will do so again by voting for the D'Amato amendment. If we fail, we have the families of murder victims—which includes all races—to answer to.

Mr. KENNEDY. Will the Senator yield for 15 seconds? I ask for 15 seconds.

Mr. D'AMATO. Yes.

Mr. KENNEDY. Will the Senator just include the rest of the Powell ruling that invited the legislatures to make a judgment on this very issue, to make such a determination?

Mr. GORTON. Mr. President, I ask unanimous consent to print more extensive remarks in the RECORD.

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

> McCleskey's arguments are best presented to the legislative bodies. It is not the responsibility—or indeed even the right—of this Court to determine the appropriate punishment for particular crimes. It is the legislatures, the elected representatives of the people, that are "constituted to respond to the will and consequently the moral values of the people." *Furman v. Georgia*, 408 U.S., at 383, 92 S.Ct., at 2800 (Burger, C.J., dissenting). Legislatures also are better qualified to weigh and "evaluate the results of statistical studies in terms of their own local conditions and with a flexibility of approach that is not available to the courts."

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. How much time do I have left?

The PRESIDING OFFICER. One minute forty seconds left.

Mr. D'AMATO. Mr. President let me ask that a letter dated May 6, 1994, which was sent to the House and Senate conferees be made a part of the RECORD.

Let me say this letter was signed by 30 attorneys general from across the Nation, Democrats, Republicans—30 of our attorneys general in our States. They wrote a letter to the crime bill conferees expressing their opposition to this legislation, the legislation we are attempting to deal with. Let me quote one part of their letter, as it relates to the provision that the Senator from Massachusetts spoke to.

They write and I quote: "Instead of protecting against race bias," the legislation "would impose a quota system on the imposition of the death penalty."

And they conclude: "This is unacceptable."

Mr. President, this is from 30 attorneys general across this Nation. Are we supposed to believe that they are opposed to racial justice, men and women who have given their life to the enforcement of the law, equal justice? It is incomprehensible. As a matter of fact, those who come forth with this label of racial justice somehow are supposed to duck down because people do not have an opportunity to really understand.

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

Mr. D'AMATO. Mr. President, nothing more needs to be said.

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

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

May 6, 1994.

DEAR HOUSE-SENATE CONFEREES: On April 21, 1994, the U.S. House of Representatives passed the omnibus crime bill, H.R. 4092. One feature of this legislation (included in Title IX) is a measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief. The Senate omnibus crime bill, now included in H.R. 3355, adopted in November 1993, contains no such legislation.

We are a bipartisan group of chief law enforcement officers of our respective States. We write in strong opposition to any omnibus crime bill reported by the House-Senate Conference Committee which may include any version of the so-called Racially Discriminatory Capital Sentencing Act, or any other statistical showings legislation which overturns the U.S. Supreme Court's holding in *McCleskey v. Kemp*, 481 U.S. 279 (1987). Such statistical showings legislation seriously undermines enforcement of the death penalty.

In McCleskey, the U.S. Supreme Court rejected a claim which would allow capital defendants to make a statistical showing of potential race discrimination from unrelated cases as a basis for collateral relief. The Court correctly held that a defendant who contests his capital sentence on the basis of racial discrimination is required to prove that the decision makers in his or her own case cited with a discriminatory purpose.

We are strongly opposed to any race bias in our criminal justice system, and believe that all criminal penalties should be administered without regard to the race or color of the defendant or the victim. Instead of protecting against race bias, the Racially Discriminatory Capital Sentencing Act would implore a quota system on the imposition of the death penalty. This is unacceptable.

Below is the relevant language of the March 21, 1994 resolution of the National Association of Attorneys General (NAAG) which sets forth our opposition to the statistical showings legislation now found in Title IX of H.R. 4092:

Whereas, the U.S. House Judiciary Committee recently reported out [and the U.S. House of Representatives has now adopted]: * * * (2) a measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief;

Now, therefore, be it *Resolved*, That the National Association of Attorneys General:

1. strongly supports all efforts to strike * * * from an omnibus anti-crime bill: * * * *any statistical showings legislation;* and

2. opposes * * * *[H.R. 4092, title IX], or any measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral relief;* * * * (Italics added.)

As the chief law enforcement officers of our respective States, we are profoundly disturbed that this legislation, in its current form, or any version thereof, will (1) essentially stop the prosecution and enforcement of capital cases; (2) allow current death row inmates to reopen already adjudicated claims or bring new claims based upon a statistical showing from unrelated cases; and (3) jeopardize the enactment of other measures included in the omnibus crime bill.

This open-ended legislation permits the capital defendant to establish an inference that race was a factor in seeking or imposing the death penalty in his or her own case based on the same decisions made in other murder cases. Following such an inference, under the bill, "the death sentence may not be carried out unless the government rebuts the inference." However, review of the bill language shows that it would be extremely difficult (if not impossible, and only at great time and cost to the State) to rebut this inference, as the bill imposes severe con-

straints on the ability of the government to rebut the statistical case. For this reason, the legislation essentially abolishes the death penalty.

Specifically, the bill provides "[u]nless [the government] can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty." This means that in order to rebut the inference that racial factors were involved in any particular murder cases, the government must review all charging decisions of capital eligible cases, whether or not charged as a capital crime, all decisions to seek or not seek the death penalty, and all decisions of juries to impose or not impose the death penalty. This virtually-impossible review would be necessary under the bill in order to demonstrate that these decisions were not racially motivated.

The initial "inference" of racial discrimination under the bill, however, fails to take account of the fact that each murder case has unique factual circumstances, different strength of evidence, and different mitigating and aggravating factors relating to each defendant, which may account for the ultimate decisions to seek or not seek, or to impose or not impose, the death sentence in those particular cases. Statistics from unrelated cases should never be used to determine the outcome of any criminal case, which should instead be based solely on whether the charged offense was committed by the defendant. The difficulty in rebutting an "inference" of racial discrimination based on alleged statistical disparities from multiple unrelated cases is so profound and so potentially expensive as to essentially bring the prosecution of capital cases to a halt.

Therefore, consistent with the NAAG resolution, we support any efforts to eliminate the Racially Discriminatory Capital Sentencing Act from the omnibus crime bill. This includes instructions in the House or Senate to the conferees to take whatever measures are necessary to ensure that no crime bill is made law with these provisions in it.

Further, we strongly believe that statistical showings legislation, by whatever name it is referred to, has proven to be a contentious issue in prior Congresses and in fact was in large part responsible for the deadlock on the omnibus crime bill in past Congresses. The need to address violent crime is to urgent to delay deliberation on other important measures to combat crime. If Congress is serious about enacting an omnibus crime measure, it must strike the so-called Racially Discriminatory Capital Sentencing Act, which will only detract from the ultimate passage of the crime bill.

Sincerely,

Larry Echohawk, Attorney General of Idaho; Daniel E. Lungren, Attorney General of California; James S. Gilmore, Attorney General of Virginia; Frankie Sue Del Papa, Attorney General of Nevada; Joseph P. Mazurek, Attorney General of Montana; Robert A. Butterworth, Attorney General of Florida; Dan Morales, Attorney General of Texas; Ernest D. Preate, Jr., Attorney General of Pennsylvania; Grant Woods, Attorney General of Arizona; Jan Graham, Attorney General of Utah; Deborah T. Poritz, Attorney General of New Jersey; Joseph B. Meyer, Attorney General of Wyoming; Micke Moore, Attorney General of Mississippi; Chris Gorman, Attorney General of Kentucky; Jimmy Evans, Attorney General of Alabama; Don Stenberg, Attorney General of Nebraska; Jeffrey R. Howard, Attorney General of New Hampshire; Robert T. Stephan, Attorney General of Kansas; Gale A. Norton, Attorney General of Colorado; Jeffrey B. Pine, Attorney General of Rhode Island; Susan B. Loving, Attorney General of Oklahoma; Malaetasi Togafau, Attorney General of American Samoa; Charles M. Oberly, III, Attorney General of Delaware; Mark W. Barnett, Attorney General of South Dakota; John M. Bailey, Chief State's Attorney of Connecticut; Tom Udall, Attorney General of New Mexico; T. Travis Medlock, Attorney General of South Carolina; Michael J. Bowers, Attorney General of Georgia; Richard P. Ieyoub, Attorney General of Louisiana; Jeremiah W. (Jay) Nixon, Attorney General of Missouri;

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

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—58

Baucus	Exon	Mack
Bennett	Faircloth	McCain
Bingaman	Feinstein	McConnell
Bond	Ford	Murkowski
Brown	Gorton	Nickles
Bryan	Graham	Nunn
Bumpers	Gramm	Pressler
Burns	Grassley	Pryor
Byrd	Gregg	Reid
Coats	Hatch	Roth
Cochran	Heflin	Simpson
Conrad	Helms	Smith
Coverdell	Hollings	Specter
Craig	Hutchison	Stevens
D'Amato	Johnston	Thurmond
Danforth	Kassebaum	Wallop
DeConcini	Kempthorne	Warner
Dole	Lieberman	Wofford
Domenici	Lott	
Dorgan	Lugar	

NAYS—41

Akaka	Harkin	Mitchell
Biden	Hatfield	Moseley-Braun
Boren	Inouye	Moynihan
Boxer	Jeffords	Murray
Bradley	Kennedy	Packwood
Breaux	Kerrey	Pell
Campbell	Kerry	Riegle
Chafee	Kohl	Robb
Cohen	Lautenberg	Rockefeller
Daschle	Leahy	Sarbanes
Dodd	Levin	Sasser
Durenberger	Mathews	Simon
Feingold	Metzenbaum	Wellstone
Glenn	Mikulski	

NOT VOTING—1

Shelby

So the amendment (No. 1685) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, we are about to vote on final passage of S. 1935, a bill which would dramatically tighten the congressional gift rules. If we pass this measure—as I am confident we will—this will be a truly historic vote.

This bill, if enacted, would ban gifts of meals, tickets to sporting events, so-called recreational travel, and virtually anything else a special interest might offer to a Member of Congress. It would also prohibit all privately funded travel not related to official business and establish strict new disclosure requirements for those travel reimbursements that may be accepted.

These are the toughest gift rules ever approved by either House of Congress. If adopted, they will send a message that business as usual is no longer acceptable in this town.

Mr. President, the Senate is a highly ethical body. The problem is that the public does not appear to see it that way—and apparently will not see it that way until we adopt new rules that rid us of any appearances of favoritism or unequal access.

That appearance, as unfair as it may be, is poison for public confidence in government. It is not good for the Congress and it is not good for the country. It is my hope that, with this bill, we can take a significant step toward bolstering public confidence in this institution.

Mr. President, this bill would not have been possible without the contributions of many Members of Congress. I would particularly like to thank Senators MITCHELL and GLENN, the majority leader and the chairman of our committee, for their guidance and support; Senator COHEN, the ranking minority member of my subcommittee, for his able assistance in managing the bill on the floor; and Senator FORD, the chairman of the Rules Committee, for his valuable input and assistance.

In addition, I want to acknowledge the efforts of Senators LAUTENBERG, WELLSTONE, and FEINGOLD. Even though the bill we are voting on today is significantly different from their proposal, it shares the same goal.

We would not have been here without the strength and perseverence of Congressman JOHN BRYANT, who successfully managed a string gift ban bill to passage on the House side earlier this year. Although differences remain between the House and Senate gift provisions, no one should doubt that both are tough measures which are intended to change the way we do business around here.

Mr. President, in view of the extensive consideration that this bill has received over the last week, and the over-

whelming approval of the measure that I expect in the forthcoming vote, it is my view that this bill now represents the position of the Senate on the gifts issue. On that basis, I intend to make it the starting position of the Senate conferees when the conference begins on S. 349, the Lobbying Disclosure Act.

I thank my colleagues for their support, and their patience, in dealing with this difficult issue.

Mr. COHEN, I would like to join Senator LEVIN in urging my colleagues to support final passage of this gift ban legislation. As I have stated a number of times, no Member of this body is or has been unduly influenced as the result of a steak dinner or a fruit basket. Nonetheless, there is a perception that the Nation's business is being undermined through gifts to Members of Congress from special interests. All of us recognize that this is a false perception, but one that exists nonetheless.

We have an obligation to try to reduce the level of cynicism directed at public institutions. We must be clear, however, that banning gifts will do little to improve Congress' standing in the public's eyes if timely action on health care, crime, the economy, and other critical issues is not taken. Gifts and other advantages of office are powerful symbols—but they are mere superficial lacerations compared to the malignancy that lurks in the body politic of this Nation. The cynicism toward Congress was not reduced when we charged for gym privileges, closed down the gift shop in the Dirksen Building, or raised prices in the barber shop. Public approval of Congress did not improve as a result of eliminating so-called perks in the past, and I am not sure that this gift ban will succeed in reducing public cynicism. It is ironic that at a time in our history when the standards of ethics in Congress is higher than over before, the press and public believe just the opposite.

Historically, Congress has enjoyed high levels of support when the public witnessed Congress doing the Nation's business in a way which they could feel proud of, even if there was disagreement about the ultimate outcome. For example, Congress was looked upon favorably during the Watergate hearings, when the House and Senate rose to the occasion to deal with a very tough situation in a responsible manner, and during the debate on the Persian Gulf war, when the Nation watched this body solemnly consider the use of military force.

Although overcoming the American public's cynicism toward Congress cannot be achieved with one piece of legislation, we have an obligation to do what we think is best for the institution. Members of Congress are very much aware of the public's dissatisfaction. We must try to prevent public confidence in Congress from eroding any further than it already has.

Some say that Congress already spends too much time tracking public sentiment and following the polls, and cite this propensity as the major reason why Congress cannot deal effectively with difficult issues such as health care, the budget deficit, and crime control. I agree with the statement that Congress must spend more time leading and less time trying to follow public opinion. However, on questions of ethics, we must pay heed to the public's loss of fundamental faith in the trustworthiness of Congress, otherwise, we risk endangering the role this institution plays in our political process.

Clearly, some may view this bill as an effort to stem the tidal wave of public discontent about a Congress that many feel is self-indulgent and out of touch. However, I hope Members will support this gift ban legislation not simply out of a desire to appease the public, but because the ban is in the best long-term interests of this institution. It is in this spirit that I believe that passage of S. 1935 is necessary.

As I have said throughout the debate on this bill, finding the best approach to fairly and responsibly address the issue of gifts to Members and staff is an ongoing process and is by no means complete. There have been a number of significant improvements and clarifications made to the bill as the result of floor debate. Clearly, the most significant change to the bill came from Senator BUMPERS' amendment, which bans all gifts, not just those worth under $20. I also want to note the contributions of Senator SIMPSON, regarding the designation of honoraria to charities, and of Senator DOLE, regarding donations to charitable foundations. Still other improvements can be expected in conference with the House.

I would like to thank Senator LEVIN for his leadership on this difficult issue. Sponsoring this legislation is not a task that either of us sought out, but Senator LEVIN has worked hard to craft a bill that improves greatly upon the legislation that was originally referred to Governmental Affairs. Two members of his staff, Linda Gustitus and Peter Levine, deserve particular recognition for the long hours they put in on this bill. I also would like to thank Senator STEVENS for his assistance in helping to manage the bill.

Mr. DURENBERGER. Mr. President, I rise in support of final passage of the gift ban bill, as amended.

When Americans are asked to rank professions in terms of public esteem, politicians invariably end up wallowing at the bottom, somewhere in between lawyers and used car salesmen. This image problem isn't just any old public relations disaster; it is a threat to our system of government.

When people lose faith in their elected officials, they become cynical about government and what it can accomplish. They stay away from the polls on election day. Even some of the good things we do here lose credibility. People participate in government less. The system becomes less democratic.

I must say that I agree with many of my colleagues who have spoken against this bill that it is often the proponents of measures like these that contribute to the public relations problems. By suggesting that we cannot be trusted to accept the hospitality of our constituents, our allies and our friends in Washington, they suggest that something improper is happening. That is unfortunate and untrue.

But to those colleagues that oppose this bill, I must say that placing the blame for the problem does not make the problem go away. Regardless of the origins of the problem, it is real and we need to deal with it.

During the 103d Congress, I have supported efforts like motor voter to make participation in the political process easier. I have also worked to forge genuine campaign finance reform to restore faith in the way officials are elected. Today I will vote for this bill, to reduce the perception that Congress can be bought by special interests.

Early in the debate on this bill, I supported the McConnell-Johnston substitute amendment, which would have further reduced the limit and required the disclosure of gifts. I believe that option would have addressed the perception problem without creating a confusing maze of rules with more gray areas than bright lines. But since this body opted to reject that amendment, we are left with the approach in the underlying committee substitute.

Those of us who are retiring at the end of this Congress will not have to live under this ban and its myriad exceptions. I am glad that I will not have to make a determination of who is a personal friend and who is a political friend. When my colleagues dedicate their lives to public service, I know that those lines become hard to draw.

I also think the record of this debate ought to reflect the observation that this legislation is needed only to cure the perception, not to change the reality. In my nearly 16 years in the Senate I have come to know a great many people in Washington, Not only Members of Congress, but lawyers, lobbyists and leaders of various so-called special interests.

Among the office holders, I have yet to meet one who is not motivated by a desire to serve the public. No one in this Senate would take a bribe of a million dollars, let alone be bought for the price of a meal. Everyone in this Senate, in my observation, works long, hard hours. The perception of nightly dinners and monthly junkets that some try to convey is simply wrong.

Among the lawyers and representatives of various interests, it is rare to the point of non-existent for them to

try to rely on a personal relationship for a favor. They rely on reasoned argument, facts, and the expressed desires of constituents to carry their case.

Finally, as I said, I will vote for this legislation hoping that it will have some positive impact on the way the public views Congress. But I believe we could do much more to cure our image problem by getting down to the business our constituents sent us her to do—health care reform, welfare reform, and tackling the deficit.

Long after this vote is forgotten, that work will be our legacy.

Mr. LAUTENBERG. Mr. President, I rise as the initial sponsor of legislation to eliminate most gifts, meals, and travel provided to Members of Congress and their staffs.

Mr. President, Senate passage of this bill will represent a major step in a journey that began a little over 1 year ago. Last spring, I developed the first bill to ban most gifts to Members of Congress and their staffs. The introduction of that bill, S. 885, was not just an introduction of a piece of legislation. It was an introduction of a whole new idea. An idea that, until then, was not even on the radar screen here in Washington.

It is easy to forget how much things have changed in the past year. But just 12 months ago, the idea of simply disclosing these gifts was considered pretty radical. Senator WELLSTONE had to pull teeth to get the Senate to endorse an amendment disclosing gifts, and it was rightly considered a huge and dramatic step.

By contrast, an outright gift ban was considered beyond the pale—not only off the agenda, but beyond the realm of the politically possible.

In fact, when I first broached the idea of an outright gift ban, the reaction I got, even among reformers, was skeptical at best. They told me in blunt terms: it would never happen.

Well, it may have been a mere pipe dream at the time. But today I am hopeful we will see that even pipe dreams can come true. Sometimes it just takes a little grit and determination.

Mr. President, at its most basic level, the twin goals of this legislation are simple: first, to help restore public confidence in the Congress, and, second, to reduce the ability of lobbyists and special interests to acquire access and influence on Capitol Hill.

Mr. President, Americans have always been deeply cynical about their government. Today that cynicism has reached disturbing levels. Increasingly, Americans see Members as captives of special interests, unconcerned about ordinary people. Many feel that Congress is not serving the public well because Members are out to lunch—at expensive restaurants and resorts, with the tab picked up by special interests.

Mr. President, I know many of my colleagues believe that these perceptions are inaccurate, or at least overstated. But no one can deny that those perceptions exist and are broadly held by the American people.

They are also understandable. After all, let us say you are a baseball fan. You pay hundreds of dollars to fly to the World Series to see your favorite team compete. And then you find out that the umpires just came back from a luxury trip to the Caribbean—paid for by the opposing team.

Now, those umpires might insist that their free trip will not influence their work. They may claim to be fine, ethical people who care about the good of the game. They may say that their judgments will not be colored by the gifts they received.

And not a fan in the country would believe them.

Well, Mr. President, that is how most Americans feel when they see Members of Congress cast their votes after they have been wined and dined by special interest lobbyists. They think the deck is stacked against them. They do not think it is right. And they do not respect a system that operates that way.

Mr. President, fair or not, as long as the public believes that Congress is beholden to special interests, our credibility, and our ability to lead, is undercut.

Democracy simply cannot function in an atmosphere of distrust. After all, when citizens view everything the Congress does in the worst possible light, they are similarly skeptical about the legislation we propose. That makes it extremely difficult to build public support. And without public support, it becomes almost impossible to address major social problems in a meaningful way.

In other words, Mr. President, restoring public confidence in the Congress is not just important to the institution. It is critical for our country and our future.

That brings me to the second goal of this legislation.

Mr. President, the need to ban lobbyists' gifts is based on more than the need to restore public confidence in the Congress. We also need to address the disproportionate power of special interests in our political system.

Now, Mr. President, I know that many of my colleagues are thinking: come on Frank, you and I know that Senators are not selling votes for a free meal.

And that is true.

But that is not the point.

The point is this: When lobbyists take a Senator or key staff member out to dinner, they are not just buying a meal, They are buying access. And access is power.

Ordinary citizens do not have that access.

They cannot just take their Senator to a quiet dinner at an expensive restaurant and explain what it is like to be unemployed.

They cannot take their Congressman to a ballgame to discuss problems they have making ends meet or educating their kids.

And they certainly cannot spend a relaxing weekend at a tropical resort, playing golf with key legislators while reviewing their concerns and anxieties about the future.

Meanwhile, lobbyists can do all these things. And while they are at that restaurant, or that ballgame, or that resort, they can discuss a new tax break, or some other favor that their clients want.

If any Member doubts the value of this kind of access, just ask a lobbyist or their corporate clients. Only the most disingenuous will claim that they provide these exotic trips out of the goodness of their heart. They pay because it gets results.

They pay to buy clout.

Similar thinking is involved when lobbyists give Members tickets to a show or sporting event, or other gifts. Often, the tickets buy access to Members at the event itself. But if not, they buy good will. And good will also is power. It can mean the difference between getting your calls returned, or your letter taken seriously. And that can translate into millions, even billions of dollars—at the expense of ordinary Americans who have no lobbyists to represent them.

Now I know that these kinds of gifts and favors are not unique to Congress. They are the common coin of exchange in a variety of different areas. Which, again, demonstrates that people think they have an impact.

I know I did when I was a CEO in the private sector. My company strictly forbade purchasing agents from accepting gifts from suppliers. There was the potential for undue influence, and the stakes were high. So I took steps to minimize the possibility of abuse.

The same concerns apply to Congress, where the stakes are infinitely greater. And now we have to take steps to minimize abuses here as well.

Before I go further, Mr. President, let me say this.

I know a lot of my colleagues are unhappy with me for proposing this legislation. And that may be putting it mildly. So I want to emphasize a few things.

I did not introduce this bill to tear down the Congress. To the contrary, I want to build it up and strengthen it.

Nor am I offering this legislation to impugn the integrity of any Member of Congress. The fact is, Members of this body are dedicated public servants who work hard and are genuinely committed to serving the public interest. That is not widely appreciated, but it is true. and I think our bill would only help make that clear.

Nor am I claiming that I am some kind of saint who thinks he is holier

than thou. In the past, most of the Members of this body, myself included, have lived by the rules and accepted certain items. I do not claim otherwise.

But times have changed. Public frustration has reached enormous proportions. And it seems to me that we will never restore public faith in this institution until we make some meaningful changes in the way we do business.

This bill will make those changes. It will ban virtually all gifts except those from family members and personal friends. It will put an end to recreational vacation trips, paid for by private interests. And it will prohibit lobbyists from currying favor with politicians by responding to a Member's solicitation for a contribution to his or her favorite charity.

It is a tough, strong bill that will make a real difference in the way business is conducted here in Washington.

Mr. President, let me briefly review how we got to this point. As I mentioned, I introduced the first gift ban bill, S. 885, on May 4, 1993. That bill proposed a strengthened version of the rules that now govern executive branch officials.

On May 5, 1993, I offered an amendment to S. 349, the Lobbying Disclosure Act, expressing the sense of the Senate that the rules in this area should be tightened in a manner substantially similar to the restrictions applicable to executive branch officials—and that we should act by the end of last year's session. My amendment was approved by a vote of 98–1.

Despite the overwhelming vote, the Senate did not take action last year. Hearings were held in July by the Governmental Affairs Subcommittee on Oversight of Government Management, chaired by Senator LEVIN. However, by the end of the session the bill remained stalled in committee.

Earlier this year, joined by Senators WELLSTONE and FEINGOLD, I decided to push the issue to a head. The three of us announced that we were prepared to offer an amendment to unrelated legislation, and we developed a new version of our proposal designed to move the process forward.

Our new bill, S. 1935, was based on legislation that had been developed in the House, which placed restrictions on the gifts that lobbyists and their clients could provide. We designed our bill to largely mirror the House approach, but we eliminated many of the loopholes in the House bill, and strengthened the language in a variety of ways. Our expectation at the time was that an approach focused on lobbyists and their clients was more likely to win eventual approval as part of the Lobbying Disclosure Act, especially given the difficulty we had encountered in moving our original bill, which focused on what Members and staff could receive.

After we announced our intention to offer the new bill as an amendment to unrelated legislation, we entered into negotiations with key Senators about the procedures by which our proposal would be considered. After extensive discussions, we succeeded in securing a unanimous-consent agreement under which our bill would be referred to the Governmental Affairs Committee for a limited time, after which the bill would be taken up by the full Senate.

It was this agreement that finally got the ball rolling. Facing a deadline for action, the Governmental Affairs Committee developed a revised version of our bill, and sent it on to the full Senate. The committee's substitute, developed largely by Senator LEVIN, went back to the approach in our first bill, S. 885, and placed restrictions on what Members could receive in a manner substantially similar to the rules applicable to executive branch officials. The committee also adopted a key principle of our second bill, S. 1935 as introduced, by including a virtually total ban on gifts from lobbyists.

The committee substitute was a significant, positive step forward, but it had several weaknesses. For example, the substitute contained an open-ended exemption for meals and entertainment in a Member's home State. It also lifted an existing cap on gifts worth more than $250 from personal friends. In addition, the committee substitute failed to restrict the lobbyists and others who give gifts.

Once the bill came to the floor, Senators WELLSTONE, FEINGOLD, and I were able to make some significant improvements in the legislation, which were included in a manager's amendment proposed by Senator LEVIN. First, the amendment reinstated the current cap on entertainment in a Member's home State, pending Rules Committee action. Second, the amendment required Ethics Committee waiver of gifts to Members and staff from personal friends in excess of $250, as under current rules. This is designed to protect against apparent conflicts of interest where, for example, a friend gives a large gift while seeking legislative favors.

The manager's amendment also makes it unlawful for any lobbyist or foreign agent to give a gift knowing that acceptance of the gift would violate the rules. Unfortunately, we were not able to agree on an enforcement mechanism for this prohibition. However, inclusion of the provision puts the Senate on record in support of the principle of limiting gift givers, and I am hopeful that an enforcement mechanism will be established in conference. The House gift ban relies exclusively on restrictions imposed on lobbyists and clients, enforced by the Justice Department through civil fines up to $200,000.

Another provision in the manager's amendment is based on language from our underlying bill, S. 1935, that precludes the availability of the personal friendship exception where a lobbyist charges a fee for the purpose of reimbursing the lobbyist for a gift. This responds to statements by lobbyists that they would evade the rules by claiming that a Member or staffer was a friend, and then charging higher hourly fees to compensate themselves for lunches provided to Members and staff. This kind of evasion would be precluded by our language.

Finally, the manager's amendment limits the availability of the widely attended event exception to food and materials provided by the sponsor of an event. This is consistent with our original proposal, and with executive branch rules. Thus, if a private corporation pays to have a Member sit at their table at an event, that will be considered a gift to the Member and banned, if no other exceptions apply.

Taken together, Mr. President, these changes have made an already strong bill even stronger, and are sufficient to allow me to endorse the final product enthusiastically.

Mr. President, before I go further I want to express my appreciation to Senator LEVIN and his staff for their outstanding work on this legislation, and for their cooperation throughout this process. Senator LEVIN has once again proven himself to be not only a committed advocate for reform, but one of the most conscientious and able Members of this body. His performance in the debate on this bill demonstrated his mastery of the bill's details, and his tremendous skill as a legislative craftsman.

I also want to express my thanks to Senator LEVIN'S staff, especially Linda Gustitus and Peter Levine, for their excellent work on this bill. They've done a great job, and deserve enormous credit for their professionalism and their dedication to quality.

I also want to formally thank my two partners in this effort, Senator PAUL WELLSTONE and Senator RUSSELL FEINGOLD. It's been a real pleasure to work with both of these outstanding Senators, and I appreciate their support throughout this often lonely battle. Senator WELLSTONE clearly has established himself as one of the most forceful and effective advocates of Government reform, and has thrown himself into this battle with great dedication and commitment. Similarly, Senator FEINGOLD has worked very hard on this legislation, and has made a huge difference. I thought his presentation to the Senate was especially persuasive, and demonstrated to our colleagues that a tight gift ban can work in the Senate, as it has worked in Wisconsin for over 20 years.

Mr. President, let me also pay tribute to two outside groups that played an especially important role in this effort.

First, Common Cause, and its president, Fred Wertheimer.

Mr. President, Common Cause may not be the most popular group among Members of Congress, but it plays a critical role here in Washington. It would be a lot harder to pass reform legislation if they were not here to help: providing technical drafting advice, working the Halls of Congress, and building support in the press and the public around the country. Fred Wertheimer and his staff, especially Michael Mawby and Meredith McGehee, have made a major contribution to this effort, and I want to publicly thank them for their help.

I also want to express my appreciation to Public Citizen, and its president, Joan Claybrook, for their assistance in building support for this bill. Public Citizen has made a real contribution, not only by providing lobbying support and advice, but by publishing an extensive report on travel by Members of Congress that helped bring this problem to public attention. I want to especially thank Bob Schiff and Pam Gilbert of the Public Citizen staff for their assistance.

Now, Mr. President, the battle shifts to the conference committee on the Lobbying Disclosure Act. There are major differences between the Senate and House gift bans, and much work remains to be done.

I would strongly urge the conferees to take the best from both the Senate and House versions in devising a final conference report. From the Senate, I would hope they will take our broad approach that prohibits Members and staff from accepting gifts from virtually anyone other than relatives and personal friends. From the House, I would hope they will take strict limits on lobbyists and others who give gifts, backed up with tough and enforceable sanctions. I also would note that it is important not to include some of the loopholes that were included in the House bill, such as those that would allow charity recreational trips and private meals with lobbyists.

It is comforting for me to know that the Senate will be represented in these negotiations by Senator LEVIN, and I look forward to providing any assistance I can to support his efforts.

So, Mr. President, this promises to be a historic day. I'm proud to be a part of it. And I look forward to continuing to work hard until this important piece of legislation is enacted into law.

Mr. President, I ask unanimous consent that certain materials related to this legislation be published in the RECORD at this point.

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

[From the New York Times, May 9, 1994]

THE NEW SENATE STANDARD ON GIFTS

The debate was unusually passionate and personal last week when the Senate considered banning one of lawmakers' most cherished perks: the lavish meals, resort vacations and other gifts from lobbyists and other special interests seeking influence.

For a while, it looked as if the perk preservationists, led by Democratic Senator J. Bennett Johnson of Louisiana and Republican Senators Mitch McConnell of Kentucky and Bob Dole of Kansas, the minority leader, might just prevail.

But they did not. In a crucial vote the Senate rejected, 59 to 39, mischievous amendment that would have gutted the strong gift-ban measure sponsored by Senator Carl Levin, Democrat of Michigan, and Senator William Cohen, Republican of Maine. Senate passage of the gift ban is expected later this week.

That will be a big breakthrough for government integrity and a real tribute to the persistence of three Democratic Senators: Frank Lautenberg of New Jersey, Paul Wellstone of Minnesota and Russell Feingold of Wisconsin. While most of their colleagues would have preferred to see the issue disappear quietly, these three insisted that it be addressed. They share the credit with Senators Levin and Cohen for the progress made so far.

Among those on the wrong side of this fight, voting to uphold every Senator's right to a life style subsidized by lobbyists, were Senator Chistropher Dodd, the normally reform-minded Democrat of Connecticut, and Senator Alfonse D'Amato, the Republican of New York who is a connoisseur of ethics only when it comes to President Clinton and Whitewater.

The fight to wean lawmakers off lobbyists' gifts is not yet over. The Senate bill could still use some tightening. But the major challenge is to get the strong restrictions in the Levin-Cohen bill accepted as part of the final House-Senate conference on lobbyist registration and gift bans. Representative John Bryant, Democrat of Texas, the chief sponsor of the House bill, has said he is open to strengthening its loophole-ridden provisions, which would, for example, allow the free golf and tennis junkets that lawmakers now enjoy in the guise of helping charities.

Much now depends on Mr. Bryant and the House Democratic leadership. After all the discouraging rhetoric and foot dragging, the Senate has set a laudable standard. How will the House respond?

[From the New York Times, Mar. 8, 1994]

AN HONEST GIFT BAN

At the urging of Senator Frank Lautenberg of New Jersey, the Senate approved a resolution last May committing the chamber to strict new curbs, by the end of 1993, on gift-giving by lobbyists to members of Congress. The deadline passed, but last week Mr. Lautenberg served notice that he was ready to push the matter. That is a promising development for Congressional ethics reform.

Mr. Lautenberg and another strong critic of the unseemly financial ties between lobbyists and lawmakers. Senator Paul Wellstone of Minnesota, made public an amendment they will offer to bar the free meals, resort vacations and other life style enhancers that powerful interests now bestow on members hoping to buy legislative advantage.

The faint-hearted among their colleagues may not be pleased. But Messrs. Lautenberg and Wellstone have done a real public service by putting forward an honest measure that could move Congress to a higher moral plane.

The measure exposes the major weaknesses in the House's pending gift ban bill, sponsored by Representative John Bryant of Texas. The problem with that bill, as the accompanying chart suggests, is that it is too permissive to do much good.

The reason for the House's timidity is depressingly clear. Many House members have grown accustomed to a life on the dole, and recoil at the idea of giving up their lobbyist-financed golf and tennis outings. House Democrats, who do not normally go out of their way to satisfy the Republican minority, now have Representative Vic Fazio of California conferring with the minority whip, Newt Gingrich, to try to agree on new gift limits.

Mr. Bryant is scheduled to meet tomorrow with Republicans to discuss the issue. What both sides seem to be looking for is bipartisan cover for not strengthening the Bryant bill.

By moving their measure swiftly in the Senate, Senators Lautenberg and Wellstone will make it much tougher for House leaders to pull a fast one by passing the weaker Bryant bill and claiming a victory for reform. Much as many lawmakers would like to deny it, the public stakes are high. "When lobbyists take a senator to dinner, they're not just buying a meal, they're buying access," observes Mr. Lautenberg. "And access is power."

GOLF OR TENNIS, ANYONE?

Key differences between Senator Lautenberg's proposed gift ban for members of Congress and Representative Bryant's weaker House version.

Lobbyists' gifts	Lautenberg's plan	Bryant's plan
Golf, tennis, skiing and other recreational trips.	Banned	Allowed.
Meals and entertainment	Banned	[1] Banned.
Donations to members' foundations and legal defense funds.	Banned	Allowed.

[1] A major loophole allows the lobbyist's client to pick up the tab.

[From the New York Times, Mar. 29, 1994]

THE GOLF CLUB SURVIVES

Senator Orrin Hatch has some good news. Tennis, he announced in a recent letter to Congressional colleagues, has been added to the list of activities at the Utah Congressional Golf Challenge, an annual sporting event to which Mr. Hatch plays host in his home state.

Like other such junkets taken in the guise of helping charity or Congressional business, this is a chance for lawmakers to enjoy an expenses-paid vacation at a luxury resort courtesy of big corporate sponsors, whose lobbyists and executives get to play right alongside the House and Senate members. These corporations, of course, care less about golf and tennis than forging personal ties that can help with legislation.

Mr. Hatch's tournament was not mentioned yesterday when the House debated gift-giving to members of Congress, which is too bad. The popular outing points to a critical flaw in the new gift restrictions pushed through by House Democrats who are now loudly proclaiming a victory for ethics.

Some victory. The bill, crafted by John Bryant of Texas to placate the peripatetic and bipartisan House Golf and Tennis Caucus, and shepherded to a lopsided victory by Vic Fazio of California, would not prohibit Mr. Hatch's sporting junket. A loophole-marred provision would bar lobbyists from picking up the tab for lawmakers' meals and entertainment. But the corporate executives who hire the lobbyists could continue to bestow these benefits without the embarrassment of disclosure.

It speaks volumes about the state of Congressional ethics that House Republicans,

most of whom ended up voting for yesterday's gift measure, initially balked at accepting even these deficient changes. Democratic leaders, meanwhile, happily latched onto that reluctance as an excuse for not strengthening the Bryant bill.

Realistically, the hope for strong gift reform now rests with the Senate. A tough gift ban measure recently proposed by Senators Frank Lautenberg of New Jersey and Paul Wellstone of Minnesota provides a real chance to change Congress's lobbyist-subsidized life style. It would forthrightly ban gifts of recreational travel, meals and other dubious financial benefits bestowed by lobbyists and the companies who employ them in an effort to influence legislation.

The Lautenberg proposal is now before the Senate's Governmental Affairs Committee, which, under an agreement with the Senate majority leader, George Mitchell, has until April 27 to act on the issue. Floor consideration is assured no later than May 4. The Senate's Democratic leadership should wait until the Senate's gift provisions are acted upon before scheduling a conference with the House.

Prompt action by the Senate on an honest gift reform bill would expose the House bill for the inadequate response it is. It could also force club- and racket-wielding lawmakers, kicking and screaming, onto higher ethical ground.

[From the Washington Post, Mar. 29, 1994]

CLEANING UP THE LOBBY

The House took an important step last week toward making itself more accountable and reining in the influence of paid lobbyists. But it was only a step. If members of Congress want to reassure voters that they are not the sorts to be bought off by free golfing trips, skiing vacations and tennis outings, they need to strengthen the House's handiwork.

First, the good news. The bill passed by the House would actually provide a comprehensible definition of just what a lobbyist is and require registration with a new independent agency. Anyone paid more than $2,500 in any six-month period for lobbying work, or any group paid more than $10,000 a year to lobby, would have to file disclosure reports every six months. They would have to report on the important aspects of their work, including who their clients are, which issues they're working on and which congressional or other governmental offices they visit. The bill would also bar lobbyists from giving senators, House members or their staff members meals, trips or other gifts. Registration would also be required of those who organize "grass roots" campaigns to influence legislation—which are often actually instant Astroturf creations of lobbying groups trying to create the impression of mass support for their side. The point of all this is to ensure that the public knows who is trying to influence whom and to make clear that members of Congress aren't out to sell their votes.

What's missing from the bill is a comprehensive ban on the sort of free travel—"charitable" tennis and golf tournaments are the most well-publicized examples—sponsored by the corporations and trade associations that hire the lobbyists. There is nothing wrong with members of Congress taking a deserved vacation, but they, like other citizens, should pay for it themselves. As the House bill now stands, members could take the free trips as long as they were paid for by the interest groups and not financed directly by the lobbyists. It's a loophole you could drive a golf cart through. Similarly, corporate executives could buy the restaurant meals that the lobbyists could not. The lobbyists could come along for the fun.

The Senate has a much stronger gift ban before it, sponsored by Sens. Frank Lautenberg and Paul Wellstone. In addition to banning the trips, it would also prohibit some of the more sophisticated forms of gift-giving. For example, it would stop lobbyists from making contributions to private foundations controlled by members of Congress or from making charitable contributions in the name of a member. The Senate has passed its own version of lobbying reform, but before a House-Senate conference is called, senators should get a chance to vote on the more comprehensive gift ban. And having taken one good step, the House should be prepared to take the definitive one. As Rep. Karen Shepherd of Utah put it, the client-sponsored trips are "excuses for corporations to buy members a nice week of vacations, and I think they should be banned." Ms. Shepherd has it right.

[From the Washington Post, Apr. 22, 1994]

GETTING BETTER ON ETHICS

Remarkably, the effort to tighten the rules on gifts to members of Congress is making progress. On Tuesday, the Senate Governmental Affairs Committee reported out a bill being pushed by Sen. Carl Levin (D-Mich.) that would bar members of Congress from taking gifts from registered lobbyists, with a few minor exceptions. Notably, it would ban privately funded travel not related to official business and also ban private travel and lodging for those famous "charitable events" and other trips that are substantially recreational. The bill contains other useful provisions, including a ban on charitable contributions made in the name of members in lieu of honorariums.

In amending his earlier approach, Mr. Levin is rightly responding to proposals by Sens. Wellstone, Lautenberg and Feingold to make sure that those "charity" golf and tennis tournaments get banned once and for all. The Senate bill is, on balance, tougher than an approach passed earlier this year by the House.

But the House bill, being shepherded by Rep. John Bryant (D-Tex.), has one advantage. It prohibits lobbyists from giving gifts, where the Levin bill simply bars members from taking them. The Bryant approach would have the effect of giving the Justice Department an enforcement role and not leaving all the enforcement to Congress itself. Taking Mr. Levin's rules and applying them both to members of Congress and to lobbyists would be the best route.

The Levin rules could stand some tightening. The Senate bill, for example, leaves the Senate Rules Committee great discretion in determining what sorts of meals and entertainment would be acceptable if they were given when a member of Congress was in his or her home state. Better to spell these rules out in legislation. More generally, both houses need to make sure all the rules are tightly drafted to avoid problems such as a provision in the House bill that actually weakens rather than strengthens the law on illegal gratuities to members of Congress.

There is considerable resentment in Congress at the whole effort to tighten gift rules. Many members argue privately that voters will still mistrust them whether they have tough rules or loose ones, so why make congressional life more difficult by getting tough on gifts? This sourt of self-pity is unbecoming and misses the point. Voters have a right to be skeptical about some of the gifts members of Congress can now legally take. Improving the system won't miraculously change public attitudes toward politicians for the better, but blocking reasonable reforms will surely make those attitudes worse. And, yes, the politicians trying to make things better do deserve credit for their efforts.

The progress that's been made, and the further progress that's possible, could be blocked if the Senate does not act to make sure that the entire Levin approach is incorporated in legislation that gets to the conference committee where a final bill will be brokered between the two houses. The Levin approach has raised the standards for the House, and some foes of reform, not wanting to take the heat for blocking a bill directly, may use procedural moves to prevent action without seeming to do so. The House and Senate leaders shouldn't let that happen.

Mr. MCCONNELL. Mr. President, the upside of this bill is all political. But, make no mistake, there will be no positive blip in congressional approval ratings because of this bill.

The downsides of the Levin-Wellstone-Lautenberg proposal are in practicality, enforceability, and compliance. Those are the concerns I expressed last week and still hold. The actual language of the bill is not concise or easily implemented. That is why I supported Senator BUMPERS' amendment to delete the $20 gift limit allowed from nonlobbyists, it would be very difficult to ascertain that everything accepted did, indeed, have a market value of less than that amount. In effect, I argued for making the bill tougher by making it more practical.

As vice chairman of the Ethics Committee, I am compelled to again caution members that the committee is nowhere near adequately staffed to cope with the onslaught of advisory opinions and waiver requests it will receive because of this legislation. And when the committee is powered up with legions of staff attorneys, members, and staff beware, this bill will make honest people appear crooked. Reputations may be ruined. Careers may be destroyed—over a meal or trinket that falls outside some exception.

Mr. President, I will not at this time revisit the donut debate of last week, but would note that that discussion only touched on the countless scenarios possible under this measure. However, as the softball season is just beginning, I will leave Members and staff with an additional question to ponder: under the Levin-Wellstone-Lautenberg proposal, will any Senator or Senate employee be able to play on a softball team in a tournament sponsored by corporations? Sponsored by a pizza joint? Will America be better off because all Senate softball players are benched?

There is no question that America is not enamored of its Congress. But in our zeal to appear sensitive to public perception, we must not lose sight of reality. The reality is that until we se-

riously tackle the seemingly intractable problems of the deficit, government waste, crime and economic insecurity, people will not have a positive perception of Congress. and all this self-immolation on C-Span just makes people even more disgusted.

Mr. CHAFEE. Mr. President, today the Senate has come one step closer to restoring public confidence in Congress. Passage of what has come to be called the gift ban bill will help to strengthen the credibility Congress has lost as a result of such matters as the improprieties that led to the closing of the House bank and the revelations about dubious fundraising activities that resulted from the Keating Five investigations.

I do not believe that the votes of most Members of Congress are influenced by the meals and tokens that this bill seeks to eliminate.

What I do believe is that a public perception exists that Congress places itself above other Americans. The perception also exists that some Members of Congress are unduly influenced by special interest lobbyists, rather than by those they represent. This erosion of the public trust threatens to undermine the effectiveness of the legislative branch.

As we endeavor to make unprecedented changes in our Nation's health care policy that will affect virtually every American; as we work to rejuvenate our Nation's troubled schools; and as we take steps to reform the welfare system to best assist our Nation's poorest citizens, we must have the trust, confidence, and assistance of the American people.

If restoring the gift rules will help to restore the public trust, then I am all for it.

Mr. ROCKEFELLER. Mr. President, I openly admit that I have reservations about how the good intentions of Senator LEVIN's congressional gift reform legislation will be implemented, and how some provisions could inadvertently affect or raise questions about our families' activities, and those of our staff and their families.

Last week, I spoke in support of the McConnell-Johnston alternative. I voted for this alternative because I truly believed it was a more practical and more enforceable effort to address the American public's concern about the need for congressional reform.

Despite how the alternative was portrayed in the press, I believe that the McConnell-Johnston amendment represented true reform by lowering the thresholds for gifts, requiring approval by the Senate Ethics Committee for travel to charity events, and dramatically increasing penalties for unethical behavior by Members and staff.

I preferred this alternative because it would not force me to question the value of thoughtful gifts from constituents, such as framed pictures taken at West Virginia events, or quilts presented to me as a tribute to the enormous efforts my wife Sharon made to promote West Virginia's quilters. I was honored to accept these quilts years ago, and am proud to display them in my office. It troubles me that in the future, questions will be raised about similar gifts to Members, and even gifts to their families.

As I said last week, I commend Senator LEVIN for his painstaking efforts to address questions and develop reasonable legislation in this area. Real improvements have been made throughout the legislative process. I was one of the Members who responded to Senator LEVIN's request for comments, and shared my concerns about how vague legislative language could hinder legitimate and essential communications, or discourage Members and staff from volunteering time to charities. Both of these issues concern me deeply. I want to publicly commend Senator LEVIN for his efforts to draft specific language to allow for attendance at meaningful symposiums and events with constituents and advocates to discuss legislative issues and exchange ideas.

Senator LEVIN's colloquy with Senators DOLE and SIMPSON has helped clarify some key points for Members and staff working with charitable organizations which is appreciated. I take enormous pride in my work for charities like the Children's Health Project, which uses mobile vans to provide health care to needy children in New York City, rural West Virginia, and other areas. I believe it is good for Members to serve on bipartisan, nonprofit boards like the Alliance for Health Care Reform. Now, it will be more difficult to be involved in such activities, and that disturbs me. As someone from a family with a strong tradition of philanthropy, I feel deeply that volunteer work for charities should be encouraged—not discouraged and questioned.

But today, I must vote either for the Levin Congressional Gifts Reform Act, or vote against reform. The American public has spoken clearly about their cynicism and their desire for reform. In the spirit of compromise and in the hope that continuous efforts will be made to clarify and improve this reform proposal in conference, I will vote for the Levin legislation.

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to.

Mr. LEVIN. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill, as amended.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—95

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

NAYS—4

Bennett	Murkowski
Hollings	Wallop

NOT VOTING—1

Shelby

So the bill (S. 1935), as amended, was passed, as follows:

S. 1935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Gifts Reform Act".

SEC. 2. AMENDMENT TO THE SENATE RULES.

Rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"RULE XXXV

"GIFTS

"1. (a) No Member, officer, or employee of the Senate, or the spouse thereof, shall knowingly accept—

"(1) any gift provided directly or indirectly by any person registered as a lobbyist or a foreign agent under the Federal Regulation of Lobbying Act, the Foreign Agent Registration Act, or any successor statute;

"(2) Any gift from any other person.

"(b) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(c)(1) The restrictions in subparagraph (a) shall apply to any financial contribution or expenditure relating to a conference, retreat, or similar event for or on behalf of Members, officers, or employees.

"(2) The following items are subject to the restrictions in subparagraph (a)(1)—

"(A) an item provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent;

"(B) an item provided by a lobbyist or a foreign agent to an entity that is maintained or controlled by a Member, officer, or employee;

"(C) a charitable contribution made on the basis of a designation, recommendation, or other specification made to a lobbyist or a foreign agent by a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of the general public);

"(D) a contribution or other payment by a lobbyist or foreign agent to a legal expense fund established for the benefit of a Member, officer, or employee;

"(E) a charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist or a foreign agent in lieu of an honorarium; and

"(F) A contribution, as defined in the Federal Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is made by a lobbyist, foreign agent, or Political Action Committee to a Member.

"(d) The following items are not gifts subject to the restrictions in subparagraph (a):

"(1) Any item for which the Member, officer, or employee pays the market value.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act except as provided in subparagraph (c)(2)(E).

"(3) Anything provided under circumstances that clearly indicate, in accordance with paragraph 2(a), that it is provided for a nonbusiness purpose and is motivated by a family relationship or personal friendship and not by the position of the Member, officer, or employee (subject to prior approval by the Ethics Committee in the case of a gift to a Member, officer, or employee in excess of $250 that is provided on the basis of personal friendship and disclosure under the Ethics in Government Act of a gift to a spouse of a Member in excess of $250 that is provided on the basis of personal friendship).

"(4) Items which are not used and which are promptly returned to the donor.

"(5) A food or refreshment item of minimal value, such as a soft drink, coffee, or doughnut offered other than as part of a meal.

"(6) Benefits resulting from the business, employment, or other outside activities of the spouse of a Member, officer, or employee, if such benefits are customarily provided to others in similar circumstances.

"(7) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(8) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(e) The restrictions in clauses (2) and (3) of subparagraph (a) shall not apply to the following:

"(1) Meals, lodging, and other benefits—

"(A) resulting from the outside business or employment activities of the Member, officer, or employee (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder), if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances; or

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions.

"(2) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(3) Honorary degrees and other bona fide awards presented in recognition of public service and available to the general public (and associated meals and entertainment provided in the presentation of such degrees and awards).

"(4) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(5) Meals and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(6) Food and attendance provided at an event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(7) Training provided to a Member, officer, or employee, if such training is in the interest of the Senate.

"(8) Bequests, inheritances, and other transfers at death.

"(9) Any item, the receipt of which is authorized by the Foreign Gifts and Declarations Act, the Mutual Education and Cultural Exchange Act, or any other statute.

"(10) Anything which is paid for by the Government or secured by the Government under a Government contract.

"(11) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(12) Free attendance at an event permitted pursuant to paragraph 2(b).

"(13) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(14) A plaque, trophy, or other memento of modest value.

"(15) An item for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"2. (a)(1) In determining if the giving of an item is motivated by a family relationship or personal friendship, at least the following factors shall be considered:

"(A) The history of the relationship between the individual giving the item and the individual receiving the item, including whether or not items have previously been exchanged by such individuals.

"(B) Whether the item was purchased by the individual who gave the item.

"(C) Whether the individual who gave the item also at the same time gave the same or similar item to other Members, officers, or employees.

"(2) The giving of an item shall not be considered to be motivated by a family relationship or personal friendship if the individual providing the item—

"(A) seeks to deduct the value of such item as a business expense on the individual's income tax return; or

"(B) accepts direct or indirect reimbursement or compensation for the item from a client or a firm of which the individual is a member or employee.

"(3) For purposes of clause (2), indirect reimbursement or compensation for an item includes an expenditure from an expense account and a fee charged by a lobbyist for the purpose of compensating the lobbyist for the cost of the item.

"(b)(1) Except as prohibited by paragraph 1(a)(1) a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to his or her official position; or

"(B) attendance of the event is appropriate to the performance of the official duties of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) of this subparagraph may accept—

"(A) a sponsor's unsolicited offer of free attendance at the event for an accompanying spouse if others in attendance will generally be accompanied by spouses or if such attendance is appropriate to assist in the representation of the Senate; and

"(B) transportation and lodging in connection with the event if authorized in accordance with paragraph 3.

"(3) Except as prohibited by paragraph 1(a)(1), a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event in which the Member, officer, or employee is a participant. Reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee or the provision of food, refreshment, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or meals taken other than in a group setting with all or substantially all other attendees.

"(c) For the purpose of this rule—

"(1) The term 'client' means any person who employs or retains a lobbyist or a for-

eign agent to appear or work on such person's behalf.

"(2) The term 'market value', when applied to a gift means the retail cost a person would incur to purchase the gift. The market value of a gift of a ticket entitling the holder to food, refreshments, or entertainment is the retail cost of similar food, refreshments, or entertainment.

"(d) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity, shared within the recipient's office, or destroyed.

"3. (a)(1) Except as prohibited by paragraph 1(a)(1), a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by paragraph 1, if the Member, officer, or employee receives advance authorization to accept reimbursement and discloses the expenses reimbursed or to be reimbursed and the authorization through the Secretary of the Senate as soon as practicable after the travel is completed.

"(2) Events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the appropriate Member (or, in the case of an employee of a committee, the appropriate committee chairman) and shall include—

"(1) the name of the Member, officer, or employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the Member, officer, or employee as an officeholder and would not create the appearance that the Member, officer, or employee is using public office for private gain.

"(c) Each disclosure of expenses reimbursed or to be reimbursed shall be signed by the appropriate Member (or, in the case of an employee of a committee, the appropriate committee chairman) and shall include—

"(1) total transportation expenses reimbursed or to be reimbursed;

"(2) total lodging expenses reimbursed or to be reimbursed;

"(3) disclosure of any other expenses reimbursed or to be reimbursed (with the exception of any items that may properly be accepted pursuant to paragraphs 1 and 2); and

"(4) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period that may not exceed 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Ethics Committee;

"(2) is limited to expenditures for transportation, lodging, conference fees and materials, and meals offered to all attendees as an integral part of the event, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1); and

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event.

"(e) The Secretary of the Senate shall—

"(1) make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are filed; and

"(2) publish an annual report summarizing (by Member, officer, or employee) travel expenses that are reimbursed pursuant to this paragraph and aggregate more than $250 from any one source.

"4. (a) Notwithstanding any other provision of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the appropriate Member or committee chairman has determined that participation in such program is in the interests of the Senate and the United States.

"(b) Any Member who accepts an invitation to participate in any such program shall notify the Secretary of the Senate in writing of his acceptance. A Member shall also notify the Secretary in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 11 of rule XXXVII) to participate in any such program. The Secretary shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program. No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

"5. The Committee on Rules and Administration is authorized to adjust the $20 gift limit established in paragraph 1 on a periodic basis, to the extent necessary to adjust for inflation.".

SEC. 3. AMENDMENT TO THE HOUSE RULES.

Clause 4 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

"4. (a)(1) No Member, officer, or employee of the House of Representatives, or the spouse thereof, shall knowingly accept—

"(A) any gift provided directly or indirectly by a person registered as a lobbyist or a foreign agent under the Federal Regulation of Lobbying Act, the Foreign Agents Registration Act, or any successor statute;

"(B) any gift from any other person.

"(2) For the purpose of this clause, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(3)(A) The restrictions in subparagraph (a) shall apply to any financial contribution or expenditure relating to a conference, retreat, or similar event for or on behalf of Members, officers, or employees.

"(B) The following items are subject to the restrictions in subparagraph (1)(A)—

"(i) an item provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent;

"(ii) an item provided by a lobbyist or a foreign agent to an entity that is maintained or controlled by a Member, officer, or employee;

"(iii) a charitable contribution made on the basis of a designation, recommendation, or other specification made to a lobbyist or a foreign agent by a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of the general public);

"(iv) a contribution or other payment by a lobbyist or foreign agent to a legal expense fund established for the benefit of a Member, officer, or employee; and

"(v) a contribution, as defined in the Federal Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is made by a lobbyist, foreign agent, or Political Action Committee, to a Member; and

"(C) a charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist or a foreign agent in lieu of an honorarium.

"(4) The following items are not gifts subject to the restrictions in subparagraph (1):

"(A) Any item for which the Member, officer, or employee pays the market value.

"(B) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act except as provided in subparagraph (3)(B)(v).

"(C) Anything provided under circumstances that clearly indicate, in accordance with paragraph (b)(1), that it is provided for a nonbusiness purpose and is motivated by a family relationship or personal friendship and not by the position of the Member, officer, or employee (subject to prior approval by the Committee on Standards of Official Conduct in the case of a gift to a Member, officer, or employee in excess of $250 that is provided on the basis of personal friendship and disclosure under the Ethics in Government Act of a gift to a spouse of a Member in excess of $250 that is provided on the basis of personal friendship).

"(D) Items which are not used and which are promptly returned to the donor.

"(E) A food or refreshment item of minimal value, such as a soft drink, coffee, or doughnut offered other than as part of a meal.

"(F) Benefits resulting from the business, employment, or other outside activities of the spouse of a Member, officer, or employee, if such benefits are customarily provided others in similar circumstances.

"(G) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(H) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(5) The restrictions in clauses (B) and (C) of subparagraph (1) shall not apply to the following:

"(A) Meals, lodging, and other benefits—

"(i) resulting from the outside business or employment activities of the Member, officer, or employee (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder), if such benefits have not been offered or enhanced because of the official po-

sition of the Member, officer, or employee and are customarily provided to others in similar circumstances; or

"(ii) customarily provided by a prospective employer in connection with bona fide employment discussions.

"(B) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(C) Honorary degrees and other bona fide awards presented in recognition of public service and available to the general public (and associated meals and entertainment provided in the presentation of such degrees and awards).

"(D) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(E) Meals and entertainment provided to a Member or an employee of a Member in the Member's home State having, subject to reasonable limitations, to be established by the Committee on Standards of Official Conduct.

"(F) Food and attendance provided at an event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(G) Training provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

"(H) Bequests, inheritances, and other transfers at death.

"(I) Any item, the receipt of which is authorized by the Foreign Gifts and Declarations Act, the Mutual Education and Cultural Exchange Act, or any other statute.

"(J) Anything which is paid for by the Government or secured by the Government under a Government contract.

"(K) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(L) Free attendance at an event permitted pursuant to paragraph (b)(1).

"(M) Opportunities and benefits which are—

"(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

"(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(iv) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(N) A plaque, trophy, or other memento of modest value.

"(O) An item for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

"(b)(1)(A) In determining if the giving of an item is motivated by a family relationship or personal friendship, at least the following factors shall be considered:

"(i) The history of the relationship between the individual giving the item and the individual receiving the item, including whether or not items have previously been exchanged by such individuals.

"(ii) Whether the item was purchased by the individual who gave the item.

"(iii) Whether the individual who gave the item also at the same time gave the same or similar item to other Members, officers, or employees.

"(B) The giving of an item shall not be considered to be motivated by a family relationship or personal friendship if the individual providing the item—

"(i) seeks to deduct the value of such item as a business expense on the individual's income tax return; or

"(ii) accepts direct or indirect reimbursement or compensation for the item from a client or a firm of which the individual is a member or employee.

"(C) For purposes of clause (B), indirect reimbursement or compensation for an item includes an expenditure from an expense account and a fee charged by a lobbyist for the purpose of compensating the lobbyist for the cost of the item.

(2)(A) Except as prohibited by paragraph (a)(1)(A) a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, reception, or similar event, provided by the sponsor of the event if—

"(i) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to his or her official position; or

"(ii) attendance of the event is appropriate to the performance of the official duties of the Member, officer, or employee.

"(B) A Member, officer, or employee who attends an event described in clause (A) of this subparagraph may accept—

"(i) a sponsor's unsolicited offer of free attendance at the event for an accompanying spouse if others in attendance will generally be accompanied by spouses or if such attendance is appropriate to assist in the representation of the House of Representatives; and

"(ii) transportation and lodging in connection with the event if authorized in accordance with paragraph (c).

"(C) Except as prohibited by paragraph (a)(1)(A), a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event in which the Member, officer, or employee is a participant. Reimbursement for transportation and lodging may not be accepted in connection with the event.

"(D) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee or the provision of food, refreshment, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or meals taken other than in a group setting with all or substantially all other attendees.

"(3) For the purpose of this clause—

"(A) The term 'client' means any person who employs or retains a lobbyist or a foreign agent to appear or work on such person's behalf.

"(B) The term 'market value', when applied to a gift means the retail cost a person would incur to purchase the gift. The market value of a gift of a ticket entitling the holder to food, refreshments, or entertainment is the retail cost of similar food, refreshments, or entertainment.

"(4) When it is not practical to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity, shared within the recipient's office, or destroyed.

"(c)(1)(A) Except as prohibited by paragraph (a)(1)(A), a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by paragraph (a), if the Member, officer, or employee receives advance authorization to accept reimbursement and discloses the expenses reimbursed or to be reimbursed and the authorization through the Clerk of the House of Representatives as soon as practicable after the travel is completed.

"(B) Events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(2) Each advance authorization to accept reimbursement shall be signed by the appropriate Member (or, in the case of an employee of a committee, the appropriate committee chairman) and shall include—

"(A) the name of the Member, officer, or employee;

"(B) the name of the person who will make the reimbursement;

"(C) the time, place, and purpose of the travel; and

"(D) a determination that the travel is in connection with the duties of the Member, officer, or employee as an officeholder and would not create the appearance that the Member, officer, or employee is using public office for private gain.

"(3) Each disclosure of expenses reimbursed or to be reimbursed shall be signed by the appropriate Member (or, in the case of an employee of a committee, the appropriate committee chairman) and shall include—

"(A) total transportation expenses reimbursed or to be reimbursed;

"(B) total lodging expenses reimbursed or to be reimbursed;

"(C) disclosure of any other expenses reimbursed or to be reimbursed (with the exception of any items that may properly be accepted pursuant to clauses (a) and (b)); and

"(D) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph.

"(4) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(A) includes reasonable expenses that are necessary for travel for a period that may not exceed 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

"(B) is limited to expenditures for transportation, lodging, conference fees and materials, and meals offered to all attendees as an integral part of the event, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1); and

"(C) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event.

"(5) The Clerk of the House of Representatives shall—

"(A) make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (1) as soon as possible after they are filed; and

"(B) publish an annual report summarizing (by Member, officer, or employee) travel expenses that are reimbursed pursuant to this paragraph and aggregate more than $250 from any one source.

"(d)(1) Notwithstanding any other provision of this clause, a Member, officer, or employee of the House of Representatives may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government organization if such participation is not in violation of any law and if the appropriate Member or committee chairman has determined that participation in such program is in the interests of the House of Representatives and the United States.

"(2) Any Member who accepts an invitation to participate in any such program shall notify the Clerk of the House of Representatives in writing of his acceptance. A Member shall also notify the a Clerk in writing whenever he has permitted any officer or employee whom he supervises to participate in any such program. The Clerk shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program.

"(3) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

"(e) The Committee on Standards of Official Conduct is authorized to adjust the $20 gift limit established in paragraph (a) on a periodic basis, to the extent necessary to adjust for inflation.".

SEC. 4. AMENDMENT TO THE ETHICS IN GOVERNMENT ACT.

Section 102(a)(2)(A) of the Ethics in Government Act (5 U.S.C. App. 6, section 102), is amended by—

(1) inserting a dash after "and the value of";

(2) striking "all gifts aggregating" and inserting the following:

"(i) all gifts aggregating";

(3) striking the period at the end of the subparagraph and inserting "; and"; and

(4) adding at the end the following:

"(ii) all gifts, other than food, lodging, or entertainment received as personal hospitality of an individual, having a value of $20 or more that are—

"(I) provided by a person required to register under the Federal Regulation of Lobbying Act, the Foreign Agents Registration Act, or any successor Act; and

"(II) would be prohibited by section 7353 of title 5, United States Code, but for a personal friendship exception contained in implementing rules and regulations issued pursuant to in subsection (b)(1) of such section.".

SEC. 5. POST-EMPLOYMENT REFORM ACT OF 1994.

(a) SHORT TITLE.—This section may be cited as the "Post-Employment Reform Act of 1994".

(b) FORMER AGENCY BAN.—

(1) EXECUTIVE BRANCH.—Section 207(c)(1) of title 18, United States Code, is amended by striking "within 1 year after" and inserting "within 2 years after".

(2) CONGRESS.—Section 207(e) of title 18, United States Code, is amended in paragraphs (1)(A), (2)(A), (3), (4)(A), and (5)(A), by striking "within 1 year after" and inserting "within 2 years after".

(3) CONFORMING AMENDMENT RELATING TO PAY LEVELS.—(A) Section 207(c)(2)(ii) of title 18, United States Code, is amended by striking "the rate of basic pay payable for level V of the Executive Schedule" and inserting "120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(B) Section 207(e)(6) of title 18, United States Code, is amended—

(i) in subparagraph (A) by striking "which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed" and inserting "which is 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(ii) in subparagraph (B) by striking "payable for level V of the Executive Schedule" and inserting "which is 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(c) FOREIGN ENTITIES BAN.—Section 207(f) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "within 1 year" and inserting "within 2 years";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2) and inserting in such paragraph before the period the following: ", or a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States".

(d) RESTRICTIONS ON VERY SENIOR PERSONNEL.—Section 207(d)(1) of title 18, United States Code, is amended by striking "within 1 year" and inserting "within 2 years".

(e) TRADE AND TREATY NEGOTIATION BAN.—Section 207(b)(1) of title 18, United States Code, is amended by striking "for a period of 1 year" and inserting "for a period of 10 years".

(f) EFFECTIVE DATE.—This section shall be effective after January 1, 1995.

SEC. 6. PROHIBITION ON CONTRIBUTIONS TO LEGAL DEFENSE FUNDS.

No person registered as a lobbyist or a foreign agent may make a contribution or other payment to a legal expense fund established for the benefit of an officer or employee of the executive branch.

SEC. 7. REPEAL OF OBSOLETE PROVISION.

Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31–2) is repealed.

SEC. 8. PROHIBITION ON LOBBYISTS.

No person registered as a lobbyist or a foreign agent under the Federal Regulation of Lobbying Act, the Foreign Agents Registration Act, or any successor statute shall provide a gift to any Member, officer, or employee of the Senate or the House of Representatives, or a spouse or dependent of the Member, officer, or employee, if the lobbyist or foreign agent knows that the acceptance of the gift by the Member, officer, employee, spouse, or dependent would violate Rule XXXV of the Standing Rules of the Senate or clause 4 of Rule XLIII of the Rules of the House of Representatives.

SEC. 9. EXERCISE OF CONGRESSIONAL RULEMAKING POWER.

Except for sections 4, 5, and 6, this Act is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and accordingly, they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (insofar as they relate to that House) at any time and in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 10. GIFTS.

The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

SEC. 11. LEGAL EXPENSE FUND.

No provision of this Act shall be interpreted to limit a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee by any person other than a lobbyist or a foreign agent.

SEC. 12. MEALS AND ENTERTAINMENT.

The rules on acceptance of meals and entertainment provided to a Member or an employee of a Member in the Member's home State prior to the adoption of reasonable limitations by the appropriate committees shall be the rules in effect on the day before the effective date of this Act.

SEC. 13. SENSE OF THE SENATE.

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.

SEC. 14. EFFECTIVE DATES.

This Act and the amendments made by this Act shall become effective on January 1, 1995.

The title was amended so as to read: "A bill to limit the acceptance of gifts, meals, and travel by Members of Congress and congressional staff, and for other purposes."

Mr. WELLSTONE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

NATIONAL ENVIRONMENTAL TECHNOLOGY ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to, the bill is to be read for the third time, and the question is on the passage of S. 978, as amended.

The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HATCH. Mr. President, I rise today to offer a few comments on one

of the sections of the bill before us, S. 978, the National Environmental Technology Act of 1994.

First, let me congratulate Senator BAUCUS, chairman of the Environment and Public Works Committee, and Senator CHAFEE, ranking member on the committee, for their work on this bill. They have achieved a consensus on the many provisions within the bill to the degree that we are poised to adopt this legislation in the new few days. They were willing to consider amending the bill with language that I had proposed, and I appreciate their willingness to make modifications to the bill based on that language.

I am pleased that the substitute bill makes changes in the original version of S. 978, most notably in title IV, subtitle A—"Verification of Environmental Technologies." This provision establishes a framework for encouraging the development and introduction of new and innovative technologies in the private sector, which I believe will have a very positive effect on our environment and economy.

As I mentioned, the changes to title IV are a definite improvement over the original bill. With the substitute bill, the committee is providing direction to the Environmental Protection Agency [EPA] to ensure that, as the agency moves toward setting technology standards based on performance, the actual verification and evaluation of these technologies will be conducted in the private sector or by other non-Federal entities. The bill does provide for qualifying EPA laboratories to participate in verifying technologies as well. But, the key component of this future system, and the reason for my earlier suggestions, is to open the EPA verification and evaluation process to as many eligible non-federal entities as possible. In this manner, private sector involvement is encouraged and expansion of the EPA's bureaucracy discouraged.

I am pleased this concept of outside consultation between the EPA and the private sector also encourages private companies to be involved in the development and marketing of new and innovative environmental products. Section 201 contains language identifying these organizations, including academic institutions and nonprofit groups.

It is important that the EPA carefully and formally solicit input from the analytical instrumentation industry, as well as other components of the environmental monitoring industry. In my view, this latter industry, which supplies environmental monitoring equipment to laboratories, is already heavily regulated, which has often hindered the introduction of new environmental monitoring technologies and products. Obtaining input from those involved in this industry should help prevent further regulatory burden from being created in the future.

Such prevention is important since over the last twenty years the EPA's system of regulating analytical instruments used in environmental technology has developed into a highly detailed set of instructions for the chemist or lab technician to follow. Today, these technicians must follow these cookbook-like directions to provide assurance to their customers that the results of their analyses passes EPA muster. In most cases, a different method, or recipe, as it were, is needed for each class of chemical substances, which has developed into a proliferation of highly specific EPA directions on how to conduct a certain type of chemical analysis. And, if a technology comes along that can do this analysis better and faster, it cannot be utilized because the product or type equipment is not specified in the EPA directions. Since most laboratories are not willing to risk losing a customer's business when that customer is only interested in complying with EPA regulations, these labs will not pursue new technologies. After all, if the testing regulations effectively prevent their use, what good are they? I believe it would be very counterproductive to continue to constrain the introduction of new and innovative technologies in this way.

I understand the EPA has been aware of these problems created by the current methods-based approach to developing environmental monitoring equipment. For the past 7 years, the agency has been exploring the possibility of moving toward a performance-based system. One of the reasons this has taken so long is the complexity of the transition, especially when questions as to the quantity and quality of data to be required under a new performance system remain unanswered.

Because of the complexity of transitioning from a methods-based approach for the environmental monitoring industry to a performance-based system, and since this industry is one of the few environmental technology industries that is currently regulated, I believe it is vital that the industry have the opportunity for direct input to the EPA during the development of performance standards. This will ensure that the transition is achieved as smoothly as possible, and that any problems are taken into account and addressed.

Despite the positive move in the substitute bill to develop standards based on performance rather than methods, I would like to mention several items that I believe we should watch carefully during this process.

First, language in title IV requires that the performance standards system to be established by the Administrator include, "to the extent practicable, estimates of the capital and operating cost of environmental technologies." This portion of title IV may—and I underscore may—continue past practices of overburdening the production of new technologies, especially if the EPA eagerly pursues this language. What I am saying is that if a given technology easily lends itself to these kinds of cost estimates, then they should be undertaken. If, however, the capital and operating costs of technology cannot be easily estimated, then the EPA should not try to fit a square peg into a round hole, but rather exercise restraint and employ the "to the extent practicable" phrase. Many of these technologies may have different cost structures under different circumstances, and it would be self-defeating to have the agency attempt to produce cost estimates for every combination that might be possible in every environmental application.

Second, title IV also authorizes the EPA Administrator, in collaboration with other Federal agencies, to develop and issue common guidelines and protocols to verify and evaluate the performance and cost estimates of environmental technologies. As I mentioned earlier, I am pleased that the substitute bill encourages the use of non-federal agencies to verify and evaluate environmental technologies. However, I am concerned that, where we open the door to private sector involvement earlier in the title, this provision could shut that opening very abruptly. I hope the EPA, in accordance with this language, would similarly reach outside the agency for help in putting together these guidelines and protocols. If not, then the EPA will become a bottleneck, rather than a spur, in the development of new technology. I hope it does not come to that. We have an opportunity in this legislation to involve many entities in developing performance-based standards that will lead new and important technologies.

I encourage the EPA to call on such entities as the National Institute for Standards and Technology, private sector groups involved in standard setting, and other appropriate organizations with standards—setting and protocol-development expertise to shoulder much of the effort to design these new standards, protocols, and guidelines.

Finally, I would like to express my deep reservations about the section of title IV that authorizes the EPA to establish a fee structure for this process of moving to a performance-based standard system. I am not a proponent of establishing user fees for services provided by the Federal government that have been deemed necessary to benefit all Americans. If regulating environmental technologies is deemed to be in the public interest, then we should be prepared to pay for it and find the necessary offsets.

User fees have been more and more frequently considered as a means of financing Government activities, a trend

I find disturbing in and of itself. In general, this is not good public policy, and we should seek to avoid enacting such fees. The burden of paying them, while initially shouldered by the business community, eventually falls on to all consumers and taxpayers.

In this case, I plan to monitor EPA's development of these user fees to ensure that: First, they are not excessive; second, they will not unduly burden current and future participants in this industry; and third, they will be competitive between all types and sizes of industry members. Otherwise, I, for one, will be compelled to revisit this issue at every opportunity.

Mr. President, the development of an effective system of performance-based evaluation of analytical instruments for environmental monitoring still requires guidance to chemists on how best to conduct a given analysis. However, this should not result in replacing specific types of equipment with generic descriptions accompanied with performance criteria. The language in this bill should go a long way toward ensuring that a significant barrier to the introduction of new technologies and products in the field of environmental analytical instruments is removed. That is my hope with the provisions contained in the substitute bill. Obviously, if we cannot succeed in this effort, then these issues may need to be revisited in the near future.

I commend my colleagues for including in this bill direction to the EPA to move toward performance-based assessments of environmental technologies.

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of S. 978, the National Environmental Technology Act of 1994.

S. 978 is a good Government approach to stimulating the development of technologies to protect the environment. It will help prevent duplication of effort by Federal agencies, and encourage more public-private partnerships for effective use of taxpayers money. This approach is consistent with the administration's effort to develop a inter-departmental look at all Federal research and development to increase its efficiency and payoff.

This bill will help stimulate innovation and job creation in a responsible way. S. 978 encourages business' attention to investment in environmental protection through incentives rather than through penalties. According to the Environmental Business Journal, approximately 47,200 people in Michigan are employed in environmental technology fields, grossing around $6 million annually in sales.

Originally, I was concerned that S. 978, as reported from committee, did not include recycling in the definition of environmental technology, and appeared to emphasize development of remediation and pollution control technology at the expense of recycling technology. This approach seemed to turn the conventional pollution prevention hierarchy—reduce, reuse, recycle, and dispose—on its head.

Mr. President, I have been involved in efforts to ensure that the Federal Government increases its procurement of products with recycled content and environmentally preferable products. I am aware that many nascent technologies exist that can help us close the now-gaping part of the cradle-to-cradle recycling loop that should exist between end use of a product and new procurement. Obviously, we do not want to encourage the production of waste solely as a feedstock for new products with recycled content, but there is plenty of waste out there going into landfills or incinerators or elsewhere that could be profitably recycled given sufficient demand. The administration has made good progress in using Federal procurement to develop that market demand.

The committee's amendment, in the nature of a substitute, satisfies my concerns, and ensures that companies that want to develop new recycling technologies that reduce environmental or human health risks will be eligible for the benefits of the bill. My hope is that the administration and the business community, including small businesses, will use the resources authorized in this bill to assist in the development of technologies that will reduce waste going to permanent disposal, and encourage firms to substitute less hazardous, nonpersistent and nonbioaccumulative materials and substances into their products and in their provision of services.

Mr. President, I urge my colleagues to vote for passage of S. 978.

Mr. LIEBERMAN. Mr. President, I am very pleased to urge support of passage of the National Environmental Technology Act of 1994.

The main goals of this bill include coordination of existing programs throughout the Federal Government and authorizing and putting discipline and structure in existing programs at EPA. Over the long run, the development of new technologies has the potential to save the Federal Government huge sums of money.

Perhaps the most important goal of this bill is to ensure that our existing programs on environmental technology are well-coordinated. Over $4 billion is currently being spent annually by Government agencies on research and development of technologies that could be classified as environmental technologies. A coordinated approach among these agencies is critical for cost-effective use of these funds. This bill accomplishes this and will improve Government accountability and efficiency. It is fully consistent with our efforts to reinvent Government.

The legislation authorizes and modestly expands existing environmental technology programs at the Environmental Protection Agency. Under the President's environmental technology initiative, EPA is already operating a program to develop environmental technologies in partnerships with the private sector and other agencies. For example, one of the projects being funded under this initiative is aimed at developing and evaluating cost-effective control technologies for oxides of nitrogen on major combustion sources. We know that developments of these controls will help companies meet the requirements of the Clean Air Act in the most cost-effective manner.

EPA's program must be consistent with the roles and responsibilities identified for EPA pursuant to the national strategy and cannot duplicate specific technology development projects being conducted by other executive agencies.

EPA is currently coordinating this program with other Federal technology programs. In this fiscal year, it intends to enter into partnerships with other Federal agencies to expend more than 50 percent of the funds in the program.

Title III of the legislation builds on EPA's existing Superfund Innovative Technology Evaluation Program and is modeled after the highly successful SBIR Program which EPA already is operating.

Most importantly, we are talking about the development of technology which is critical to the Federal Government. The costs of cleaning up the Federal Government's contaminated sites is expected to total several hundred billion dollars. Even if we had the money, we do not have the technologies to clean up many of these sites and developing new technologies is critical to getting the costs under control. For example, there is no technology currently available to adequately clean up ground water contaminated with oil wastes, a common occurrence at many of the Nation's contaminated waste sites. Improvements in these technologies should improve cleanup results, accelerate the pace of site cleanups and save both the Federal Government and private sector large amounts of money. Where innovative technologies have been used in the past, the cost savings have been very significant.

The tests for spending Federal dollars in this bill are rigorous and follow the rules set forth by President Bush's science advisor, Dr. Bromley. First, the programs are basically oriented toward funding research and development at the precompetitive stage. Second, Dr. Bromley was concerned that peer review be an important part of ensuring that quality programs are selected. The policies EPA has in place to review these types of technology programs establish a peer review process. Third, Dr. Bromley wanted to make sure that the investments made in research and development made sense; that they

were not just economic dead ends in the mind of some Government bureaucrat, or pork in the eyes of a Congressman or Senator. So the Bush administration emphasized cost sharing of Government dollars with industry. Cost sharing, where industry pays a major share of costs and share the development risks, is a prime requirement of most of the programs in this bill.

Finally, Mr. President, a technology development program at EPA will hopefully significantly bring down industry's cost of complying with regulations. Involvement in technology development may help ensure that EPA is aware of what is and is not possible from a technology standpoint as it develops regulations. The bill also establishes programs to verify the cost and performance characteristics of technologies relative to Federal regulations. These provisions will lower the market barriers created by preference within regulations for specific technologies and thus stimulate competition and innovation.

Mr. President, this bill is good government. Its goal is to coordinate existing programs throughout the Federal Government and authorize and expand existing programs at EPA. Over the long term, the program has the potential to save the Federal Government huge sums of money.

I would like to take a moment to commend the extraordinary hard work of the staff of the Environment and Public Works Committee including Tim Mohin, Tom Sliter, Peter Scher, Mike Evans, Joyce Rechtschaffen, Steve Shimberg, John Grzebien; Greg Loder of Senator MIKULSKI'S staff; and William Bonvillian, Murray Hitzman, and Elizabeth Drye of my office. They worked with great creativity and perservance to make this bill happen.

Mr. HATCH. Mr. President, as one can see from my comments, I am concerned that the Environmental Protection Agency consult with outside sources, or non-Federal entities, to develop the rules, regulations, guidelines, and protocols called for in this legislation. I am appreciative of the chairman's efforts to achieve this change in the earlier bill. I had recommended to the chairman that to ensure that EPA steps outside of its own walls to gain input from the private sector and those elements involved in the environmental monitoring industry, we create a consultative committee in statute comprised of 10 industry representatives with whom the Administrator could consult as these guidelines, et cetera, are developed. The substitute bill does not contain language creating this committee. I wonder if my colleague from Montana would respond to a brief question.

Mr. BAUCUS. Certainly.

Mr. HATCH. Is it the chairman's intention to aggressively pursue the concept now in the bill requiring the EPA to consult private sector groups and other sources outside the EPA in developing performance-based standards for environmental technologies, particularly from the environmental monitoring industry, during the upcoming conference with the House on this bill?

Mr. BAUCUS. It is. I believe the substitute bill contains an appropriate level of specificity and direction to the EPA to reach out to the relevant industries and other groups outside of EPA in order to gain insight and guidance for the development and implementation of the programs outlined in this bill. EPA officials have reviewed the substitute bill and the references on performance standards, and they recognize, and feel very comfortable, that they will need to extend beyond their organization to actively involve outside groups in program development. Based on this position, creating a consultative committee, as proposed by my colleague, did not seem necessary.

Mr. HATCH. I appreciate that response.

Mrs. BOXER. Mr. President, may I address a question to the chairman? I want to first thank my friend from Utah for raising this important matter. However, I am concerned that the EPA may not use the ample authority provided in the bill to consult with private sector and outside groups to the extent that I and my friend from Utah would like to see. Based on this concern, would the chairman agree with me that the conference report accompanying this bill should contain strong and definite language directing the EPA to seek input and counsel from the private sector and other groups outside of EPA on a consistent basis throughout the full development and implementation of the environmental technology initiative established by this bill?

Mr. BAUCUS. I understand my colleague's concerns, and without preempting the final conference report, I would state that it would be my intention to include language along the lines just outlined by my colleague in the final report.

Mr. HATCH. As my friend from California indicated, I share the concerns she just raised. Would it be possible for this Senator and the Senator from California to consult with the chairman on the development of appropriate report language that addresses these concerns and is consistent with the upcoming conference deliberations with the House?

Mr. BAUCUS. I would certainly welcome the two Senators' input, and I would encourage them to consult with me on this matter.

Mrs. BOXER. I thank the chairman for his time and his willingness to address the concerns of myself and my friend from Utah. I would add that as a cosponsor of this bill I applaud his efforts in this crucial and important area of environmental technology.

Mr. HATCH. Let me also thank and commend the chairman. Appropriate report language directing the EPA to consult outside entities as the guidelines, protocols, and regulations involved with verifying and evaluating the performance of environmental technologies are developed and implemented, would address the concerns that my friend from California and I have raised.

VOTE

The PRESIDING OFFICER. The question is on the passage of the bill. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

The PRESIDING OFFICER (Mr. FEINGOLD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—85

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

NAYS—14

Brown	Glenn	Nickles
Conrad	Gramm	Pressler
Danforth	Heflin	Smith
Dorgan	Helms	Wallop
Faircloth	Murkowski	

NOT VOTING—1

Shelby

So the bill (S. 978), as amended, was passed, as follows:

S. 978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "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 nongovernmental 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) 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.

(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 principal 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 de-

fense 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.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—HOUSE CONCURRENT RESOLUTION 218

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, there be 30 minutes remaining of the statutory time limitation, and that the Senate resume consideration of the conference report to accompany House Concurrent Resolution 218 at 2:30 p.m. tomorrow, with the remaining time equally divided.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I remind my colleagues that pursuant to this and a previous order, there will be three votes beginning at noon tomorrow. The first vote will be on the amendment which I have offered with respect to the arms embargo on Bosnia; the second will be on the amendment which has been offered by Senator DOLE with respect to the arms embargo on Bosnia; and the third will be a vote on the conference report on S. 63, the clinics access bill. Those votes will be at noon tomorrow and, pursuant to a previous order, the second and third votes will be for 10 minutes each tomorrow.

The vote which is about to occur will be the last vote today, and this vote is on the conference report to accompany the Head Start Amendments Act.

I thank my colleagues.

HUMAN SERVICES AMENDMENTS OF 1994—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of the conference report on S. 2000, which the clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2000) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 9, 1994.)

Mr. KENNEDY. Mr. President, today the Senate gives its final approval to S. 2000, the Human Services Reauthorization Act of 1994. This bill is part of our national effort to help children, strengthen families, and rebuild communities. It reauthorizes three mainstays of our current effort—Head Start, the community services block grant, and the Low-Income Home Energy Assistance Program.

Thirty years ago next week, President Lyndon Johnson declared war on poverty by signing the Economic Opportunity Act of 1964 into law. Head Start, our first multigenerational, family centered, one-stop shopping program, quickly became one of the Nation's most popular and most effective social programs.

Today we pay tribute to Head Start with an overwhelmingly bipartisan vote and affirm our commitment to renew and expand it.

The Head Start provisions in the bill give new support to staff development and training, in order to provide the best possible services to children and families. It enhances parent involvement, and helps parents to be the first and best teachers of their children.

This action provides new flexibility to local programs to meet the needs of today's families, many of whom are working full time jobs or going to school to find better jobs. They need full-day and full-year Head Start—and this bill will help see to it that such services are available.

We have found that 1 year of Head Start at age 4 often comes too little and too late for families struggling to survive against a rising tide of poverty, drugs, violence, and hopelessness. This bill allows programs to provide more than 1 year of service—and to focus on both the comprehensiveness of service and the continuity of service.

Building on the success of the comprehensive child development programs and the lessons we have learned from parent-child centers, S. 2000 sets aside significant resources for a new Early Start initiative for infants and toddlers to give new families the support they need to learn and grow together.

This legislation also includes two other priorities—the community services block grant [CSBG] and the Low-Income Home Energy Assistance Program [LIHEAP].

CSBG reauthorizes the community action programs, community development corporations, and community food banks that serve on the front lines of the war on poverty. In recent years, we have witnessed a much greater rise in the number of families living in poverty than in the resources dedicated to reducing it.

In neighborhoods across the country, these community-based public-private partnerships are a central part of the low-income service delivery network. They promote self sufficiency, family stability, and community revitalization. S. 2000 affirms our commitment to these grassroots efforts to help people help themselves.

The reauthorization of the Low-Income Home Energy Assistance Program is equally important. This year's

winter weather in New England and across the country demonstrated the lifesaving nature of LIHEAP. President Clinton recognized the importance of this program by approving emergency appropriations to help low income families pay for the fuel they need to survive.

Without this heating assistance, we would have lost far more lives. No parents should have to chose between heating their homes and feeding their children. Yet, every winter, doctors in Boston and cities across the country see the number of malnourished children double or triple as fuel costs continue to rise. Thanks to LIHEAP, many families are spared from making the heat or eat decision.

Despite the widely acknowledged success of measures such as these, no one program can be expected to permanently innoculate children against the problems that plague too many youth. We also know that our commitment to help cannot end with Head Start.

Four years ago I sponsored a demonstration transition project to begin to build bridges between Head Start programs and local public schools. These efforts have enabled children to make a smooth transition to elementary school, and helped parents to continue to be active participants in the education of their children. Head Start programs and public schools have learned from each other and both systems have benefitted. But the real winners are the children and families.

Diane Hebert, a parent from Woburn, MA, told the Labor Committee how Head Start had prepared her for her son's transition to public school by saying:

When my son went to kindergarten, his teacher wouldn't let me volunteer in the class. That February, she realized that she had overlooked him. He was having trouble with his work, but because he wasn't a behavior problem he didn't stand out. Head Start helped me to make sure the school gave him a core evaluation. How he receives the education he needs and deserves. Today I advocate for all my son's education even at the middle school and high school. Head Start showed me that being a parent gave me a seat in my children's education even if I have to push my way in.

Jill Ryan, a Head Start parent from Worcester, MA, said:

Head Start taught me to reach out, to ask questions, and to voice my opinions openly. It prepared me to deal effectively with the public school system and stand up for my child's rights. Head Start taught me about the Chapter I program. When Jennifer was in the first grade, she needed help in reading. I appealed to the school for that help. They told me she didn't need the program. But they didn't see her struggling the way I did. Eventually, I convinced the school to get her help.

Now my daughter is nine, and I am very proud to say that her reading is at the A level. Jennifer has been chosen for the Providing Equity for Able Kids program, which provides challenging elementary learning opportunities for academically and creatively talented elementary school kids.

Now Head Start is helping to change the schools for all children and families. Three years ago, Worcester Head Start got a grant to do one of the Transition Projects. I sat on the committee with the Head Start Directors, Head Start parents, and public school principals. We talked about why parent input in schools is so important. We answered questions, and explained why the schools need to provide parent workshops, activities, and transportation, the way that Head Start does.

As we have learned from these transition projects, Head Start cannot be singlehandedly responsible for the success or failure of our poorest children. As Head Start families move into the public schools their continued success will be largely dependent on the schools.

We now have an opportunity—with the reauthorization of ESEA—to provide incentives for school systems to work with Head Start and build effective partnerships. Head Start is setting children and families on the right path, and it is up to the elementary schools to continue that progress.

The transition projects have shown that this can be done. We now have an historic opportunity to solidify the lessons we have learned. We have set-aside $35 million in Head Start funds to facilitate his progress, and I look forward to working with my colleagues to create a bipartisan proposal within ESEA to invest the schools as well.

We must give children and families a Head Start on life—and we must prevent it from fading away. The benefits are too valuable—children are too important—and the stakes are too high.

This is a moment of both victory and preparation. I urge my colleagues to join in the challenge. We will not rest until we have given America's children all that they deserve.

For American business that seeks a skilled and educated workforce—for American families who seek safe streets—and for all American citizens who seek a country true to its ideals—this is essential legislation, and I urge the Senate to approve it.

THANK YOUS

Mr. President, I would like to take this opportunity to thank the people without whom this legislation would never have happened.

First and foremost, I would like to thank the Labor and Human Resources Committee staff—from both sides of the aisle—who worked extremely well together on this effort. I hope this bipartisan cooperation will continue as we move forward with the remainder of our agenda.

Specifically, I would like to thank Michael Iskowitz and Catriona Macdonald of my staff, Patty Cole, from Senator DODD's subcommittee staff, Kimberly Barnes-O'Connor from Senator KASSEBAUM's staff, and Stephanie Monroe from Senator COATS' staff. Together they formed the Senate team that made S. 2000 a reality. I commend them for their excellent efforts.

In the House, I would like to thank Alan Lopatin and Chris Gilbert of Chairman FORD's staff, Lee Cowen of Representative GOODLING's staff, and Les Sweeting and Terry Daschler of Representative MARTINEZ's subcommittee staff. They did a great job on the bill in the House—and they too are to be congratulated for their efforts. Both sides were lucky enough to have extremely cooperative and supportive conferees. I would like to especially thank Lauren Gross, from Senator PELL's office, Cheryl Birdsall from Senator METZENBAUM's office, and Matt Bidgood from Senator JEFFORDS' office for their help.

And we could not forget our supporters in the administration who—from the start—have been committed to an inclusive, productive, and bipartisan process.

I commend Secretary Shalala for establishing the Head Start Advisory Committee that launched this process, so effectively brought the staff together, and created the working group that hung together throughout this legislative process.

I would also like to thank her able assistants, including Mary Jo Bane, Olivia Golden, Helen Taylor, John Busa, Rich Tarlin, and Mary Burdette. They reminded us how helpful it is to design programs with those who actually implement them.

Last and not least—I would like to thank a few able individuals who have done so much for America's children.

I would like to recognize four longstanding friends of children and friends of the Labor and Human Resources Committee—Ed Zigler, often referred to as the Father of Head Start, Joan Lombardi, now with HHS, Helen Blank of the Children's Defense Fund, and Bill Harris and Sarah von der Lippe of KIDS Project.

Their energy and their commitment knows no bounds and I am grateful for their tireless efforts and leadership.

And we could not conclude without thanking those in the community struggling day after day to give these laws real meaning. Our work here is far easier than theirs. I would like to send a special thank you to Linda Likins of the National Head Start Association, Janis Santos of the New England Head Start Association, Marie Galvin of the Massachusetts Head Start Association, and to the thousands of Head Start teachers and family services workers who give it their all every day. This act is for you.

To the community action programs, community development corporations, community food and nutrition advocates, fuel assistance providers and all of the other front line workers who so ably use the resources of this act—I thank you for your dedication, your commitment, and your efforts.

Mr. DODD. Mr. President, I rise today to support the conference report

to S. 2000, the Human Services Amendments of 1994, and to urge all of my colleagues to join me in voting for it. I would also like to salute Senators KENNEDY and KASSEBAUM for their indispensable leadership in helping to guide this legislation.

I am confident that the vast majority of my colleagues will vote for this bill because they recognize how critically important the programs it authorizes are to their constituents. These programs are also critically important to another group of Americans, a group that doesn't vote but that nonetheless demands and deserves our full attention. I am talking of course about the children of America.

Our children have been calling out for help, and we in Washington have not done nearly enough to answer that call. For too many young Americans, childhood has become a minefield of risk. They must navigate their way through a series of explosive social problems in order to successfully make it to adulthood.

The problems I am talking about are childhood poverty and unsafe neighborhoods; crumbling families and disappearing health care coverage; a cycle of abuse and a dimming of the once-bright dream of education. We all need to commit ourselves to defusing as many of these mines as possible and assisting our children in navigating their way through the ones we can't.

That's exactly what the Human Services Act seeks to do. The programs in this act, overseen by the Subcommittee on Children which I chair, share a common orientation, in that they work within the community to address the needs of individuals living there. They share a common goal, that of helping people move toward self-sufficiency. They see families' needs as a whole and seek to address them comprehensively.

While there is certainly no panacea in the legislation before us, the programs it authorizes lend a helping hand to children and families in need:

Head Start gives disadvantaged children the early, extra boost they need to keep up once they start school.

The Family Resource Program responds to families to help them grow strong and prevent crises.

The Low-Income Home Energy Assistance Program keeps the heat on for millions of families who would otherwise go cold.

The Community Services block grant supports local antipoverty agencies with deep roots in the communities they serve.

The legislation before us makes changes in each of these programs, changes intended to make them as effective and efficient as possible.

The reauthorization of Head Start continues the provision enacted in 1990 that sets aside one-fourth of all new appropriations for improving quality. This money already has helped programs raise staff salaries, provide needed training, and improve facilities and equipment.

To ensure that programs are offering quality services, the legislation strengthens performance standards and monitoring procedures so that programs that cannot correct their deficiencies within 1 year lose their funding. The bill seeks to build the work force Head Start needs to guide children into the next century by developing qualifications and credentials for family service workers and creating innovative approaches such as mentor teachers and Head Start fellowships.

The reauthorization of Head Start also contains a set-aside for expanded services to families with infants and toddlers. It takes the comprehensive approach associated with Head Start and expands it to vulnerable children at the earliest possible age.

FAMILY RESOURCE CENTERS

The bill also contains a provision I authored to consolidate several existing programs into an expanded community-based family resource program. This new grant to States would help build networks of comprehensive family resource centers and services and promote a systematic approach to prevention.

The approach rests on two guiding principles: locality and flexibility. It would provide comprehensive services at the local level where they can do the most good, and it would encourage States to approach funding family services creatively. This initiative also gives families a voice in how services are provided in their communities.

LOW-INCOME HOME ENERGY ASSISTANCE

Another component to the Human Services Act is the Low-Income Home Energy Assistance Program [LIHEAP], a critical segment of the safety net we try to provide for our most vulnerable citizens. LIHEAP provides millions of American families, many of them with elderly or disabled members, with the bit of extra help they need to pay for one of modern life's essentials: residential energy.

The bill before us would reauthorize LIHEAP at $2 billion for fiscal 1995. This puts Congress on record opposing the budget cuts that have been proposed for the program. The bill also reinforces LIHEAPS's primary mission to help disadvantaged individuals afford energy bills that would otherwise prove to be unaffordable. In addition, the bill would create a permanent authorization for the LIHEAP emergency fund and would allow the Secretary to target the money during particularly harsh winters.

COMMUNITY SERVICES BLOCK GRANT

The reauthorization of the Community Services block grant would strengthen this program by making groups supported by it more accountable for the dollars they spend. It would also consolidate existing community economic development and rural housing and development activities into a new community initiative program.

CONCLUSION

Taken together, these programs represent key segments of the safety net we try to provide all America citizens. I believe the bill before us will play a critical role in strengthening those segments, and I look forward to its passage and signature by the President.

I would like to once again thank Senator KENNEDY, the chairman of the Committee on Labor and Human Resources, for all of his work on this bill. he continues to be an inspiration to all of us who share his vision of a caring and just America.

I would also like to thank Senator KASSEBAUM, the ranking member of the committee, for all of her work on this legislation this was a truly bipartisan bill: It was crafted and moved along by Republicans and Democrats working together in complete tandem. Senator KASSEBAUM was especially instrumental in our efforts to consolidate and reform a number of existing programs into a new family resource grant. Senator COATS, ranking member of the Subcommittee on Children that I chair, was as always a full partner and highly valued colleague.

I would also like to commend several members of the other body who made this legislation possible. BILL FORD, the chairman of the House Education and Labor Committee, is a passionate advocate of Head Start, and we could not have moved this legislation without him. We will sorely miss him when he retires at the end of his term.

MAJOR OWENS and MATTHEW MARTINEZ, chairman of the House Subcommittee on Human Resources, were absolutely critical to the consensus we reached on this legislation. I worked closely with them to craft a strong and effective family resources program authorized by title IV of this legislation, and I want to thank them and commend them for their hard work.

Finally, as I have said on numerous occasions before this body, none of the work we do here would get done without the able work and tireless dedication of the staff. Although many were involved with this legislation, I would like to single out just a few here today for the significant contributions they made: Patty Cole, Joe Palmore, and Sarah Flanagan of my staff; Marsha Simon, Michael Iskowitz, and Catriona McDonald of Senator KENNEDY'S staff; Kimberly Barnes-O'Connor with Senator KASSEBAUM; Stephanie Monroe with Senator COATS; Mark Powden and Matt Bidgood with Senator JEFFORDS; Lauren Gross of Senator PELL'S staff; and Cheryl Birdsall with Senator METZENBAUM. They should all be proud of what they have accomplished for the children and families of America.

Mr. JEFFORDS. Mr. President, I am pleased to speak in support of passage of the conference report to S. 2000. This legislation will reauthorize programs which are vital to helping low-income families and their children, including Head Start, the Low-Income Home Energy Assistance Program [LIHEAP], and the community services block grant [CSBG].

At the heart of this conference report is the reauthorization of Head Start. In my mind, the Head Start reauthorization is a strong one. It will help Head Start programs across the United States improve the quality of services they provide as we move toward full funding. It will help them better meet the needs of families they serve in their communities. And it provides for expansion to serve more children. This is particularly important, since less than 40 percent of all eligible children are currently enrolled.

I commend President Clinton for proposing a $700 million increase for Head Start in his fiscal year 1995 budget request. This increase signifies confidence that the program is sound, but also recognizes that there is a strong need for expanded enrollment.

The bill also includes a new program to give an even earlier head start to children who most need our help. The initiative for families with infants and toddlers will build on the results and knowledge gained from programs currently serving families with very young children, including the Comprehensive Child Development Program [CCDP]. The CCDP's, such as the one I visited in Brattleboro, VT, have proven enormously effective in providing much-needed services to these families. I am pleased that existing CCDP's will be eligible to provide services under the zero to three program.

I am also pleased that this bill contains provisions establishing a priority for longitudinal studies, as well as an authorization of up to $3 million in fiscal year 1995 and such sums as may be necessary through fiscal year 1998 for this purpose. Longitudinal studies on Head Start will allow us as policymakers to follow Head Start participants through the years to determine what effects the program has had on them.

Mr. President, we live in a changing world. It is becoming more economically competitive than we could have imagined even a decade ago. If we are to succeed in this new world, our citizens must be adequately prepared. We must start with our youngest children, giving them the early, comprehensive, social, health, and education services they need so they won't fall through the cracks. Head Start does that for the most vulnerable children. Thanks to this reauthorization, it will continue to do it, for more children, and better than before.

Mr. President, I won't go into detail about what the conferees agreed to with regard to the Low-Income Home Energy Assistance Program [LIHEAP], but there are a few points I would like to highlight.

First, the House receded to the Senate regarding the program's authorization levels. The conference report to S. 2000 stipulates that the authorized funding level for LIHEAP shall be $2 billion annually for each of the fiscal years 1995 through 1999. I wish we could do more, but the budget deficit constrains us. Making the $2 billion explicit, though, is certainly preferable to authorizing "such sums as may be necessary."

We also have made permanent authorization for a $600 million contingency fund to help pull us through the sort of winter that much of the Nation just experienced. Clearly, the extreme cold that gripped much of the country this past winter stretched regular LIHEAP benefits way beyond the breaking point. Now we have the ability to respond to genuine weather-related fuel emergencies in a timely fashion. I just want to add here, as I did when the Senate first considered S. 2000, that the emergency fund is just that: for emergencies. Emergency funds are to supplement, not supplant, regular funding.

I think the conference report contains some useful provisions for helping beneficiaries reduce their energy bills by reducing their energy consumption. Energy efficiency education is something we should always promote. But we do need to be careful that such efforts do not cause reductions in basic benefits.

A final point, Mr. President, concerning the House-passed sense-of-Congress language regarding funding for fiscal years 1995 and 1996. I am pleased that the conferees essentially retained the language. Congress already has appropriated $1.475 billion for fiscal year 1995. It's going to be very tough to keep that appropriation intact. But we must try. And we'll have to try mightily to preserve current services next year. Having Congress on record in support of such efforts will be helpful.

The conference report also contains good improvements to the community services block grant. This block grant is a vital part of our efforts to address poverty in this country. The community action agencies funded by CSBG provide a critical service in my state and throughout the United States.

This bill will help them do an even better job by providing training and technical assistance, and improving governance and public participation. The bill will also make some improvements to our economic development efforts funded under CSBG, by creating a new Community Initiative Program. On this last point, I want to thank Bob Justis of Vermont for his contribution to our efforts.

Finally, the conference report retains authorization for the Community Food and Nutrition Program. Despite its success, the Clinton Administration had proposed to eliminate CFNP when it sent its recommendations to the Senate. But my colleagues and I on the Senate Labor Committee, which has jurisdiction over the program, rejected the administration's proposal and renewed the authorization for the program. Importantly, we also left intact the provisions for small States we established in the last authorization of the program. All told, I think this is great news, because CFNP is a low-cost but vitally important anti-hunger program, in Vermont and across the country.

Mr. BURNS. Mr. President, I rise in support of the conference version of the Head Start reauthorization bill.

I have always been a strong supporter of the Head Start Program; 2,300 Montana children benefit from this program, and that does not even include the children served through the programs on the Indian reservations.

Concerns have been expressed about maintaining the program's quality during Head Start's expansion. I am glad that the final bill requires a setaside for quality improvements to address this issue.

It is also my understanding that the bill includes a section that would allow Head Start to legally construct facilities. The need for this has been brought to my attention by the Head Start grantees in Montana.

Head Start is an important and worthwhile program, and I will be voting in favor of the conference report.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleagues in support of the conference report on the Human Services Reauthorization Act, S. 2000. This legislation is the cumulation of a bipartisan, House-Senate-administration partnership that started a year ago with the appointment of the Advisory Committee on Head Start Quality and Expansion. I know that some people expressed sincere doubts that such a partnership would work. I believe that the Head Start provisions of S. 2000 are a clear demonstration of the benefits of an inclusive thoughtful legislative process—and hope that this successful experience will serve as the catalyst for more bipartisan, bicameral efforts.

In addition to the Head Start program, this legislation reauthorizes several important programs including the community services block grant the Low-Income Home Energy Assistance Act, the Ready To Learn Act, the State Dependent Care Development programs, the Child Development Associate Scholarship Initiative, and the new Family Resource Program. The Federal and State coordinating mechanisms created in the Claude Pepper Young Americans Act also are reauthorized in S. 2000, and I hope that appropriations are finally allocated so that this important initiative can begin.

When I introduced the Head Start Quality Improvement Act, with Representative GOODLING and Representative MOLINARI in March 1993, I hoped that our efforts to improve and ensure the quality of Head Start programs would be successful. With the passage today of the Human Services Reauthorization Act I believe that the Department of Health and Human Services now has the mandate and the tools it needs to provide quality early education and care services for low-income children and their families. This legislation will help Head Start programs to expand to meet the needs of local communities in a variety of ways. It is also important to note that as the new initiative to serve infants and toddlers begins, there are other provisions in the legislation which strengthen the activities designed to help children and their parents make the critical transition to elementary school. Both Head Start and schools must work together to sustain and build on the successes begun in Head Start.

I would like to thank the staff for their diligence and commitment to crafting a truly bipartisan bill—Lee Cowen, Hans Meeder, Alan Lopatin, Lester Sweeting, Terry Zimmer-Deshler, Braden Goetz, Dennis Glaven, and Leslie Harris from the House Committee on Education and Labor and from the Senate Committee on Labor and Human Resources, Kimberly Barnes-O'Connor, Stephanie Monroe, Matthew Bidgood, Mark Powden, Michael Iskowitz, Patricia Cole, Catriona McDonald, and Joe Palmore. This legislation is better and stronger because of their efforts.

Mr. DURENBERGER. Mr. President, I am pleased to rise in support of final passage of the conference committee agreement on S. 2000 which includes reauthorization of the Head Start Program.

There are a number of positive features in this reauthorization, Mr. President, including continued emphasis on improving quality, greater performance accountability for Head Start agencies, and increased authority to use Head Start funds for year-around programs and initiatives that serve very young children and their families.

In addition, the conference committee accepted the Senate's position authorizing the use of Head Start funds for facilities construction in low-income communities if there are not other facilities available, if the lack of facilities will inhibit the operation of the program, and if construction is more cost-effective than purchase of available facilities.

The final bill also permits Head Start grantees to make capital expenditures—including amortizing the principal and paying the interest on loans—for construction of facilities, major renovation of facilities, and purchase of vehicles used for programs located at Head Start facilities.

Unfortunately, the conference committee did not adopt the Senate position that Head Start children should be automatically eligible for meals under the child care food program.

The conferees were sympathetic to the burdens placed on Head Start agencies in establishing eligibility for the child care food program. But, the conferees did not feel they had jurisdiction to expand eligibility for what is, in effect, an entitlement program under the jurisdiction of the Agriculture Committees in both Houses of Congress.

The conferees did, however, urge the Secretaries of HHS and Agriculture to work together to accomplish the goal of joint eligibility through regulatory changes and urged the appropriate authorizing committees to address the problem during the reauthorization of other child nutrition programs.

Mr. President, I am most pleased that the conference agreement maintains and expands on the goal I have been pushing throughout this reauthorization that we encourage flexibility to meet the changing needs of today's Head Start families and that we encourage a greater degree of collaboration between Head Start, subsidized child care, and other programs that serve low-income children and their parents.

For example, the conference committee agreement directs the Secretary of HHS to encourage the development and testing of innovative, locally designed options to extend the hours of service of Head Start agencies to meet local needs. Options identified by the conferees include collaboration with child care and other child and family service programs where such collaborations maintain the quality and integrity of services provided under Head Start's performance standards.

Where administrative rules and regulations are a barrier to effectively combining funds from different Federal program sources, the conferees also urged that a timely mechanism for requesting and granting waivers be put into place.

Head Start's authorizing legislation and administrative rules already allow national and regional administrators and local agencies considerable freedom to design local programs to meet local needs. So, the real test of whether we will see increased collaboration with other early childhood services will depend on how this reauthorization is actually administered.

With that challenge in mind, Mr. President, I have today written HHS Secretary Donna Shalala to encourage her and others in the administration to fully implement the collaborative spirit of this reauthorization. I would ask that a copy of my letter to Secretary Shalala be printed at the conclusion of my remarks.

Mr. President, I want to pay tribute to the principal authors of this legislation for their diligent efforts to steer its passage through the Senate and for their openness to the ideas and suggestions for improvements that I and others have authored.

I also want to pay special tribute to the thousands of Minnesotans who labor each day in the Head Start classrooms, offices, and homes of my State—as teachers, aides, drivers, administrators and others. And, I want to offer a special word of encouragement to the parents and children who will benefit from this reauthorization. You are our hope for a future in which all children will have the opportunity to learn and to grow and to prepare for school and for life.

I yield the floor.

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

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, May 11, 1994.

Hon. DONNA E. SHALALA,
Secretary, U.S. Department of Health and Human Services, Washington, DC.

DEAR SECRETARY SHALALA: Today's final passage of the Head Start reauthorization represents an excellent opportunity to recommit our support—not only to the Head Start program, but to the children and families it serves.

I am also hopeful that this reauthorization will contribute to a greater degree of collaboration between Head Start and child care and other child or family support services in each local community.

That hope became more urgent for me during the Easter recess when I had the opportunity to meet with a group of Head Start and child care advocates in Minnesota.

One of the themes of that meeting was that collaboration among child and family service programs is especially important to the growing number of Head Start parents who are working or in school as part of federal land state welfare reform initiatives. And, as additional changes are made in AFDC and other welfare programs, we are likely to see even more Head Start parents needing (and qualifying for) child care services that extend beyond the traditional part-day, part-week Head Start program.

Fortunately, Head Start and other early childhood programs are starting to respond to this growing need. In fact, five different examples of child care/Head Start collaboration or other locally designed Head Start delivery models were described to me in some detail during the meeting I recently held in Minnesota.

All five of these initiatives are program models other than the traditional full-day, part-day, or home-based models used by most Head Start agencies. All five meet or exceed Head Start's performance standards. And, all five are designed to help meet the changing needs of today's Head Start families.

In each case, however, the directors of these initiatives expressed serious concerns that they will not be allowed to continue or replicate these highly innovative programs. Reasons for that concern range from uncertainty about future funding availability to bureaucratic resistance.

This uncertainty about the future of these programs is troubling in light of the most recent round of Head Start rulemaking—which

articulated three different delivery options but which also included authority on the part of a senior HHS administrator to approved other locally designed options.

This centralized appeal and approval process is time consuming, costly, and burdensome, however, and may discourage agencies from designing and requesting approval for locally designed options. This may be especially true in smaller agencies or agencies in rural areas where collaboration may be even more difficult because there are fewer organized child care and other support services available.

According to several of the Head Start directors I met with in Minnesota, there also appears to be a presumption in the current system that more traditional delivery models are preferred—perhaps because they are easier to monitor and hold accountable.

In fact, one irony in the current laudable move to better monitor Head Start quality and agency performance is that computerized data gathering is much easier if programs are uniform in how they are organized. The same may be true in designing and testing new forms of results-oriented accountability.

In responding to these sometimes competing objectives, it's important to note that Head Start has always been a grass-roots, community and family-responsive program. So having flexibility to tailor programs to meet unique community and family needs is in keeping with the original purpose and history of Head Start.

That's why I felt so strongly that this reauthorization must be used to encourage Head Start administrators to use expansion funding to offer financial and other incentives to design unique and innovative local delivery options—as long as the underlying principles and strengths of Head Start are maintained and as long as local needs and results-oriented performance standards are met.

Because of the importance of maximizing the use of all available resources, any real or perceived barriers to collaboration with other agencies and programs should also be removed. That would include barriers to mixing funding sources and contracting with other agencies who may actually employ teachers and other staff.

In addition, I strongly believe there should be a presumption that locally designed delivery options are acceptable unless it's determined that they do not meet results-oriented standards through the normal Head Start oversight process.

And, finally, whatever changes are needed in Head Start performance standards to promote an innovation-friendly environment should be made.

I realize that at least some of the encouragement needed to innovate and collaborate may have to wait until we take up the child care components of welfare reform later this year. And, I look forward to working with you on this issue once the President's welfare reform proposal is brought to the Congress.

At the same time, I believe implementation of this Head Start reauthorization represents an excellent opportunity to allow maximum flexibility in local communities to use combined funding, waivers, demonstrations and administrative flexibility to help meet the changing needs of Head Start families.

To seize that opportunity, I believe Head Start administrators should do at least the following four things as they implement this reauthorization:

First, include the changing needs of Head Start families for child care and the potential for collaboration with child care and other early childhood and family services to Head Start's new quality standards.

Second, ensure that new performance measures created for Head Start agencies be adaptable for non-traditional program options including collaborations with local child care programs.

Third, reward collaboration with other community organizations serving children and families in the allocation of expansion funds within states.

And, finally, use Head Start's R&D program, to encourage the development and testing of innovative locally designed program options including programs that involve collaboration with child care and other child and family service programs.

During the course of this reauthorization, I became convinced that statutory changes were not needed to achieve these objectives. At the same time, I was pleased that Senators Kennedy and Kassebaum were willing to join me in a colloquy affirming legislative intent that increased collaboration with child care and other early childhood and family programs should be an outgrowth of this reauthorization.

As you know, I was an original co-sponsor of this Head Start reauthorization legislation. And, I was pleased to vote to adopt this legislation at every step in the legislative process. At the same time, I believe the full potential for serving today's low income families and children will depend on how this legislation is implemented and administered.

Now more than ever, Head Start must be responsive to the changing needs of the families it serves. That means Head Start must be flexible enough to meet those needs through a variety of different program models. And, it means Head Start must encourage collaboration with child care and other services available to those same families.

With that kind of locally initiated flexibility and collaboration, Head Start will enter its second 30 years an even stronger and more effective resource for the children and families of this nation.

Thank you for your past and future leadership in making these essential goals a reality.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

Mr. WELLSTONE. Mr. President, I would like to ask a question regarding the LIHEAP provisions in the Human Services Act. I wanted to clarify that none of the changes made regarding the LIHEAP program, including the provisions directed at the Secretary of HHS, are intended to alter households' current ability to seek redress under the statute directly from the Federal courts. Is that correct?

Mr. DODD. The Senator's statement is correct.

Mr. KENNEDY. That is also my understanding.

The PRESIDING OFFICER. Under the previous order, the question is on the adoption of the conference report.

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

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

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

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—98

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

NAYS—1

Helms

NOT VOTING—1

Shelby

So the conference report was agreed to.

The PRESIDING OFFICER. If there is no objection, the motion to reconsider is laid upon the table.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes.

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

FISCAL YEAR 1995 BUDGET RESOLUTION CONFERENCE REPORT

Mr. DURENBERGER. Mr. President, I rise today in opposition to the fiscal 1995 budget resolution conference report.

While I oppose the conference report, I wish to acknowledge that the conferees have taken some positive steps.

I am very pleased that the conferees heeded my advice to accept House language which would provide sufficient funds to permit needed reforms of a crop insurance system that just doesn't work. Agriculture Committee Chairman LEAHY, Senator KERREY, and I have acted on that opportunity by introducing the Federal Crop Insurance Reform Act of 1994, which largely fol-

lows crop insurance reform legislation I have authored in the past two Congresses.

As a complement to the crop insurance funding, the Budget conferees also provided that any future emergency appropriations for natural disasters must be paid for by offsets rather than by our usual habit of loading it on to the deficit. I have long opposed the concept of emergency supplementals—and for good reason. Just a few months ago, this Congress acted to provide much needed assistance to the victims of the California earthquake. Yet we borrowed the money to do so. Even worse, this free money was directed not only to the earthquake-ravaged regions in southern California, but also to legislators' pet projects located a continent away from the earthquake zone, adding many millions to the crushing debt we are imposing upon our children. This was simply indefensible. I am pleased the budget conferees have tied Congress's hands so that in fiscal 1995 we can't use a natural disaster as an excuse to add to this country's fiscal disaster—the Federal deficit.

Although the conference report makes some steps in the right direction, it simply does not go far enough.

Mr. President, this is my last year of service in this body. I first entered public life some 27 years ago, when I went to work for my law partner, Harold LeVander, who had been elected Governor of Minnesota. In that year, 1967, the Federal budget deficit was $8.6 billion—and people were outraged because that figure had more than doubled from the previous year. The national debt was all of $266.6 billion. By 1978, when I was elected to the Senate, the budget deficit was $59.2 billion, and the national debt—after the most intense period of our involvement in Vietnam, after two oil price shocks, and after one of the most severe recessions in our post-war history—was still only $607.1 billion.

Since then, we have run our national debt up to $4.7 trillion—that's "trillion" with a "T."

Numbers like that are hard to digest, so let's consider what it means in real terms for the people who will have to pay off that $4.7 trillion debt—our children and grandchildren. According to OMB projections, even after factoring in the effect of OBRA93, a child born after 1992 will have to pay 82 percent of his or her lifetime earnings in taxes. Mr. President, I ask that my colleagues stop to consider that figure—82 percent of lifetime earnings. That's just not fair.

Mr. President, we in Government—on both ends of Pennsylvania Avenue and on both sides of the aisle—got ourselves into this mess, and we owe it to our children and grandchildren to act to get ourselves out of it.

When Members of this body come forward to present responsible proposals to cut Federal spending—like the Exon-Grassley amendment—those measures should be enacted. Yet the conferees cut the Exon-Grassley savings in half, and even that modest cut met great resistance.

For some reason, the President and some conferees believe that we should take a rest from significant deficit reduction this year. I acknowledge the fact that a $173.5 billion deficit projection for fiscal 1995 is a significant improvement from the $235 billion deficit in fiscal 1994. However, we must bear in mind that that reduction is due largely to the economic recovery which began under President Bush.

In addition, Mr. President, we must recognize that the 1995 figures assume that interest rates on 10 year Treasury notes will hold steady at 5.8 percent. Right now, those rates are at about 7.2 percent—and rising. According to OMB, if inflation stays at current levels, even a 1 percent rise in interest rates—less than that which we have experienced—would add over $13 billion to the 1995 deficit, and would add a total of $127.5 billion to the deficit through 1999.

Even without the additional debt about to be heaped upon them, each American family of four already is burdened with some $75,000 of debt due to the past fiscal irresponsibility of the Federal Government. As a consequence, in 1994 we are spending $294 billion in gross interest payments on that debt—$50 billion more than all domestic discretionary spending. What's worse, interest payments are still rising.

As former Federal Reserve Chairman Paul Volcker advised members of this body in March, during periods of recovery we should strive for a surplus. In other words, we should act now. I do not suggest that a surplus like that advocated by Chairman Volcker is realistic in the immediate future. But we must begin to work towards that goal. We should not defer hard budget choices until later in the business cycle, when general economic conditions may impair our ability to act.

Mr. President, reducing government spending has been a priority throughout my Senate career. In 1984, I launched an organization called Americans for Generational Equity which sought to make clear how our reckless spending habits devastates future generations. That organization worked hard to identify and achieve the reforms necessary to cut the budget without harming important programs.

I have also been a part of numerous efforts within this body to attack the deficit. In the early 1980's, I sponsored along with Senator GORTON the Durenberger-Gorton bill to balance the budget. Since then, I also have supported strongly such measures as the 1985 Gramm-Rudman-Hollings Act, the Kassebaum-Grassley-Baucus proposal, the Boschwitz spending freeze, the 1990 budget summit reforms, the 1992 entitlement freeze, the 1993-94 Kerrey-Brown and Dole deficit reduction proposals, and, most recently, the balanced budget amendment.

I supported those proposals because I believe that savings can be achieved without harming our national security or compromising important Presidential initiatives such as health care reform. But I do not pretend that we can achieve those savings by deleting that much maligned but unfortunately mythical line item in the budget titled "waste and abuse."

Mr. President, let me be clear. Meaningful savings cannot be achieved if we are unwilling to take a hard look at entitlements. Simply put, that's where the money is. In 1993, the Federal Government spent nearly twice as much on payments for individuals as on everything else combined except for interest, which—as much as we'd like to—we cannot cut. I am deeply disappointed that neither the President's budget proposal nor the Budget Act approved by the conferees touch entitlements.

Moreover, Mr. President, we cannot achieve meaningful deficit reduction unless we act to limit inequitable tax breaks. For example, the current tax treatment of employment-based health benefits will cost the Federal treasury about $90 billion in 1995. According to CBO, this Government subsidy is worth an average of $1,910 to families earning between $100,000 and $200,000 a year, but only $450 to families earning one-tenth as much. Many working families do not benefit at all. That isn't fair, and it needs to be fixed.

Mr. President, as I prepare to leave this body, I suppose I am particularly mindful of the legacy we are leaving our kids. And I can't help but conclude we have done them a terrible disservice by burdening them with such a staggering amount of debt.

I've been here long enough to know that you make few friends by fighting for deficit reduction. But the longer we wait, the tougher the task will be, and the greater the burden our children and grandchildren will be forced to bear.

Mr. President, I believe we must achieve greater deficit reduction—this year. Therefore, I am compelled to vote against the fiscal year 1995 budget resolution conference report.

Mr. ROTH. Mr. President, today the Senate is considering the conference report on the fiscal year 1995 budget resolution. This budget is an automatic pilot budget—and the second installment of the massive tax increases and spending plan narrowly adopted by the Congress last summer.

In the Senate-passed budget, a $26 billion spending cut was adopted. This was a small step in the right direction. But, alas, after the conference with the House, only a $13 billion cut survived.

That boils down to a half a billion dollar cut in the 1995 budget. Not much, considering the base from which we start. In a $1.5 trillion-plus Federal budget only $500 million will be cut. This is a far cry from President Clinton's campaign promises of slashing the deficit in half.

I strongly disagree with President Clinton's decision not to fight for any deficit reduction this year. A deficit of over $175 billion in 1995, and over $200 billion in 1999 in the Democrats' budget is woefully unacceptable to the American public and, therefore, unacceptable to me.

Many grassroots citizen groups such as the Concord Coalition, United We Stand America, Citizens Against Government Waste, and many others have tried to impress upon the Congress and the President that action is needed to reduce the deficit through meaningful and lasting spending reductions. American families are forced to balance their budgets every day and so should the Federal Government. Just a few months ago, ignoring the will of the American people, both the Senate and House of Representatives rejected the balanced budget constitutional amendment at the President's urging.

I was pleased to see that the budget conferees accepted the Senate's insistence upon funding for the Edward Byrne Anti-Crime Grant Program. I cannot understand, however, the President's and the Democrats' decision not to provide full funding for either the Senate- or House-passed crime bills in the budget this year. Crime is one of the biggest problems facing our Nation, and this budget does not adequately address these problems squarely.

It is my hope, however, that the crime bill will eventually be fully funded though salary savings realized by downsizing the Federal bureaucracy by 272,000 positions, a funding source that this body overwhelmingly voted for on several occasions.

The crime bill is not the only unfunded program in the budget resolution. Welfare reform, entitlement reform, health care reform, and Governmentwide reform or "reinvention" are all missing. While these items are touted as priorities in our Nation, this budget blueprint is silent on how to finance these priorities.

This spring, the Republicans in both chambers offered a comprehensive budget including funding for the items just mentioned as well as a middle class tax cut. The Republican alternative would have reduced the deficit by $318 billion over the next 5 years. It offered incentives that America needs right now to save and invest for the future. For example, it offered a $500 tax credit for dependent children, and expanded the use of individual retirement accounts, a proposal I introduced with Senator Lloyd Bentsen back in 1991.

In February, Senator DOLE, myself, and 16 other Republican Senators introduced the Government Downsizing, Performance and Accountability Act of 1994. The plan contains 50 commonsense recommendations to save the taxpayers money, streamline the Federal bureaucracy, and improve the legislative budget process.

It reduced nondefense discretionary spending by $55 billion over the next 5 years by incorporating several Grace Commission recommendations, as well as improving Government accountability and performance. The plan also contains a Presidential line-item veto, a requirement that new programs may be authorized for a maximum of 5 years, and a super-majority requirement for all emergency spending legislation.

Budget process reform is clearly needed. For many years I have sponsored a bill to implement a 2-year budget cycle. Currently, congressional reform efforts have included this budget reform in their proposals. It is my hope that a biennial budget process reform can be adopted this year.

Deficit reduction, however necessary, will not dominate the political and policy discussions in Washington this summer. As we all know, budgets drive policy decisions. Given the American public's demands for further fiscal restraint, tax-and-spend policies are no longer acceptable to those for whom we serve. It is a daunting task to tackle the Federal budget. Spending cuts are difficult to swallow; however, I stand ready and willing to make the hard choices for the benefit of our children and grandchildren.

Mr. GORTON. Mr. President, the conference report on the budget continues the fiction begun by the 1993 budget agreement passed on a tie vote last summer. That fiction, perpetrated by this budget, is that the deficit problem was fixed last summer and Congress and the President are off the hook. It is because the Congress and the President refuse to deal with the deficits that loom on the horizon that I will vote against the conference report on the budget. I will briefly review what I see as the problem we face with respect to this conference report and the looming deficits.

First, and most disappointingly, the conference report contains only half the modest Exon-Grassley cuts included in the Senate-passed version of the budget. In effect, the refusal to make these minuscule cuts assert that the Federal Government spends money so efficiently and effectively that it cannot afford reducing expenditures by three tenths of 1 percent over the next 5 years.

Clearly, that is a ridiculous assertion given the fact that the economy is growing at such a pace as to reignite fears of inflation. If the economy is at the point of overheating, reducing Federal spending would certainly help both the budget deficit and the inflation outlook. In other words, now is the time to cut spending even more than is embodied in the Exon-Grassley amendment. Ducking this issue now while the economy is growing will only make it harder in the future.

Second, this budget does nothing to stem the continued growth in entitlement spending despite the realization by everyone that entitlement spending must be limited to get our fiscal house in order. I become more alarmed about the exclusion of entitlement reform given the rhetoric of last year's debate on the issue of entitlement reform. Then, when entitlement spending was raised as an issue the opponents said now was not the time. The opponents pleaded that health care reform would bring huge savings in entitlement programs.

Well, by CBO's estimates the President's health care reform plan will not reduce entitlement spending. In fact, the CBO estimates the Clinton Plan to increase the budget deficit by almost $100 billion—if everything goes perfectly. The problem is that no health care reform plan I know of will lead to overall lower spending on entitlements. The conference report only further delays the day when we deal with entitlement spending. Delaying entitlement reform will not solve the budget deficit.

Third, the Democrats are making a big deal of discretionary spending restraint embodied in this budget. But anyone familiar with these numbers realizes that the spending restraint comes totally out of the defense side of discretionary. Domestic discretionary spending actually increases over the next 5 years. I oppose this conference report because it does not really provide domestic discretionary spending restraint. If defense spending can decline in real and nominal terms there is no reason why domestic discretionary spending can not also be so restrained.

I cannot support a budget that deals in the fiction that the budget deficit is no longer a problem. I will not support a conference report that implies that Federal spending is so effectively and efficiently carried out that a three tenths of 1 percent reduction in Federal spending is impossible. I will not support a conference report that continues to put off the tough choices when it comes to mandatory spending. And, I will not support continuing increases in domestic discretionary spending while defense spending is declining in real as well as nominal terms. This conference report fails to do what I believe is important and therefore I will oppose this report.

Finally, although I oppose this conference report I must end on a positive note. The chairman of the Budget Committee, Senator SASSER, should be commended for successfully defending the Senate's position with respect to

the Edward Byrne Formula Grant Program. The program funds badly needed multijurisdictional taskforces fighting crime and drugs throughout this country. The chairman did wonderful work in maintaining full funding for the program. I appreciate his hard work on this program.

WHY VA RESEARCH MEANS BETTER MEDICAL CARE FOR VETERANS

Mr. ROCKEFELLER. Mr. President, I am delighted that the budget conferees have reversed the proposed cut in funding for the Department of Veterans Affairs' research and prosthetics account and have restored funding to $252 million—the fiscal year 1994 level.

Because the connection between research and good clinical care is so important in the VA health care system, Senator MURKOWSKI and I wrote a letter to the budget conferees urging that this funding be restored. We believe that the investment in research has a high return in benefits that improve medical treatment for veterans and all Americans, and the budget conferees have agreed.

In just the past few months, VA research has yielded important new information about serious medical problems such as prostate cancer, skin cancer, AIDS, schizophrenia, and lupus, just to name a few. The VA research program is also an enormously important tool to recruit and retain high-quality physicians and other professionals, and to maintain VA affiliations with medical schools. Finally, as one VA researcher noted, "Research is more than laboratories, microscopes, and published papers in academic journals." Indeed, 75 percent of VA research programs are led by M.D. investigators who, as members of the VA hospital staff, are also responsible for direct care provided to the veteran patient.

By reversing the cut, we have sent a message to VA researchers that we value their work and depend on their discoveries to improve health care for all Americans. As chairman of the Committee on Veterans' Affairs, I am grateful for the restoration in funding.

EDWARD BYRNE MEMORIAL GRANT

Mr. GORTON. Senator HARKIN and I both are advocates for the Edward Byrne Memorial Grant Program. This program provides funds for local multijurisdictional law enforcement efforts to eradicate crime and drugs from our society. During the budget debate we both offered amendments to restore funding for the Byrne Program. We understand that the distinguished chairman of the Budget Committee, Senator SASSER, worked hard to assure that this program was fully funded. I want to again thank the chairman for his help during the floor debate on this issue and for assuring that this program receives the Federal funding it deserves.

Mr. HARKIN. Senator GORTON and I are pleased to have our concern for the Byrne program reflected in this budget. Chairman SASSER has done a great service to local law enforcement efforts by making sure the conference report fully funding this program that is vital to fighting crime and drugs throughout America. I also want to thank the chairman for working so hard to assure the funding for this program.

Mr. SASSER. I am pleased the conference committee agreed to fully fund this program in the conference report. This program is important and does deserve full funding. And I thank Senator GORTON and Senator HARKIN for their efforts with respect to this program.

CONFERENCE REPORT ON THE CLINIC ACCESS BILL

Mr. DURENBERGER. Mr. President, I rise in support of the conference report on S. 636, the Freedom of Access to Clinic Entrances Act of 1994.

Last December, I wrote a letter to the distinguished chairman of the Labor Committee, Senator KENNEDY, strongly urging that the conference committee adopt the provisions in the Senate-passed bill. In particular, I urged the Conference Committee to adopt the Senate's reduced penalties for nonviolent blockades, Senator HATCH's amendment protecting places of worship, and provisions that had been worked out among our staff relating to various concerns in the pro-life community.

I am pleased that the House-Senate conferees adopted the substantive provisions of the Senate bill. I believe this conference report strikes an appropriate balance between preventing violent and threatening behavior, yet protecting rights to peacefully persuade and express deeply held beliefs.

My own convictions are pro-life. But I believe that people on both sides of this issue can agree that violence and threats do not serve either cause; they only drive our Nation farther and farther apart.

I am grateful to Senator KENNEDY and to Senator KASSEBAUM, the distinguished ranking member of the Labor Committee, for their willingness to work with me to address concerns that were important to the pro-life community. We put aside our different beliefs about abortion to work toward the common goal of reducing the violence that sometimes surrounds this divisive issue.

I hope that others with differing beliefs will learn to do the same, so that our Nation can debate the issues that divide us with civility and reason, not threats and intimidation.

LAW AND THE ARMS EMBARGO

Mr. MOYNIHAN. Mr. President, central to the Senate's debate on lifting the arms embargo on Bosnia must be our understanding of the U.N. Charter. There could hardly be a more appropriate anniversary for this debate. Exactly 50 years ago—throughout April and May of 1944—Secretary of State Cordell Hull met with members of the Senate Foreign Relations Committee to develop the American negotiating positions on the U.N. Charter. The U.S. proposals hammered out in those meetings were presented at Dumbarton Oaks not 4 miles from here in the summer of 1944 and then refined at the San Francisco Conference the following year.

Does the U.N. Charter—the product of these prodigious labors—provide the legal authority to the Security Council to forbid the United States to come to the aid of another sovereign state which is indisputably the subject of an armed attack?

Mr. President, let me address two quite separate topics which have often been merged in this debate:

Can we legally disregard the Security Council embargo on providing arms to Bosnia?

And, quite a separate question, should we do so?

First, has the Security Council exceeded its legal authority by forbidding members of the United Nations to come to Bosnia's defense? Put a different way, does the United States have the legal right to provide arms to Bosnia?

The answer is yes.

I do not relish making this case. The Security Council is the crown jewel of the U.N. Charter. After years—no, decades—of impotence it has emerged from the cold war to begin at last to function as Hull, Stettinius, Vandenberg, Connally, and the other founders of the United Nations believed it could. In the gulf war the Council authorized, mobilized, and legitimized a collective response to aggression. The charter worked.

I know well the arguments that are made against unilaterally lifting the arms embargo. Most do not really address the right of the United States to do so. Rather they address the wisdom of such action.

But there is a straightforward legal case against unilateral action by the United States. The Security Council acted under chapter VII. It has repeatedly reaffirmed the resolutions which imposed the embargo. Its decisions are binding under article 25. We agreed to the embargo—we could have vetoed it after all—and we also agreed to be bound by Security Council decisions when we ratified the charter.

What we did not agree to—what the U.S. delegation to the San Francisco conference specifically and successfully opposed—was the notion that the Secu-

rity Council could both fail in its responsibility to maintain international peace and forbid other states to step into the breach and come to the aid of a member state which was under an armed attack.

The impossible burden of those who oppose lifting the arms embargo unilaterally is that they must make the case that the Security Council has the legal authority to order the United States to stand by and let an innocent victim of aggression to be dismembered. That is what article 51 was specifically drafted to prevent.

None of the usual debates about Article 51 apply here. There is no serious dispute about whether Bosnia is the victim of an armed attack. Nor any dispute as to whether it has genuinely requested assistance. Nor can one seriously argue that the Security Council has "taken measures necessary to maintain international peace and security." It has not.

Opponents of lifting the embargo maintain that the Charter gives the Security Council the authority to impair Bosnia's right of collective self defense although the Council has failed to "maintain * * * international peace and security." But that is precisely and explicitly what article 51 says the charter does not give the Council the authority to do:

> Nothing in the present Charter shall impair the inherent right of individual or collective self defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

The language could not be more explicit.

Members of the United States delegation to the San Francisco conference were at first opposed to including any reservation on the right of self defense. They felt that the right was so obvious and so fundamental that it was both unnecessary and unwise to define this "inherent" right because such a provision might be used to try to limit the right of self defense. The present debate is ample proof that this was a well-founded concern.

However, of greater concern to the United States delegation was securing explicit recognition that the United States had the right to come to the aid of any state under attack in the Western Hemisphere without waiting for Security Council authorization and notwithstanding any use of the veto in the Council to block United Nations action. The United States was committed under the Act of Chapultepec to come to the defense of its Latin American allies. This was an extremely important issue for the Latin American States—and for the congressional members of the delegation. Preparing for the San Francisco Conference the U.S. delegation had what Senator Vandenberg described as "acrimonious" debate on the issue. According to his account:

> [John Foster] Dulles argued that there is nothing in Dumbarton Oaks which prohibits "self defense" and that under the Chapultepec agreement "self defense" in the Western Hemisphere is a partnership affair and that the Monroe Doctrine is still part of it. I served notice on the Delegation, as a matter of good faith, that if this question is not specifically cleared up in the Charter, I shall expect to see a Reservation on the subject in the Senate and that I shall support it.

According to Ruth Russell's indispensable study of the history of the U.N. Charter, when the delegation drafted and proposed article 51 it emphasized in its discussions with other delegations that

> * * * the United States had no intention of impairing the effectiveness of the proposed organization through its amendment but that it faced a very practical problem in getting the treaty through the Senate.

Thus, it seems clear that the Senate would not have ratified the charter without explicit recognition of the inherent right of self defense, either in the form of an article in the charter or as a U.S. reservation to the treaty.

In a dispatch to the New York Times from the San Francisco Conference, James Reston described the breakthrough which produced article 51:

> SAN FRANCISCO, May 15 [1945].—President Truman broke the deadlock today between the Big Five and the Latin American nations over the relations between the American and world security systems.
>
> After over a week of negotiating, during which American foreign policy was being made and remade by a bi-partisan conference delegation, the president gave to the Latin American nations the reassurance which they wanted before accepting the supremacy of the World Security Council in dealing with disputes in the Western Hemisphere * * *.
>
> This assurance was announced late tonight by Secretary Stettinius, who said that an amendment to the Dumbarton Oaks proposals would be proposed reading substantially as follows:
>
> "Nothing in this charter impairs the inherent right of self defense, either individual, or collective, in the event that the Security Council does not maintain international peace and security and an armed attack against a member state occurs * * *."

It was taken to be significant at the time that an original draft which stated that the Security Council must first attempt to take effective action and "fail" was changed at the suggestion of Cordell Hull to state that the right of self defense arose immediately once "an armed attack * * * occurs" and continues until such time as the Security Council has taken adequate measures to actually "maintain" peace and security. Ruth Russell explains the reason for the change: "The fact of an attack, in other words, would show that the Council had already 'failed.'" As revised and adopted, article 51 made clear that the right of self defense arose the minute that an armed attack occurred and continued until the time that it is no longer necessary because the Security Council is maintaining the peace. The opponents of lifting the embargo make an argument which is simply inconsistent with the plain language of article 51 and its drafting history: the Security Council can impair the inherent right of collective self defense even if it has "failed" to restore peace and even if it has not "taken measures necessary" to maintain peace.

Mr. President, let me address the argument that the United States voted for the arms embargo. This is, of course, true. But President Clinton has now stated publicly that the United States would like to lift the arms embargo. We would like to take more effective action. But we are being prevented from doing so for precisely the reason that the United States—and the Senate specifically—insisted upon article 51: we are being stopped from taking stronger Security Council action by the "Great Power" veto.

Not only does the United States now favor lifting the arms embargo, the General Assembly voted 109 to 0 with 57 abstentions that the embargo should be lifted and that members should assist in Bosnia's self defense. Not a single member of the General Assembly was willing to vote against Resolution 48/42 urging the Security Council to exempt Bosnia from the arms embargo and fulfill "its responsibility under Article 24 of the Charter" to maintain peace. The resolution appears to challenge the legal validity of the embargo by expressly urging,

> Member States * * * to extend their cooperation to the Republic of Bosnia and Herzegovina in [the] exercise of its inherent right of individual and collective self-defence in accordance with Article 51 of Chapter VII of the Charter.

To state again, not one nation voted against this resolution.

This General Assembly resolution raises a final important point about the charter. Article 24 assigns the Security Council not just powers, but "responsibilities" and "duties." It also states that the Council must exercise its powers "in accordance with the Purposes and Principles of the United Nations." Foremost among those purposes are to "maintain international peace and security" and "to take effective collective measures * * * for the suppression of acts of aggression or other breaches of the peace * * *." It is not a legal use of the Council's powers to try to force Bosnia to accept a partition plan which effectively dismembers the state. It is not a legal use of the Council's powers to maintain an arms embargo so as to aid a "traditional ally" of one of the permanent members; namely, Serbia.

Mr. President, it gives me no great pleasure, as I have said, to argue that the Security Council has illegally impaired Bosnia's inherent right of collective self defense. But after long consideration I have concluded that it clearly has.

Let me now address the more common arguments against lifting the arms embargo unilaterally, namely variations of the argument that we should not lift the embargo.

First, we are asked, if we lift this embargo how will we resist other nations lifting embargoes on Iraq, Serbia, and Libya? How, that is, shall we distinguish between lambs and lions, between victims and aggressors? By looking at the facts. Iraq was an aggressor, not the victim of "an armed attack" giving rise to article 51 rights. Serbia is not subject to an armed attack. Nor is Libya. Each of these states is as clearly an aggressor or violator of international law as Bosnia is clearly a victim.

To be clear: lifting the embargo on Bosnia creates no legal or factual precedent for ignoring valid enforcement action taken against an aggressor state. Article 51 applies solely to the victim of an act of aggression.

I do not doubt that other states will make this argument, as flawed as it clearly is. Should we shrink from action because other nations might make false and self-serving arguments? It is the burden of law and diplomacy to resist and disprove fallacious, self-serving claims.

The next common argument is that by unilaterally lifting the embargo we will be undermining the authority of the Security Council. To which it must be said that it is the members of the Security Council who have done this by shrinking from the Council's duty. The Security Council has powers, yes, but the charter states more specifically that it has the "responsibility" to maintain international peace and security.

The Security Council has shirked this responsibility. This is painful to say. All the more so, because I openly concede that by unilaterally lifting the arms embargo on Bosnia the United States would indeed injure still further the status of the Security Council and set back the tenuous, difficult process of building respect for its decisions.

But the alternative is far worse. By failing to fulfill its responsibility to maintain international peace and security and simultaneously forbidding other states to come to Bosnia's assistance the Security council has undermined the very essence of the charter itself. It has converted the charter from an instrument for effective collective response to aggression into the proverbial "suicide pact." Far better for the United States to act unilaterally to vindicate the foremost purpose of the charter and the "inherent" right of self defense than to acquiesce in an utterly ineffective Security Council action which cannot be removed due to the great power veto.

Opponents of lifting the embargo next plead that doing so would endanger the United Nations forces in Bosnia. To this argument I am quite sensitive. Over the strong objection of the Department of Defense I travelled to Sarajevo in November 1992. I met with the U.N. commanders and relief workers. They are gallant and brave, doing an almost impossible job without sufficient resources. They deserve our utmost support. But if we are to refrain from helping the Bosnians out of concern for their welfare, let us at least be candid and call the members of UNPROFOR what they have become: hostages.

Then let us ask by what principle of law or equity we can justify asking Bosnia to accept its dismemberment in order to protect U.N. forces?

When we lift the embargo we should simultaneously take steps to consolidate and reinforce UNPROFOR. We must be prepared to launch air strikes to protect them. We must emphasize to Serbia—and not just to the Bosnian Serbs—that it will be held accountable for actions taken against UNPROFOR.

One argument that I find more than curious is that providing arms will encourage the Bosnian government to hold out for a better deal at the negotiating table. That is, if Bosnia is given the means to defend itself it may not accept the Carthaginian peace which others have in mind for it. Having repeatedly, vigorously proclaimed that the acquisition of territory by force is utterly unacceptable, the Security Council would in effect be saying: "Take the deal; it's the best you can get."

Mr. President, I do not minimize the very important and practical arguments that have been made concerning the possibility of an accelerated Serb assault, the potential for Bosnian intransigence and the danger for U.N. forces. These are real issues, not to be minimized. But they are no more real than the Serbian shells which repeatedly slammed into the hospital in Gorazde. Or the Serbian snipers who have coolly and methodically butchered civilians in Sarajevo. Or the plight of the victims of ethnic cleansing.

I will close with a quotation from an editorial from the New Republic addressed to the President:

> [We] urge you to act at once in raising the unneutral [arms] embargo * * *.
>
> We do not suppose you would be intimidated, in executing a policy in which you believed, by the prospect of losing votes—but in this case there is not even a danger of following an unpopular course if you should act.
>
> Why do you not act, and act at once? Why did you not act long ago? We confess that your policy in this matter is a tragic mystery to us.
>
> Nobody has more forcefully than you denounced the aggressors and enemies of democracy in the present world * * *. Do you not know that the so-called "non-intervention" policy, under which we refuse to permit shipment of arms to either side, is a cloak under which * * * [one side is being armed] to the teeth, while the * * * [other] is starved of assistance * * *?
>
> Perhaps you believe that it is too late to do anything. But you probably believed that last spring * * *. Disaster may be imminent, but we should not accept it until we are forced to do so * * *.
>
> Mr. President, we urge you not to hesitate or delay. We can imagine no valid reason for you to do so. You have spoken bravely—in some cases, we believe, so bravely as to be foolhardy. But here is something that you can safely do—and do now. Why not make your acts correspond with your words?

This editorial could be from the current issue of the New Republic. But it is not. Indeed, it was published over 55 years ago—on February 1, 1939—and was about an equally unnuetral arms embargo: the embargo which prevented the democratic states from aiding Republican Spain and predetermined that Franco would win the Spanish Civil War with the aid of Hitler and Mussolini.

Mr. President, the Spanish Civil War was the first contest between the democracies and the totalitarian Axis states which culminated in global conflagration. The victorious nations which prevailed in that vast struggle resolved to "save succeeding generations from the scourge of war * * *." They wrote the U.N. Charter, the Geneva Conventions, and the Genocide Convention. All are at risk in Bosnia—as is the credibility of our commitment to them.

NOMINATION OF MARCA BRISTO

Mr. HARKIN. Mr. President, I urge my colleagues to support the nomination of Marca Bristo to serve as the Chair of the National Council on Disability.

In my capacity as Chair of the Subcommittee on Disability Policy, I have known Marca for almost 6 years. She is a trusted advisor on matters relating to national disability policy. Marca has taught me that disability is a natural part of the human experience that in no way diminishes the fundamental right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society, and enjoy full inclusion and integration in all aspects of American society. Marca has also taught me that independent living, including consumer control, self-determination, self-help, peer support, and advocacy must be at the core of our Nation's disability policy.

I believe that Marca's national leadership experience and proven ability to work with and motivate a wide mix of individuals, her managerial skills, experienced and lauded speaking style, and her standing in the disability community make her uniquely qualified for this role.

Marca is the president and chief executive officer of Access Living, a center for independent living in Chicago,

IL. Marca is the recipient of numerous awards and honors, including the Distinguished Service Award of the President of the United States. Most recently, she received the highest award in the disability field, the Henry B. Betts Award.

Again, I urge my colleagues to support the nomination of Marca Bristo.

PRESIDENT CRISTIANI, A TRUE HERO

Mr. DURENBERGER. Mr. President, I wish to call my colleagues' attention to an op-ed in this morning's Washington Post about a truly heroic figure, Alfredo Cristiani, President of El Salvador. Against daunting odds, President Cristiani forged a peace agreement that once and for all put an end to that country's terrorist guerilla insurgency and laid the foundations for alleviating the injustices that provided fertile ground for civil conflict.

With the power and constancy of his will and determination to achieve peace and build a better future for his country, President Cristiani overwhelmed his early detractors and the persistent, irredeemable forces of the status quo who sought to derail him. Always calm, always steady, Alfredo Cristiani never lost sight of the prize he committed himself to reaching.

President Cristiani's example inspires us all to exhibit unrelenting courage in the pursuit of just and noble objectives. He weathered many storms that blew his way during his 5-year tenure in office, and has emerged even stronger for having stayed the course of peace and prosperity that he promised the people of El Salvador in his inaugural address in 1989.

In their recent elections, the people of El Salvador voted by more than 2-to-1 for the President's party, creating a flood of support for continuing along the path Alfredo Cristiani has charted for his country.

With peace now achieved and economic growth continuing, the President's successor, Armando Calderon Sol, will concentrate on fully removing the last vestiges of injustice and alleviating the deprivation that still remain in El Salvador. The task is a challenging one, but with Alfredo Cristiani, as his inspiration, I have great confidence in Calderon Sol's potential for success.

El Salvador may not be the biggest or most important country in our hemisphere, but Alfredo Cristiani's leadership through the country's wrenching experiences with war and peace proves beyond any doubt that one person can make all the difference in the world. He is a man of truly historic proportions, and it honors me deeply to consider him a friend.

Bernie Aronson states it well in this morning's op-ed: "Many forces created opportunity for negotiations, but Alfredo Cristiani was the catalyst and glue that held the peace process together. His legacy is secure."

Indeed, Mr. President, Alfredo Cristiani's place in history and in the hearts of his countrymen is forever secure. I ask unanimous consent that Mr. Aronson's article be printed in the RECORD, and I urge all my colleagues to read it fully.

I yield the floor.

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

[From the Washington Post, May 11, 1994]

THE MAN WHO SAVED EL SALVADOR

(By Bernard Aronson)

To answer the perennial question—Do political leaders or historic forces shape history?—consider the achievement of Alfredo Cristiani, who ends his five-year term as president of El Salvador June 1. When Cristiani ran for president five years ago, he was a little-known businessman representing the rightist party known as ARENA. The conventional wisdom was that his election would polarize the country's politics and lead to a new onslaught of right-wing violence.

When I first met him back then, I was struck by how little candidate Cristiani resembled the stereotype. He spoke quietly, with moderation and common sense. In his inaugural address, he announced his preeminent goal: to end El Salvador's bloody civil insurgency through negotiations.

During Cristiani's first year as president, FMLN hit squads systematically assassinated prominent right-wing figures, including several members of Cristiani's cabinet. In January 1990, I sat next to him in a huge outdoor amphitheater for the inaugural ceremonies of the new Honduran president. "Last night was the first night I got a decent rest in months," he said. He meant that the night he had spent in Honduras was the first night he slept without fear of assassination.

Six weeks earlier, the FMLN had launched a massive offensive on San Salvador. The first night, guerrilla sappers tried to overrun Cristiani's home, the home of his vice president, and that of the president of the national assembly, in an attempt to decapitate El Salvador's leadership. I spoke with Cristiani every day during the 13-day-long offensive. While thousands of guerrillas streamed into San Salvador and the country's survival hung in the balance, Cristiani spoke in the same measured, calm tone as always. In fact, in five years of his presidency, I never heard him raise his voice.

Once only, he made reference to the pressure he was under. It was April 1991, a critical moment in the peace negotiations. The FMLN was insisting that the process of reforming the Constitution be changed to allow a single national assembly—not two successive assemblies—to amend the Constitution. The proposal provoked a political firestorm, particularly from ARENA partisans. The United Nations was pressing Cristiani to relent.

"I've been pulling this string little by little," Cristiani said. "But I don't think I can pull it any further." The United States supported Cristiani's refusal to change the process. In the end, it turned out to be a good tactic. The guerrillas and the government knew they had to agree on constitutional reforms in time for the outgoing national assembly to ratify them before it expired on May 1. In the final days of April, they reached agreement on a series of constitutional amendments—the first major breakthrough in the negotiations.

Time and again in the peace process, Cristiani performed the political equivalent of Richard Nixon's historic opening to China. No military in Latin America had ever agreed to anything like a purge of 107 senior officers by a U.N.-appointed civilian commission. No police force had ever been peacefully abolished. Cristiani agreed to land reform, human rights reform, a Truth Commission, judicial reform and electoral reform. Through it all, somehow, he retained; the trust and confidence not only of all Salvadoran political factions but also of leaders of both the government and guerrilla armies.

At the peace treaty signing ceremony in January 1992, in Mexico City, Cristiani sat above the audience at the center of a row of heads of State. The FMLN representative gave a tough, uncompromising speech that stressed the enormous losses of FMLN members and supporters. It was a speech for the cadres, perhaps necessary but not conciliatory. Cristiani, in a plea for national reconciliation, declared that El Salvador's war was rooted in past injustice and repression. A decade earlier, Salvadoran leftists had disappeared for making similar statements; for an ARENA president to utter such thoughts would have been unthinkable. When he finished, Cristiani walked down to the audience and one by one shook hands for the first time with each FMLN comandante. A sense of relief and exhilaration filled the hall.

The only time I heard of Cristiani letting his hair down was on the flight returning from the peace ceremony. When Cristiani's presidential plane reached San Salvador, carrying the entire elected leadership of his country, it buzzed the outdoor stadium where Salvadorans were celebrating late into the night. I am told this decison—reached after a number of celebratory toasts—had Cristiani's personal approval. I shudder to think of what could have happened to that tipsy plane, with all the hopes of peace in the country riding with it.

In the midst of war, and the protracted negotiations, Cristiani found time to radically reform the ravaged economy. Last year, El Salvador's fourth year of strong economic growth. The overwhelming victory of the ARENA presidential candidate in El Salvador's recent election is largely a tribute to Cristiani's leadership.

From Bosnia to Angola to former Soviet Georgia to East Timor, societies and nations are being torn apart by ethnic, religious and political differences. After a brutal civil war, El Salvador is coming together. Many forces created opportunity for negotiations, but Alfredo Cristiani was the catalyst and glue that held the peace process together. His legacy is secure.

TRIBUTE TO THOMAS H. WATKINS

Mr. COCHRAN. Mr. President, all of us probably have had, if we were lucky, a few talented people who have inspired us or guided us in the early part of our careers and whose influence helped make us what we are today. One of those special people in my life was Thomas H. Watkins, the managing partner of the law firm I joined in Jackson, MS when I graduated from law school.

He died on May 1, at 83 years of age. Because of a stroke he had suffered in

1978, the same year I was elected to the Senate, he had been unable to speak or practice law for the last 16 years of his life.

He was a brilliant lawyer with impeccably good judgment. He was respected by all who know him. In our State his advice and counsel were sought by local and State government officials and a large number of business and individual clients.

It was my very good fortune to have had the opportunity of working in his firm for 7 years, from 1965 until my election to the U.S. House of Representatives in 1972.

I learned so much from him. He set a wonderful example, and I admired him tremendously. He was the epitome of dependability, integrity, and propriety.

At his funeral on May 3, two of the partners in the firm, William F. Goodman, Jr., and Paul H. Stephenson III gave heart warming and insightful eulogies which described so well the life and legacy of my departed friend and mentor. I ask unanimous consent that their remarks be printed in the RECORD.

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

EULOGY BY WILLIAM F. GOODMAN, JR., MAY 3, 1994

Who seeks for heaven alone to save his soul,
May keep the path, but he'll not reach the goal.
While he who walks in love may wander far,
But God will bring him where the blessed are.

All of us are marked by those who preceded us. Thomas Henry Watkins was no exception. I venture to say his faith, his character, his ability, his versatility, his commitment to hard work, his achievements and accomplishments were motivated by the tradition of his family. Although he was a city boy, his was the first generation not to have been reared in the country—dating back to 1802 when Asa Watkins settled in Jefferson County near Rodney and next to the land of Willis McDonald. Asa married Willis McDonald's daughter, Sarah. Their son, Tom's great grandfather, Dr. William H. Watkins, became a Methodist preacher serving throughout the Conference and ultimately in Natchez. Tom's grandfather, for whom he was named, went to the civil war at age 14, accompanied by a black friend, farmed until his untimely death at age 46 and left eight children, among them teachers, a missionary, physicians and lawyers. I suspect that Tom always wanted to be a lawyer because his father, Will Watkins, and his uncle, Vaughan Watkins, enjoyed almost unparalleled success at the Jackson bar during the first half of this century.

Tom grew up in the beautiful house on North State Street, where the Watkins Medical Building now stands. He loved the woods, and a favorite spot was the forest across the street—the vast areas between what are now Euclid and Gillespie streets. Tom's love of the woodlands never faded. The same was true of his love for animals. I never knew of Tom not having a pet. According to writings of my mother, one of his three sisters, Tom's first act of rebellion directed toward his own mother concerned the issue of whether Tom's dog could sleep indoors or outdoors. Tom's summation: "Dogs is good as peoples."

My grandfather, Tom's father, used to say that Tom as a youth only walked as a last resort. He rode whenever possible, be it a pony, a mule, a goat, finally a convertible. Yet that same young man won a track medal for Carolina in Madison Square Garden. His father believed in education and sent him off to McCauley and then to Chapel Hill. Imagine his pride when Tom returned with a Phi Beta Kappa Key.

Yes, Tom was marked by those who preceded him, most directly by parents who not only proclaimed faith in God but lived that faith. The home of Margaret and Will Watkins provided an atmosphere of generosity—generosity with their possessions, with their counsel, with their compassion, with their sense of humor (which, incidentally, was priceless).

In turn, Tom left his own distinct marks. Let me mention just three.

1. He left his mark on the law. Tom was true to his heritage. Blessed with keen perception, the gift of logic and the highest ideals, he achieved a reputation nationwide for outstanding ability and courtroom success. Some people are natural athletes—some are natural musicians. Tom Watkins was a natural lawyer. Leaders in business came to him, often when the ox was in the ditch. Instinctively, he would separate the wheat from the chaff, go to the heart of the matter, and craft a solution. He was never a politician, but his opinion carried real weight in the halls of government. It was never unusual to see among spectators in the courtroom young lawyers watching Tom Watkins to see how it was done. A man's competitors can be his harshest critics, but Tom was admired throughout the profession as being genuinely a "lawyer's lawyer." His name became synonymous with the best. Today, as we say farewell, we say "Thank you, Tom, for that legacy of excellence."

2. He left his mark on his family. Each one here, I suspect, has felt his influence in one or more ways, and each of you is here to both bid farewell and to say "thank you." Aunt Emily, now the last of the five siblings, if I may personalize, is saying "thank you" for a brother of whom she has always been justly proud. Norma, M.E. and Sydney, and the grandchildren, have received the most significant legacy of all—that of a good and respected name—all of you are saying "thank you" for a life that has always made it perfectly natural to heed the Biblical admonition: "Honor thy Father. . . ."

3. Finally, if you will allow it, he left his mark on me. He was not only my uncle; he was my mentor, my partner, my friend. He afforded me a special place in his life. He didn't wet nurse anybody. He turned me loose to sink or swim. He was tough (there were times when you stayed out of the way)—but he was there in moments of triumph or disaster. Saturday mornings were special—a time for me to ask, to learn, and often a time to relax and to laugh. Saturday afternoons were sacred and off limits; that was his time to be with his friends and avid bridge players. Sunday afternoons would find him in the library—#2 pencil—yellow pad—doing his own research—preparing what was always a concise, logical search to achieve the goal of the client consistent with common sense, with legal precedent and indeed with moral standards. He was never interested in being the most expensive lawyer in town—just the best. he was consistently unselfish. He underpaid himself. He overpaid me. He never asked me to work any harder than he worked. He experienced genuine vicarious satisfaction any time I was successful, or lucky.

He had a "Field of Dreams" concept of the true lawyer. "Work on whatever you have and don't worry about what you don't have. Something else will come along if you do a good job." The idea of advertising and slick marketing would have offended him. The people who trash lawyers never had the chance to know Tom Watkins.

His stroke in 1978 (Easter Day) was such a loss. That tragedy silenced the voice of the best trial advocate I have ever known. But still he was there. His presence continued to project for me authority, power, knowledge, affection, love. The look in his eye said "I'm counting on you." We continued to silently share the common thread that began so long ago—our lifelong commitment to carry on the tradition which his father and my grandfather began some 99 years ago.

Did Tennyson really mean it?

Sunset and evening star,
And one clear call for me!
And may there be no
moaning of the bar,
When I put out to sea.

Twilight and evening bell,
And after that the dark!
And may there be no
sadness of farewell
When I embark

This morning Edwina said to me. "Try not to be too sad. Today Tom is talking up a storm."

EULOGY BY PAUL H. STEPHENSON III, MAY 3, 1994

May I share with you this morning some thoughts about Tom Watkins from one of perhaps another generation, thoughts about Mr. Watkins as a senior partner and the legacy he leaves—those whom he led and the many who follow thereafter.

My thoughts return to the mid 1970s, to Mr. Watkins, age 65, 66, 67 years young at work, at his desk every morning at 7:15 A.M. I, being barely one-third his age, was, naturally, some might say, there before 7:00 A.M. I might add that there are a number of others here this morning who were likewise there before 7:00 A.M. Were we intimidated? No, all of you who know Mr. Watkins would understand that he never gave a directive concerning what time we were to be at work; he never even suggested a time. Quite simply, it was just that the discipline, the energy being dedicated to the legal practice by such a distinguished gentleman at the top of his profession could not go unnoticed by us as young lawyers.

One of the signature features of Mr. Watkins was how he assigned work to young people. Very simply; very directly. He merely would tear a corner from a yellow legal sheet, clip this small piece of paper to the file with this note: "Please acknowledge and handle. THW." Not let's discuss; no invitation that said come see me; certainly no suggestions about how we should proceed. Now, you may rest comfortably that these were not landmark cases, but they were important to us as young lawyers. Moreover, they were important to Mr. Watkins, for every client matter was important to him. We soon appreciated Mr. Watkins' conviction that young law school graduates become lawyers, not vicariously, but by first independently being the ones to apply their own analytical and reasoning abilities to the legal problem at hand, by assuming genuine responsibility personally, by being real decision-makers.

Perhaps nothing better typifies the esteem in which Mr. Watkins was held, or the doors he opened for those privileged to be associated with him, than the frequent refrain we commonly heard from around the state. Young lawyers, and sometimes even older lawyers, are not totally comfortable in the presence of judges. Young lawyers may sometimes even be ill at ease in the presence of older lawyers. Yet, as we traveled the state and entered unfamiliar judicial surroundings, the introductions would often go something like this: "Good morning, Your Honor, my name is Paul Stephenson; I work for Watkins & Eager." Then, time after time, from judge after judge, from respected lawyer after respected lawyer would come this spontaneous reply: "You work for Tom Watkins." "Yes, sir, I do." "What a lawyer, a lawyer's lawyer, what a gentleman." While not necessarily overtly stated, the message was always clear: young man, you can do no better than to set your goals by Tom Watkins' star.

And certainly we did strive to follow his example. We would scour the office for deposition transcripts, trial transcripts reflecting Mr. Watkins' witness examinations. I can remember studying those transcripts, even concluding—no doubt out of utter naivety or some might say foolish optimism—that I would have thought of those brilliant questions he asked, that I can ask those same brilliant questions. But soon sober judgment would make me realize, or worse yet actual experience would confirm the realization, that as you yourself would conclude, it was not just the question that Mr. Watkins asked, but when he asked it; how he asked it; the witness control he maintained; and the sheer power of his presence that marked his brilliance.

I must say that many times I have thought about what it would have been like had Mr. Watkins not suffered his disabling stroke in 1978. If he had remained in that corner office—if we could have continued to work for him, to learn from him, to sense the stability of his presence, to feel the warmth of his smile; if we could have simply continued to enjoy his company. But that was not to be.

Of course, many of us have indelibly sketched in our minds pictures of the joyful countenance, the endearing expressions, the radiating warmth that Mr. Watkins remarkably displayed from his wheelchair throughout his disability.

Yet there is another scene, a very real sense in which Mr. Watkins' presence and his influence remained with us after his stroke and will so continue after his death. Our firm is blessed today with substantial clientele from many decades previous who first placed their confidence and trust in Tom Watkins. Moreover, over the years I have watched others in the firm, particularly Bill Goodman, share, promote, instill and model those core philosophies of Mr. Watkins, not just about the law practice, not just about law firms, but also about people. Of course times have changed; certainly the law practice has dramatically changed over these past 15 to 20 years; and our organization has necessarily adapted. But the traits which mark the person of Tom Watkins—an unwavering commitment to excellence, an insistence on professionalism, fair expectations of others, mutually respectful relationships not dependent on age or status of position, a generous spirit—are clearly timeless in value. We will always treasure them.

May I say a thank you to the family. May I express publicly not just on my individual behalf but on behalf of all who have been associated with Watkins & Eager the warmest in appreciation. Thank you for sharing your father, your grandfather, your brother, your uncle, with us.

Thanks be to God for the example, the leadership, the friendship, the legacy and indeed for the life of Tom Watkins.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as members of the Senate delegation to the Canada-United States Interparliamentary Group during the second session of the 103d Congress, to be held in Santa Fe, NM, May 19–23, 1994: the Senator from Iowa [Mr. GRASSLEY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Georgia [Mr. COVERDELL].

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Connecticut [Mr. DODD], as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the second session of the 103d Congress, to be held in Santa Fe, NM, May 19–23, 1994.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 103–227, appoints the Senator from Mississippi [Mr. COCHRAN] as a member of the National Education Goals Panel.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 855.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD, as if read; that upon confirmation the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominee, considered and confirmed, is as follows:

U.S. INFORMATION AGENCY

John P. Loiello, of the District of Columbia, to be an Associate Director of the U.S. Information Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL COUNCIL ON THE AGING FOR CALENDAR YEAR 1993—MESSAGE FROM THE PRESIDENT—PM 112

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 204(f) of the Older Americans Act of 1965, as amended (42 U.S.C. 3015(f)), I hereby transmit the Annual Report for 1993 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 11, 1994.*

MESSAGES FROM THE HOUSE

At 2:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3567. An Act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

At 3:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of it reading clerks, announced that the House insists on its amendments to the Senate amendment to the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, and asks a conference with the Senate on the disagreeing votes to the two Houses thereon; and appoints Mr. BROOKS, Mr. EDWARDS of California, Mr. HUGHES, Mr. SCHUMER, Mr. CONYERS, Mr. SYNAR, Mr.

MOORHEAD, Mr. HYDE, Mr. SENSENBRENNER, and Mr. MCCOLLUM as the managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 341. An Act to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3567. An Act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

The Committee on Governmental Affairs was discharged from further consideration of the following measure which was referred to the Committee on Armed Services:

S. 1587. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-455. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE JOINT MEMORIAL 8003

"Whereas, The State of Washington has since February of 1991, operated a Rural Development Council, as a means to identify, communicate, and act upon new means of protecting and enhancing the viability and self reliance of rural Washington communities; and

"Whereas, Voluntary and meaningful communication among all levels of government, including tribal governments and the nonprofit and private sectors is critical for the representation of the needs and interests of rural residents; and

"Whereas, It is also of critical importance to the integrity of the entire state to identify ways that urban and rural economies of Washington can function to complement each other and reinforce the quality of life available to residents; and

"Whereas, The Council is a partnership between state, federal, local government, tribal government, and the nonprofit and private sectors, and is organized to meet the needs of all members of the partnership in a mutual effort to mitigate negative impacts upon rural communities, enhance their viability and self reliance, and look for ways to coordinate, synchronize, or consolidate the efforts of all who serve rural communities and citizens; and

"Whereas, The objectives of the Council are consistent with the Council's mission and honor the perspectives of the partnership in their mutual undertaking of the following:

"(1) To provide a forum for policy analysis concerning existing and proposed rural development strategies in Washington;

"(2) To promote coordination and cooperation among state, federal, local, and tribal governments; and private, public, and nonprofit groups, in order to promote rural economic vitality;

"(3) To facilitate communication between rural communities and organizations and other sectors of the state and nation;

"(4) To promote the establishment of rural-urban partnerships that will be mutually beneficial to both areas in alleviating the distress of rapid economic growth or decline and promoting economic vitality;

"(5) To identify and address federal, state, and local administrative barriers that hinder economic vitality;

"(6) To identify and provide opportunities to educate and inform state, federal, and local policy and program staff as to the needs and special development context of rural Washington; and

"(7) To identify ways to promote educational opportunities for citizens in rural communities; and

"Whereas, In acknowledgement and recognition of these efforts all agencies and branches of state government that operate programs in rural areas of the state are being encouraged to participate actively in the activities of the Council;

"Now, therefore, Your Memorialists respectfully pray and openly solicit the continued partnership between federal agencies and the Washington State Rural Development Council, and encourage the continued substantive participation and fiscal support by Washington State agencies and branches of state government, so as to further the significant accomplishments brought about in our state through the efforts of the leadership and members of the Washington State Rural Development Council.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, Secretary Mike Espy, Secretary of the United States Department of Agriculture, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-456. A joint resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Appropriations.

"ASSEMBLY RESOLUTION NO. 58

"Whereas, The New Jersey Urban Core Project is a transportation project critical to improving movement of people, goods and services throughout the State and comprises the Secaucus Transfer, Kearny Connection Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Elizabeth Rail Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station concourse, and the equipment needed to operate revenue service associated with improvements made by the project; and

"Whereas, The proposed federal budget for fiscal year 1995 does not include funds for the New Jersey Urban Core Project despite the fact that the federal "Intermodal Surface Transportation Efficiency Act of 1991" provides that the New Jersey Urban Core Project shall receive not less than $146 million in the 1995 federal fiscal year as the federal share of the cost of the project; and

"Whereas, Recent statements that the federal government may fund the New Jersey Urban Core Project to the extent that so-called "full-funding agreements" are reached with New Jersey Transit propose an inadequate solution, as the Federal Transit Administration had notified New Jersey Transit last year that full-funding agreements would not be necessary for the project and two of the elements of the project for which funding is sought in fiscal year 1995 are still in preliminary stages and total cost estimates for those elements are years away; and

"Whereas, It is altogether fitting and proper for this House, as representative of the citizens of New Jersey who would greatly benefit from the New Jersey Urban Core Project, to call upon the President and the Congress to live up to the commitment made to the State of New Jersey and its citizens in the "Intermodal Surface and Transportation Efficiency Act of 1991" and fully fund the New Jersey Urban Core Project in the 1995 fiscal year; now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

"1. For the reasons set forth in the preamble hereto, the President and the Congress are urged to fully fund the New Jersey Urban Core Project in fiscal year 1995.

"2. Copies of this resolution, signed by the Speaker, of the General Assembly and attested to by the Clerk thereof, shall be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives and every member of Congress elected thereto from this State."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1587. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes (Rept. No. 103-258).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Kate Pew Wolters, of Michigan, to be a Member of the National Council on Disability for a term expiring September 17, 1995;

Leo J. O'Donovan, of the District of Columbia, to be a Member of the National Council on the Arts for a term expiring September 3, 1998;

Fred W. Garcia, of Colorado, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy;

Marca Bristo, of Illinois, to be a Member of the National Council on Disability for a term expiring September 17, 1995;

Patricia Ann Brown, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 1996;

Ira Ronald Feldman, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 1998; and

Barbara Wallace Grossman, of Massachusetts, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nomi-

nees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. DOLE, Mr. MACK, and Mr. DORGAN):

S. 2102. A bill to amend the Public Health Service Act to expand cancer screening and cancer treatment research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. McCAIN:

S. 2103. A bill to make the provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Finance.

By Mr. HATFIELD (for himself, Mr. BINGAMAN, Mr. DOMENICI, and Mr. COCHRAN):

S. 2104. A bill to establish within the National Laboratories of the Department of Energy a national Albert Einstein Distinguished Educator Fellowship Program; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON:

S. 2105. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mr. DOMENICI, Mr. DECONCINI, Mr. WALLOP, Mr. BENNETT, Mr. BINGAMAN, Mr. BURNS, Mr. HATCH, Mr. KEMPTHORNE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SIMPSON, and Mr. STEVENS):

S. 2106. A bill to establish a fee schedule for users of communications sites on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 2107. A bill to authorize the appointment of an additional bankruptcy judge for the Eastern District of Pennsylvania; to the Committee on the Judiciary.

By Mr. ROTH:

S. 2108. A bill to express U.S. policy with respect to the North Atlantic Treaty Organization; to the Committee on Foreign Relations.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. ROCKEFELLER, Mr. BURNS, Mr. INOUYE, Mr. PACKWOOD, Mr. FORD, Mr. PRESSLER, Mr. BREAUX, Mr. BRYAN, Mr. ROBB, Mr. DORGAN, Mr. GLENN, Mr. BENNETT, Ms. MIKULSKI, Mr. HEFLIN, Mr. SHELBY, Mrs. FEINSTEIN, Mr. MURKOWSKI, and Mr. JEFFORDS):

S.J. Res. 187. A joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RIEGLE (for himself and Mr. LEVIN)

S. Res. 213. A resolution to express the sense of the Senate that May 18, 1994, should be recognized as "Senior Power Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 2103. A bill to make the provisions of title IV of the Trade Act of 1974 applicable to Cambodia; the Committee on Finance.

CAMBODIA MOST-FAVORED-NATION STATUS ACT OF 1994

• Mr. McCAIN. Mr. President, I am introducing legislation today intended to clear up an anomaly in United States law which prohibits the President from granting Cambodia most-favored-nation status.

Areas of Indochina under Communist control, including significant portions of Cambodia, were denied most-favored-nation status [MFN] under the Trade Agreements Extension Act of 1951 and the 1974 Trade Act. Cambodia as a whole was denied MFN in 1975 by executive action and its new trading status was confirmed by Congress in the 1988 Trade Act.

The 1974 Trade Act provided a process for restoring most-favored-nation status to those nations denied it. However, only a portion of Cambodia was denied MFN at the time the 1974 Act was signed into law. There is no clear legal authority for restoring MFN to the entire nation under the processes established by the 1974 Trade Act. It cannot be restored by reversing the action taken in 1975 through an Executive order because Cambodia's non-MFN trading status was made law in the 1988 Trade Act.

In short, times have changed and so has Cambodia. The President wants to grant MFN to Cambodia, but lacks the authority to do so.

The legislation I am introducing would give the President the authority to grant Cambodia MFN status by bringing the entire country under the restoration procedure of the 1974 Trade Act. Under these procedures, Cambodia will have to demonstrate compliance with the requirements of the Jackson-Vanik amendment, reach a bilateral agreement with the United States, and have its status approved by the Congress. The President may also waive the requirements of Jackson-Vanik, as President Bush did in the case of China, and immediately upon this legislation becoming law, extend MFN to Cambodia.

If this legislation passes, Cambodia would be eligible to receive MFN by virtually the same process that all other non-MFN countries, except the Baltics, have received it since the signing of the 1974 Trade Act.

Few peoples in modern history have suffered as much as the people of Cambodia. The 4-year rule of the Khmer Rouge brought horrific human suffering to Cambodia. Between 1 and 3 million people died at the hands of the regime, by execution and excesses of a macabre totalitarianism. Many thousands more died during the civil war which followed the 1978 Vietnamese invasion.

As a constant reminder of the country's recent violent past, land mines have given Cambodia the highest percentage of amputees in the world. Every month, hundreds of Cambodians are killed or maimed by these silent assassins that lie just below the surface of every new hope.

But despite a past that would make a nihilist of the most ardent believer in reason and rights of man, the Cambodians continue to entertain new hopes. Last summer, amid predictions that violence and a low voter turnout would render elections in this unfortunate nation meaningless, the people of Cambodia turned out in droves to cast their ballots.

Their perseverance and budding faith in democracy should serve as a model for often cynical and apathetic Western democracies. In the face of a tragedy, the scale of which our Nation has not experienced since our own Civil War, the Cambodian people turned to democracy to chart their nation's course. Their faith is a blessing to a world struggling to prove the proposition of representative government.

Cambodia's brighter future is a testament first and foremost to the character of its people. Its success, however, has not been without outside support. A carefully orchestrated international effort and consistent United States policy since the 1991 Paris Peace Accords helped bring Cambodia back from catastrophe.

To its credit, the administration has maintained the United States commitment to Cambodia and demonstrated to its people that the United States will stand by her during the challenges ahead. At a recent meeting of the International Committee on the Reconstruction of Cambodia, Secretary Christopher pledged $73 million in United States assistance over the next 2 years and helped marshall $700 million over the same period from other international donors. The administration has also initiated discussions with the Cambodian Government to spell out its obligations in case MFN is granted.

Totalitarianism, invasion and civil war have utterly destroyed the economic infrastructure of Cambodia. While direct assistance will help rebuild the nation, infrastructure projects are not ends in themselves. The principal aim of any assistance must be the formation of capital and sustained economic development. It is economic development, not the eternal good will and generosity of the inter-

national community, that will ultimately justify Cambodia's faith in democracy and free markets.

It is my hope that with proper improvements in its infrastructure, giving Cambodia most-favored-nation status will help attract the capital investment it needs.

Before concluding, I want to say just a word about reports that senior Cambodian military officials have visited Pyongyang to solicit training for Cambodian troops.

Cambodia's courageous efforts to rebuild their war torn country is blessed by the admiration and sympathy of the Western world. Certainly, my friend in Cambodia can find more appropriate allies to assist them in securing their newly democratic nation. Before approving MFN, the President should thoroughly investigate reports of North Korean assistance and encourage Cambodia to break off any developing security relationship with the tyrants in Pyongyang.

Mr. President, the future of Cambodia will be determined by the Cambodian people. It will not be determined in Washington, New York, or Tokyo, but by providing access to the largest market in the world, we can help the people of Cambodia help themselves. I call on my colleagues to move expeditiously in authorizing the President to extend MFN for Cambodia.●

By Mr. HATFIELD (for himself, Mr. BINGAMAN, Mr. DOMENICI, and Mr. COCHRAN):

S. 2104. A bill to establish within the National Laboratories of the Department of Energy a national Albert Einstein Distinguished Educator Fellowship Program; to the Committee on Energy and Natural Resources.

ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT OF 1994

● Mr. HATFIELD. Mr. President, whenever a great enterprise is undertaken, whether it's a new business opportunity or a military maneuver, good communication with those on the front line is essential to waging a successful campaign. The same is true with education. We are all aware of the need for reform of education in general, and the subjects of math and science in particular. Many Federal departments and agencies as well as the Congress have undertaken a variety of efforts to better address that need. How well have we done? Could we have done better? One of the reasons we cannot answer these questions with complete confidence may lie in a recent report.

In January 1993, the Committee on Education and Human Resources of the Federal Coordinating Council for Science, Engineering, and Technology [FCCSET] implemented a 5-year strategic plan to improve mathematics and science education. The first item on the agenda was the appointment of an expert panel to conduct a review of Federal programs involved in science, mathematics, engineering, and technology [SMET] education and to assess Federal program evaluation efforts.

The panel found that numerous Federal agencies are sponsoring positive reforms in these critical areas. Talented people at all levels are bringing about beneficial change. But the panel also found an appalling lack of coordination and collaboration within the agencies and an equally alarming lack of program evaluation. According to the report's concluding statement, "It is time for a new culture of interaction, communication, and coordination to be developed and sustained within and among all the agencies in the area of education.

The bill that I introduce today, the Albert Einstein Distinguished Educator Fellowship Act, will help address the problems identified in this report, particularly coordination. Based on a program that already has an extraordinary track record, both nationally and at home in my State of Oregon, this bill will bring teachers into the Government as active participants. Norma Paulus, the superintendent of public instruction for the State of Oregon has shared her assessment of the involvement of teachers in this way, "We have found their enthusiasm inspiring to the staff at the Department, and they certainly bring the reality of the classroom into our policy discussions."

Because of the value derived from the Oregon program, I introduced a version of this bill in 1989 to determine whether the concept would be as successful at the Federal level. For the last 4 years, outstanding mathematics and science teachers have served constructively in various congressional offices. The result has been increased understanding, communication, and cooperation between the Federal Government and the mathematics and science education community. Specifically, this program has signaled educators about our interest in their views as we struggle with reform legislation. Meaningful reform can only take place in the classroom. We need experienced practitioners, footsoldiers from the frontline, helping us assess the effects of Federal programs.

My legislation will involve 10 outstanding math and science teachers for a 10-month academic year. The teachers will gain experience in the national laboratories through the Department of Energy. They will then use that experience to further the mission of the Department related to improving math and science education. The many facets of the Department's education program will benefit from the direct input of teachers who will have a more complete picture of what can be offered to teachers and students. Since elementary math and science education is becoming more and more a focus for improvement, the bill does not restrict participation to secondary teachers. Elementary teachers with a math or science specialty will be encouraged to apply.

As I pointed out earlier, a pilot program has been in place for 4 years with remarkable success. I have been the beneficiary of the program myself as two Oregon teachers have been participants. Steve Boyarsky from Medford, OR, worked in the House Education and Labor Committee in 1992 and Pat Canan from Corvallis served on my staff last year. In addition, June Yamashita from Hawaii was a fellow in my office in 1991. These remarkable teachers brought me a perspective that would have been nearly impossible to obtain otherwise. And what hard workers they were. Those of you who have not participated in the program have missed a most enlightening opportunity. Not only did these fine educators add a great deal of insight and expertise to my work, they gained an impressive knowledge of the legislative process.

The Senate has supported the Einstein fellows concept in the past, having passed a version of this bill twice. We have lent support from the Senate contingency fund to partially finance these fellowships. It is now time to put the program on a solid and predictable foundation, which is why I seek an authorization through a Federal agency which has a strong track record in math and science education improvement efforts.

Support for this concept is widespread among education organizations. The National Council for Teachers of Mathematics, the National Science Teachers Association, and the Triangle Coalition for Science and Technology Education have provided strong support for this legislation. To keep the pilot program functioning during the years without congressional legislation, the MacArthur Foundation, The Triangle Coalition, the Department of Energy, the National Institutes of Health, and NASA supplemented the funds provided by the Congress. What greater testimony could there be to their commitment to this program?

The fellows that this bill places in the Department of Energy can serve as a nucleus for the new culture of coordination called for in the FCCSET report. Let us charge them with this new role. I felt the program was significant 4 years ago. I now see it as vital to bring about needed change.

An additional benefit of the program is the experience that the fellows carry back to their school district. If we really believe that it is important for our citizens to understand and appreciate the processes of the Federal Government, what better way to accomplish this understanding than by having teachers experience that process by active, constructive participation?

The responsible roles these former fellows have assumed after their tenure are varied and impressive. They are serving as resource consultants for technological societies, members of numerous State task forces on math-science education, spokesmen on needed reforms, and advisory committee members to State departments of education. They make themselves available to the staff with whom they worked for any assistance they can provide. We continue to benefit from their service.

In conclusion, we need to keep in mind that one of our National Goals for education as enacted in Goals 2000 is that our students will rank first in the world in math and science achievement by the year 2000. We're a long way from accomplishing that goal and we cannot afford misdirections and false starts. Our efforts must be on a direct path.

Albert Einstein would be proud to have his name associated with this bill for he always stressed the importance in any situation of continuing to ask questions, hard questions. In the past, we sometimes have been derelict in asking those hard questions of the right people. These Einstein fellows will be invaluable advisors and consultants that will help keep education reform on that direct path by helping with both the right questions and better answers.

I urge the full support of my colleagues and ask unanimous consent that the text of my legislation as well as various letters of support be included in the RECORD.

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

S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Department of Energy has unique mathematics and science capabilities within the National Laboratories;

(2) a need exists to increase understanding, communication, and cooperation between the Department of Energy and the mathematics and science community;

(3) the mathematics and science community includes a cadre of nationally recognized outstanding elementary and secondary school mathematics and science teachers; and

(4) a pilot program has confirmed the effectiveness of outstanding elementary and secondary school mathematics and science teachers serving in professional staff capacities in the Federal Government.

SEC. 3. PURPOSE; DESIGNATION.

(a) PURPOSE.—It is the purpose of this Act to establish within the National Laboratories a national fellowship program for outstanding mathematics and science teachers who have made a contribution to energy conservation.

(b) DESIGNATION.—A recipient of a fellowship under this Act shall be known as a "Department of Energy Albert Einstein Fellow".

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "contractor" means a nonprofit organization selected by the Secretary to administer the fellowship program authorized under this Act;

(2) the term "National Laboratory" means a National Laboratory of the Department of Energy;

(3) the term "outstanding", used with respect to an elementary or secondary school mathematics or science teacher, means such a teacher who—

(A) has established an effective energy conservation program; and

(B)(i) is a State or national winner of the Presidential Award for Excellence in Mathematics and Science Teaching;

(ii) has participated in the Woodrow Wilson Fellowship Program; or

(iii) has been a recipient of national or State recognition comparable to the recognition described in clause (i) or (ii); and

(4) the term "Secretary" means the Secretary of Energy.

SEC. 5. FELLOWSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—

(1) IN GENERAL.—(A) Except as provided in subparagraph (B), the Secretary is authorized to establish the Department of Energy Albert Einstein Distinguished Educator Fellowship Program within the National Laboratories in order to provide 10 outstanding elementary or secondary school mathematics or science teachers with fellowships within the National Laboratories in each fiscal year in accordance with this Act.

(B) The Secretary may reduce the number of fellowships awarded under this Act in any fiscal year if the amount appropriated pursuant to the authority of section 7 for such year is less than the amount authorized to be appropriated pursuant to such authority for such year.

(2) TERM OF FELLOWSHIPS.—Fellowships under this Act shall be awarded for a period of 10 months that, to the extent possible, coincide with the academic year.

(b) PROGRAM ADMINISTRATION.—

(1) CONTRACT.—The Secretary is authorized to enter into a contract with a contractor to enable such contractor to administer the Department of Energy Albert Einstein Distinguished Educator Fellowship Program.

(2) REQUIREMENTS.—The contractor shall provide for—

(A) development and administration of an application process for the awarding of fellowships under this Act;

(B) publication of information regarding the fellowship program in appropriate professional publications and inviting applications from teachers listed in the directories of the Presidential Awardees, the Woodrow Wilson Fellows, and other national and State recognition programs;

(C) development and administration of an initial screening process of applicants for the Department of Energy Albert Einstein Fellowship Program to narrow the pool of such applicants to 10 outstanding elementary and secondary school mathematics teachers and 10 outstanding elementary and secondary school science teachers;

(D) development of the process whereby final selections of fellowship recipients are made in accordance with subsection (d)(2);

(E) development of a program of orientation for fellowship recipients under this Act;

(F) establishment and administration of a reporting and evaluation program for each year fellowships are awarded under this Act; and

(G) submission of an annual report and evaluation of the fellowship program assisted under this Act to the Secretary on August 31, 1995, and each year thereafter.

(c) USE OF FUNDS.—

(1) IN GENERAL.—The contractor shall only use funds under this Act to provide for fellowship recipient salaries, Federal insurance contributions under chapter 21 of the Internal Revenue Code of 1986 with respect to such salaries, administrative expenses (including information dissemination, direct mailing, advertising, direct staff costs for coordination and accounting services), expenses of conducting an orientation program, relocation expenses, and the expenses of conducting the final selection interviews described in subsection (d)(1).

(2) SPECIAL RULE.—The contractor may seek funding from non-Federal sources to establish an account from which fellowship recipients may be reimbursed for travel, professional meetings, and other appropriate expenses.

(d) SELECTION.—

(1) IN GENERAL.—The contractor shall invite the 20 semifinalists to Washington, D.C., to participate in interviews after the initial screening process described in subparagraph (C) of subsection (b)(2) is completed.

(2) FINAL SELECTION.—The contractor shall provide for developing and conducting a process whereby final selections of fellowship recipients under this Act are made by the Secretary or the Secretary's designee.

(e) FINAL PLACEMENT.—

(1) IN GENERAL.—Each individual selected to receive a fellowship pursuant to subsection (d) shall interview in various National Laboratories.

(2) DATE.—The final placement described in paragraph (1) shall take place on or before the first day of the fellowship period.

SEC. 6. FELLOWSHIP AWARDS.

Each recipient of a fellowship under this Act shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS-13 of the General Schedule.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $550,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2001, to carry out this Act.

OREGON DEPARTMENT OF EDUCATION,
January 26, 1994.

Hon. MARK O. HATFIELD,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR HATFIELD: Thank you for your efforts to create a fellowship program for outstanding mathematics and science teachers that draws attention to the critical need for excellence in mathematics and science instruction, particularly at the elementary and secondary level. I wholeheartedly support the bill.

The Einstein Distinguished Educator Fellowship bill provides an opportunity for ten distinguished teachers to contribute their knowledge and skills to the work of the federal government. The fellows would bring a fresh perspective based on an intimate understanding of the world of the classroom to their work as fellows.

As I reviewed the draft of the bill, I noted the similarity between the proposed Einstein Fellows program and our own Distinguished Oregon Educator program. The Oregon Educational Act for the 21st Century calls for the Oregon Department of Education to

bring six outstanding teachers to Salem each year to work with their educational colleagues across the state to reform and restructure our schools. Because of those outstanding educators' credibility with teachers in the field, they are able to stimulate a fresh look at old practices. We have found their enthusiasm inspiring to the staff at the Department, and they certainly bring the reality of the classroom into our policy discussions.

Our experience in Oregon has been so beneficial, I am confident that a similar program at the federal level would prove equally rewarding to the fellows and to staff.

Let me again express my enthusiasm for this proposal; if I can help advance the bill, please let me know.

Sincerely,

NORMA PAULUS.

NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS,
February 8, 1994.

Hon. MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: The National Council of Teachers of Mathematics (NCTM), an organization with over 110,000 members dedicated to improving mathematics education, supports the goals and objectives of the Albert Einstein Outstanding Educator Fellowship Act which will provide ten fellowships for mathematics and science teachers from either the elementary or secondary level. We believe that having experienced classroom teachers serving as fellows in the Congress, the Departments of Education and Energy, the National Institutes of Health, the National Science Foundation, the Office of Science and Technology Policy, and the National Aeronautics and Space Administration, will promote understanding and communication of mathematics and science education. Mathematics and science teachers will be able to provide others with first-hand knowledge and experiences of teaching children and teenagers these subjects.

We look forward to continuing to work with you and the Congress to improve mathematics education.

Sincerely yours,

RICHARD LONG ED.D.,
Government Relations Specialist.

TRIANGLE COALITION FOR SCIENCE AND TECHNOLOGY EDUCATION,
February 9, 1994.

Hon. MARK O. HATFIELD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: The Coalition has followed with great interest the development of your bill "to establish a national Albert Einstein Distinguished Educator Fellowship Program for outstanding elementary and secondary mathematics and science teachers." We understand that the bill is now complete and that you will be introducing it soon to the Senate.

Your bill has our strong endorsement. As you know we have worked closely with the secondary school science and mathematics teachers who have served as fellows in the Congress during the past four years. The teachers presence on the staffs of Members of Congress and of Congressional committees has, we believe, provided fresh viewpoints to the legislative process. Their experiences have certainly broadened their knowledge of and interest in the legislative process and made an outstanding contribution to education legislation.

We have heard from most of the teachers after they have returned to their schools following their fellowship periods. They have all spoken enthusiastically about their experiences and have told of their continued involvement in public affairs.

We will be pleased to contribute whatever will be useful to assure passage of the bill.

With best personal regards.

Sincerely,

JOHN M. FOWLER, Ph.D.,
Executive Director.

NATIONAL SCIENCE TEACHERS ASSOCIATION,
February 9, 1994.

Hon. MARK O. HATFIELD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: At the recent National Science Teachers Association (NSTA) Board of Directors' meeting a motion was passed in which the Board unanimously supported legislation in support of Einstein Fellowships.

NSTA has in the past supported Einstein Fellowships. Past recipients have been very instrumental in participating in the legislative process in Congress. These Fellows have also become very active within our association and others, in involving and informing other educators about the legislative process. It is our understanding that the new proposed legislation expands the use of Eisenhower Fellows to several government agencies. We at NSTA support this activity because these agencies have demonstrated their active involvement in science education.

We would be most willing to circulate information about the Einstein Fellowships to our members through our publications.

Sincerely,

GERRY M. MADRAZO,
President.●

By Mrs. HUTCHISON:

S. 2105. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary.

ILLEGAL IMMIGRATION CONTROL ACT OF 1994

Mrs. HUTCHISON. Madam President, I send a bill to the desk and ask unanimous consent for its referral to the committee of jurisdiction.

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

Mrs. HUTCHISON. Madam President, I rise today to introduce the Illegal Immigration Control Act of 1994. This bill would reform virtually every aspect of immigration law and would reduce the staggering costs associated with illegal immigration which is currently assumed by the American taxpayers.

A column appearing in the Washington Post last Friday reported that today in Los Angeles, your home State, Madam President, illegal immigrants and their children total nearly 1 million people. That is a city of illegal immigrants the size of San Diego, the sixth largest city in this country. Governor Wilson of California, who wrote the article, provides a brief, but eye-opening, account of the Federal Government's complete failure to control the flood of illegal immigration and concludes by saying, "We simply can't wait any longer. We need immigration reform, and we need it now."

Madam President, I agree.

That is why I am introducing this legislation today. It is a bill that takes a comprehensive approach to dealing with a major, emerging problem in our country.

Similar legislation, H.R. 3860, has been offered in the House by Congressman LAMAR SMITH of Texas, who chaired the House Republican task force on illegal immigration. This task force conducted research and held hearings for nearly 8 months to create the bulk of the legislation which I offer.

So I commend my colleague in the Texas delegation for his good work and say that I hope to carry the ball over the goal line in the Senate.

Let me reemphasize at the outset that my legislation deals solely with illegal immigration. While there is other legislation before the Congress to address the whole spectrum of immigration, both legal and illegal and, for example, would provide a 5-year breathing space by reducing the number of legal immigrants admitted in our country through the year 1999, and while a Gallup Poll reported last year that 65 percent of Americans believe that the number of legal immigrants should be reduced and therefore may favor such legislation, my bill responds to the far greater cry of American people who see our schools, our hospitals, our social services, and our prisons overwhelmed by the Federal Government's failure to control our borders.

This debate is not about generosity. America is undoubtedly the most generous country in the world, admitting as many legal immigrants as the rest of the world combined. This debate is about sovereignty. We need not and should not apologize for strictly enforcing our immigration laws.

America cannot continue, nor afford, to be a land of unlimited opportunity for those who immigrate here in violation of our laws. In order to prosper and determine its destiny, America must control its borders. This legislation takes a major step in that direction.

Madam President, before I highlight some of the provisions of my bill, let me give you a glimpse of the magnitude of the problem.

According to current but unofficial estimates of the U.S. Census Bureau, there are 3.3 million illegal aliens in this country. California is the home for 52 percent of that number.

The cost to California alone of providing federally mandated services to illegal immigrants and their families is more than $3 billion a year, something I am sure is well known to you, Madam President.

In my home State of Texas, there are over ½ million illegal aliens. One comprehensive study issued from Rice University estimated the total net cost to the Texas taxpayer of providing federally mandated services was $1.2 billion in 1992. That is $1.2 billion net of the $235 million in estimated taxes paid by illegal immigrants in my State.

This same study estimates that the total net cost to Texas taxpayers for the next decade will be about $14.4 billion.

There are, of course, different opinions producing other estimates of the economic costs of illegal immigration. The State of Texas puts the net cost attributable to illegal aliens at closer to $200 million a year.

A fair statement is it is probably somewhere between $200 million and $1 billion a year.

Whatever the exact figure, there can be no doubt, and allow me to borrow from the late Senator Everett Dirksen when I say that we are talking real money here.

My opinion is we must first take back control of our borders. At the same time, we must continue our assault on the illegal immigration problem by attacking the magnets that draw illegal aliens to the United States in the first place.

My legislation would achieve both objectives.

To regain control of our borders, this legislation restores important deterrents to illegal entry and it would beef up physical barriers, such as lighting and ditches at areas of high cross-border traffic.

More importantly, it would provide reinforcement to those already on the front lines by increasing the number of Border Patrol stations by 6,000 over 5 years.

Our Border Patrol station in El Paso is a case study on how placing more agents on the front line works. The credit belongs to "Silver" Reyes—the first Hispanic American to become a Border Patrol chief—who took over the El Paso sector last July 4.

By September of that year, he was implementing his new strategy that would prove so successful that it now serves as a basis of improvements all along our border.

What Mr. Reyes did was not brilliant. But it took the genius of an ordinary person—who had enough of the irreverence for our laws—to make an observation and turn it into action.

What he did was simply move his agents up to the border. Before, agents were not on the border, but engaged in hopelessly chasing illegal aliens throughout the city.

Indications of his success: The number of illegal immigrants in El Paso has gone down by 81 percent since the crackdown; the streets of El Paso are virtually free of panhandlers, and crime in the city has been reduced by 46 percent. Finally, most polls show that 95 percent of El Pasoans approve of the action.

Madam President, the people want action.

Later this month, my colleague, Senator SIMPSON, from Wyoming, plans to hold hearings on immigration reform. It is my desire to present testimony at that hearing, and I think it would be wise for the Immigration and Refugee Affairs Subcommittee to have Chief Reyes present as well, so that we can get his insights and observations, and perhaps the benefit of his success.

Putting more agents on the border alone, however, is not sufficient. We must also address the magnets of easy availability of jobs and easy access to Government benefits.

To this end, this legislation would prohibit most Government benefits to illegal aliens. Only emergency medical care and the Supreme Court mandated schooling for all children will still be allowed.

Madam President, these federally imposed mandates involving public welfare for illegal immigrants must stop. Providing these services is not only unfair to the millions of citizens who, as legal aliens, are legally entitled to them, but they are costly to America in general—costing taxpayers $8 billion in 1992—and to a handful of States in particular.

These federally mandated costs are killing local and State governments. For example, Maverick County—one of our border counties containing the city of Eagle Pass, TX—pays approximately $3 million a year in funds it does not have, to educate illegal immigrant children. That would be troublesome enough. But the story gets worse.

As conveyed by Maverick County Judge Carpenter to my staff counsel, many of these children cross the border in the morning to get their schooling and return back across the border at the end of the day.

Other border communities can attest to witnessing the same thing. This cannot be what the Federal Government intended its policy to be. It simply defies reason.

The legislation also incorporates the language from a bill introduced by Senator GRAHAM of Florida—which I cosponsored—requiring the Federal Government to take custody of criminal aliens who are incarcerated in State or local correctional facilities or else pay for the cost of incarceration.

Immigration control is purely a responsibility of the Federal Government. If the Federal Government is going to provide incentives—in the way of mandated benefits—for illegal aliens to come to the United States, then it should foot the bill.

The legislation I am introducing today would also:

Expedite the exclusion of certain unqualified asylum claimants;

Streamline the asylum process;

Increase the penalties for smuggling illegal aliens;

Reduce Federal aid payments to sanctuary cities that have an official policy of noncooperation with INS-Justice with respect to arrest and detention of illegal aliens; and

Streamline the process of deporting the convicted criminal aliens who make up 24 percent of the Federal prison population—and a staggering 41 percent in Texas.

Finally, Madam President, the legislation provides an alternative to using the legislatively popular border-crossing fee to pay for a significant portion of the bill.

I have consulted with many of the mayors and country judges along the Texas-Mexico border and have decided that for now the preferable path to take is to forego a border-crossing fee.

Therefore, the legislation I offer provides for a reduction in overhead costs incurred in federally sponsored research at institutions of higher learning. In short, my bill would limit the reimbursement rate for a university to 50 percent for overhead—indirect costs incurred for conducting R&D that the Government sponsors.

In closing, I reemphasize that America is the most generous country in the world.

But the patience of the American people is dissipating with the failed Federal policy that results in this country's porous borders.

The legislation I offer today will not be a cure-all, but it does represent badly needed action.

Madam President, I send to the desk the bill and a section-by-section summary of the bill and ask unanimous consent that they be printed in the RECORD.

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

S. 2105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illegal Immigration Control Act of 1994".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—INTERDICTION

Sec. 101. Physical barriers.
Sec. 102. Border patrol agents.
Sec. 103. Interior repatriation program.
Sec. 104. Detention facilities.
Sec. 105. Notice to service of port of entry arrivals.

TITLE II—ALIEN SMUGGLING

Sec. 201. Expanded forfeiture for smuggling or harboring illegal aliens.
Sec. 202. Including alien smuggling as a racketeering activity for purposes of racketeering influenced and corrupt organizations (RICO) enforcement authority.

Sec. 203. Enhanced penalties for alien smuggling and for employers who knowingly employ smuggled aliens.
Sec. 204. Wiretap authority for alien smuggling investigations.

TITLE III—INS INVESTIGATORS

Sec. 301. Immigration and Naturalization Service investigators.

TITLE IV—GOVERNMENT BENEFITS

Sec. 401. Prohibition of benefits for certain categories of aliens.
Sec. 402. Unemployment benefits.
Sec. 403. Housing benefits.
Sec. 404. Save system.
Sec. 405. Limitation on Federal financial assistance to localities that refuse to cooperate in the arrest and deportation of unlawful aliens.
Sec. 406. Uniform vital statistics.

TITLE V—CRIMINAL ALIENS

Sec. 501. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 502. Expansion in definition of "aggravated felony".
Sec. 503. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 504. Judicial deportation.
Sec. 505. Restricting defenses to deportation for certain criminal aliens.
Sec. 506. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
Sec. 507. Miscellaneous and technical changes.
Sec. 508. Criminal alien tracking center.
Sec. 509. Prisoner transfer treaty study.
Sec. 510. Expediting criminal alien deportation and exclusion.
Sec. 511. Incarceration of or payment for criminal aliens by the Federal Government.

TITLE VI—TERRORIST ALIENS

Sec. 601. Removal of alien terrorists.
Sec. 602. Membership in a terrorist organization as a basis for exclusion from the United States under the Immigration and Nationality Act.

TITLE VII—INSPECTIONS

Sec. 701. Preinspection at foreign airports.
Sec. 702. Training of airline personnel in detection of fraudulent documents.
Sec. 703. Passport and visa offenses penalties improvement.

TITLE VIII—ASYLUM

Sec. 801. Inspection and exclusion by immigration officers.
Sec. 802. Asylum.
Sec. 803. Failure to appear for provisional asylum hearing; judicial review.
Sec. 804. Conforming amendments.
Sec. 805. Effective dates.

TITLE IX—FUNDING

Sec. 901. Reduction in overhead costs incurred in federally sponsored research.

TITLE I—INTERDICTION

SEC. 101. PHYSICAL BARRIERS.

The Attorney General, in consultation with the Commissioner of the Immigration and Naturalization Service, shall take action to install additional physical barriers at the United States border to deter unauthorized crossings in areas of high illegal entry into the United States. Such additional barriers shall include barriers similar to those in use in the San Diego, California, vicinity.

SEC. 102. BORDER PATROL AGENTS.

In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 for salaries and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of agents of the Border Patrol by 6,000 full-time equivalent agent positions (and necessary support personnel positions) beyond the number of such positions authorized for the Border Patrol as of October 1, 1993.

SEC. 103. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of the Immigration and Naturalization Service shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 104. DETENTION FACILITIES.

(a) BORDER DETENTION FACILITIES.—Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of the Immigration and Naturalization Service shall take appropriate action to increase the capability of the Immigration and Naturalization Service to detain individuals who have illegally entered the United States at a border area.

(b) TRANSFER OF CLOSED MILITARY BASES FOR FEDERAL ILLEGAL ALIEN INCARCERATION FACILITIES.—

(1) PRIORITY AVAILABILITY TO DEPARTMENT OF JUSTICE.—Notwithstanding any other provision of law, a military installation or facility of the Department of Defense to be closed under a base closure law may be made available, as determined by the Attorney General, to the Bureau of Prisons of the Department of Justice for use as a facility for the incarceration of aliens who are subject to exclusion or deportation from the United States.

(2) DEFINITION.—For purposes of this subsection, the term "base closure law" means each of the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(D) Any other similar law enacted after the date of the enactment of this Act.

SEC. 105. NOTICE TO SERVICE OF PORT OF ENTRY ARRIVALS.

The Attorney General is authorized to require, by regulation, not less than 24 hour advance notice to the Immigration and Naturalization Service of the intention of any vessel to arrive at any port of entry.

TITLE II—ALIEN SMUGGLING

SEC. 201. EXPANDED FORFEITURE FOR SMUGGLING OR HARBORING ILLEGAL ALIENS.

(a) IN GENERAL.—Paragraph (1) of section 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended to read as follows:

"(1)(A) Except as provided in subparagraph (B), the following property shall be subject to seizure and forfeiture:

"(i) Any conveyance, including any vessel, vehicle, or aircraft, which has been or is being used in the commission of a violation of subsection (a).

"(ii) Any property, real or personal, which—

"(I) constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from the commission of a violation of subsection (a), or

"(II) is used to facilitate, or is intended to be so used in the commission of, a violation of subsection (a)(1)(A).

"(B)(i) No property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section, unless the owner or other person with lawful custody of the property was a consenting party to or privy to the violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2).

"(ii) No property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner to have been committed or omitted by a person other than the owner while the property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State.

"(iii) No property shall be forfeited under the provisions of this section to the extent of an interest of the owner, by reason of any act or omission established by the owner to have been committed or omitted without the knowledge, consent, or willful disregard of the owner, unless the act or omission was committed or omitted by an employee or agent of the owner or other person with lawful custody of the property with the intent of furthering the business interests of, or to confer any other benefit upon, the owner or other person with lawful custody of the property.".

(b) CONFORMING AMENDMENTS.—Section 274(b) of such Act (8 U.S.C. 1324(b)) is amended—

(1) in paragraph (2)—

(A) by striking "conveyance" and inserting "property" each place it appears, and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, is facilitating or was intended to facilitate"; and

(2) in paragraphs (4) and (5), by striking "a conveyance", "any conveyance", and "conveyance" and inserting "property" each place it appears.

SEC. 202. INCLUDING ALIEN SMUGGLING AS A RACKETEERING ACTIVITY FOR PURPOSES OF RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS (RICO) ENFORCEMENT AUTHORITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E) any act", and

(2) by inserting before the period at the end the following: ", or (F) any act which is indictable under section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling)".

SEC. 203. ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING AND FOR EMPLOYERS WHO KNOWINGLY EMPLOY SMUGGLED ALIENS.

Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D) and inserting "; or",

(3) by inserting after subparagraph (D) the following:

"(E) contracts or agrees with another party for that party to provide, for employment by the person or another, an alien who is not authorized to be employed in the United States, knowing that such party intends to cause such alien to be brought into the United States in violation of the laws of the United States,", and

(4) by striking "five years" and inserting "ten years".

SEC. 204. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United State Code, is amended—

(1) in paragraph (c) by inserting after "weapons)," the following: "or a felony violation of section 1028 (relating to production of false identification documentation), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents),";

(2) by striking out "or" after paragraph (l) and redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(3) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to alien smuggling), of section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) (relating to the smuggling of aliens convicted of aggravated felonies or of aliens subject to exclusion on grounds of national security), or of section 278 of the Immigration and Nationality Act (8 U.S.C. 1328) (relating to smuggling of aliens for the purpose of prostitution or other immoral purpose);".

TITLE III—INS INVESTIGATORS

SEC. 301. IMMIGRATION AND NATURALIZATION SERVICE INVESTIGATORS.

In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 for salaries and expenses of the Immigration and Naturalization Service such amounts as may be necessary to provide for an increase in the number of investigators of the Immigration and Naturalization Service by 1,000 full-time equivalent investigator positions (and such support personnel as are necessary) beyond the number of such positions authorized as of October 1, 1993.

TITLE IV—GOVERNMENT BENEFITS

SEC. 401. PROHIBITION OF BENEFITS FOR CERTAIN CATEGORIES OF ALIENS.

(a) DIRECT FEDERAL FINANCIAL BENEFITS.—Subject to subsection (b) and the Immigration and Nationality Act, and notwithstanding any other provision of law, an alien not lawfully within the United States as a permanent resident, a refugee, an asylee, or a parolee is not eligible for any direct Federal financial benefit or social insurance benefit (whether through grant, loan, guarantee, or otherwise) as such benefits are identified by the Attorney General in consulation with other appropriate heads of the various departments and agencies of the Federal Government.

(b) EMERGENCY MEDICAL CARE.—Subsection (a) shall not apply with respect to the Federal reimbursement of emergency medical care for aliens, as determined by the Secretary of Health and Human Services by regulation.

SEC. 402. UNEMPLOYMENT BENEFITS.

(a) PROHIBITION.—An alien who has not been granted employment authorization pursuant to the Immigration and Nationality Act or other Federal law shall be ineligible for unemployment compensation under an unemployment compensation law of a State or the United States.

(b) CONDITION OF ELIGIBILITY.—An alien granted temporary work authorization shall be eligible only for unemployment compensation under an employment compensation law of a State or the United States that accrued during such time as the alien was authorized to work.

SEC. 403. HOUSING BENEFITS.

(a) LIMITATION.—Notwithstanding section 401 or any other provision of law, no alien who is not a permanent resident, a refugee, an asylee, or a parolee shall be eligible for benefits under the following provisions of law:

(1) The program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) The program of assistance to public housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(3) The loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

(4) The program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1).

(5) The program of loans for rental and cooperative housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(6) The program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A)).

(7) The program of assistance payments on behalf of homeowners under section 235 of the National Housing Act (12 U.S.C. 1715z).

(8) The program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(9) The loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings.

(10) The loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor.

(11) The program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m).

(12) The program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c).

(13) The program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(b) REGULATIONS.—Not later than January 1, 1995, the Secretary of Housing and Urban Development shall issue final regulations to carry out subsection (a).

SEC. 404. SAVE SYSTEM.

There are authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 such sums as may be necessary to carry out the purposes of the automated SAVE system established under section 121 of the Immigration Reform and Control Act of 1986 (Public Law 99-603).

SEC. 405. LIMITATION ON FEDERAL FINANCIAL ASSISTANCE TO LOCALITIES THAT REFUSE TO COOPERATE IN THE ARREST AND DEPORTATION OF UNLAWFUL ALIENS.

Notwithstanding any other provision of law, Federal financial assistance shall be reduced by 20 percent to any local government on and after such date as the Attorney General certifies that the local government has an official policy of refusing to cooperate with officers or employees of the Department of Justice (including the Immigration and Naturalization Service) with respect to the arrest and deportation of aliens who are not lawfully present within the United States. Such reduction in assistance is not reimbursable and shall continue for as long as the policy of noncooperation remains in effect.

SEC. 406. UNIFORM VITAL STATISTICS.

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 3 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1994 and for subsequent fiscal years such sums as may be necessary to carry out this section.

TITLE V—CRIMINAL ALIENS

SEC. 501. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) of the Immigration and Nationality Act (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole pursuant to the laws of the United States or of any State, and (6)".

SEC. 502. EXPANSION IN DEFINITION OF "AGGRAVATED FELONY".

(a) EXPANSION IN DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c) of title 18, United States Code;

"(C) any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code, or in explosive materials as defined in section 841(c) of title 18, United States Code;

"(D) any offense described in sections 1951 through 1963 of title 18, United States Code;

"(E) any offense described in—

"(i) subsections (h) or (i) of section 842, title 18, United States Code, or subsection (d), (e), (f), (g), (h), or (i) of section 844 of

title 18, United States Code (relating to explosive materials offenses),

"(ii) paragraph (1), (2), (3), (4), or (5) of section 922(g), or section 922(j), section 922(n), section 922(o), section 922(p), section 922(r), section 924(b), or section 924(h) of title 18, United States Code (relating to firearms offenses), or

"(iii) section 5861 of title 26, United States Code (relating to firearms offenses);

"(F) any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(G) any theft offense (including receipt of stolen property) or any burglary offense, where a sentence of 5 years imprisonment or more may be imposed;

"(H) any offense described in section 875, section 876, section 877, or section 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) any offense described in section 2251, section 2251A or section 2252 of title 18, United States Code (relating to child pornography);

"(J) any offense described in section 1084 of title 18, United States Code, where a sentence of 5 years imprisonment or more may be imposed;

"(K) any offense relating to commercial bribery, counterfeiting, forgery or trafficking in vehicles whose identification numbers have been altered, where a sentence of 5 years imprisonment or more may be imposed;

"(L) any offense—

"(i) relating to the owning, controlling, managing or supervising of a prostitution business,

"(ii) described in section 2421 through 2424 of title 18, United States Code, for commercial advantage, or

"(iii) described in sections 1581 through 1585, or section 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) any offense relating to perjury or subornation of perjury where a sentence of 5 years imprisonment or more may be imposed;

"(N) any offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), section 798 (relating to disclosure of classified information), section 2153 (relating to sabotage) or section 2381 or section 2382 (relating to treason) of title 18, United States Code, or

"(ii) section 421 of title 50, United States Code (relating to protecting the identity of undercover intelligence agents);

"(O) any offense—

"(i) involving fraud or deceit where the loss to the victim or victims exceeded $200,000; or

"(ii) described in section 7201 of title 26, United States Code (relating to tax evasion), where the tax loss to the Government exceeds $200,000;

"(P) any offense described in section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) any violation of section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage; or

"(R) any offense relating to failing to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony, where a sentence of 2 years or more may be imposed;

or any attempt or conspiracy to commit any such act. Such term applies to offenses described in this paragraph whether in violation of Federal or State law and applies to such offenses in violation of the laws of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to all convictions entered before, on, or after the date of enactment of this Act.

SEC. 503. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) TECHNICAL AND CONFORMING CHANGES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended as follows:

(1) In subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting "(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) In subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) By striking out subsection (c);

(4) In subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) In subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) By inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) The heading of such section is amended to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(b) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) The Attorney General may delegate the authority in this section to the Commissioner or to any District Director of the Service.

"(4) No alien described in this section shall be eligible for—

"(A) any relief from deportation that the Attorney General may grant in his discretion, or

"(B) relief under section 243(h).

"(5) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, in order that the alien has an opportunity to apply for judicial review under section 106.".

(c) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 504. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence

that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AND CONFORMING CHANGES.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out "The" and inserting in lieu thereof, "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 505. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking out "has served for such felony or felonies" and all that follows through the period and inserting in lieu thereof "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, provided that the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking out the final sentence and inserting in lieu thereof the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking out the "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 506. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking out "paragraph (2), (3), or 4 of" the first time it appears, and

(2) by striking out "shall be imprisoned not more than ten years" and inserting in lieu thereof, "shall be imprisoned not more than two years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors or", and

(B) by striking out "5" and inserting in lieu thereof "10",

(2) in paragraph (2), by striking out "15" and inserting in lieu thereof "20", and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' shall include any agreement where an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by inserting after subsection (b) the following new subsection:

"(c) In any criminal proceeding under this section, no alien may challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates—

"(1) that the alien exhausted the administrative remedies (if any) that may have been available to seek relief against such order,

"(2) that the deportation proceedings at which such order was issued improperly deprived the alien of the opportunity for judicial review, and

"(3) that the entry of such order was fundamentally unfair.".

SEC. 507. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.— No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)), shall be construed to create any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers or any other person.

SEC. 508. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1995 and $5,000,000 for each of the fiscal years 1996, 1997, 1998, and 1999.

SEC. 509. PRISONER TRANSFER TREATY STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

(d) DEFINITION.—As used in this section, the term "Prisoner Transfer Treaty with Mexico" or "Treaty" refers to the Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences, done at Mexico City on November 25, 1976 (28 U.S.T. 7399).

SEC. 510. EXPEDITING CRIMINAL ALIEN DEPORTATION AND EXCLUSION.

(a) CONVICTED DEFINED.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following new subparagraph:

"(E) CONVICTED DEFINED.—In this paragraph, the term 'convicted' means a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere, whether or not the alien appeals therefrom.".

(b) DEPORTATION OF CONVICTED ALIENS.—

(1) IMMEDIATE DEPORTATION.—Section 242(h) of such Act (8 U.S.C. 1252(h)) is amended—

(A) by striking "(h) An alien" and inserting "(h)(1) Subject to paragraph (2), an alien"; and

(B) by adding at the end the following new paragraph:

"(2) An alien sentenced to imprisonment may be deported prior to the termination of such imprisonment by the release of the alien from confinement, if the Service petitions the appropriate court or other entity with authority concerning the alien to release the alien into the custody of the Service for execution of an order of deportation.".

(2) PROHIBITION OF REENTRY INTO THE UNITED STATES.—Section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (G); and

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F) ALIENS DEPORTED BEFORE SERVING MINIMUM PERIOD OF CONFINEMENT.—In addition to any other period of exclusion which may apply an alien deported pursuant to section 242(h)(2) is excludable during the minimum period of confinement to which the alien was sentenced.".

(c) EXECUTION OF DEPORTATION ORDERS.—Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "An order of deportation may not be executed until all direct appeals relating to the conviction which is the basis of the deportation order have been exhausted.".

SEC. 511. INCARCERATION OF OR PAYMENT FOR CRIMINAL ALIENS BY THE FEDERAL GOVERNMENT.

(a) DEFINITION.—In this section, the phrase "criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility" means an alien who—

(1)(A) is in the United States in violation of the immigration laws; or

(B) is deportable or excludable under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(2) has been convicted of a felony under State or local law and incarcerated in a correctional facility of the State or a subdivision of the State.

(b) FEDERAL CUSTODY.—At the request of a State or political subdivision of a State, the Attorney General shall—

(1)(A) take custody of a criminal alien who has been convicted of a felony and is incarcerated in a State or local correctional facility; and

(B) provide for the imprisonment of the criminal alien in a Federal prison in accordance with the sentence of the State court; or

(2) enter into a contractual arrangement with the State or local government to compensate the State or local government for incarcerating alien criminals for the duration of their sentences.

TITLE VI—TERRORIST ALIENS

SEC. 601. REMOVAL OF ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 1803(a) of title 50, United States Code.

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

"(C) the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6) If the judge determines—

"(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

"(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the Court of Appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2)(A) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(B) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. If the Attorney General is appealing a determination under subsection (d) or (e), the court of appeals shall consider such appeal in camera and ex parte.".

(b) CONFORMING AMENDMENT.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(15) of an appeal under section 242C(g) of the Immigration and Nationality Act.".

(c) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 242B the following new item:

"Sec. 242C. Removal of alien terrorists.".

SEC. 602. MEMBERSHIP IN A TERRORIST ORGANIZATION AS A BASIS FOR EXCLUSION FROM THE UNITED STATES UNDER THE IMMIGRATION AND NATIONALITY ACT.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)(II) by inserting "or" at the end;

(2) by adding after clause (i)(II) the following:

"(III) is a member of an organization that engages in, or has engaged in, terrorist activity or who actively supports or advocates terrorist activity,"; and

(3) by adding after clause (iii) the following:

"(iv) TERRORIST ORGANIZATION DEFINED.—As used in this Act, the term 'terrorist organization' means an organization which commits terrorist activity as determined by the Attorney General, in consultation with the Secretary of State.".

TITLE VII—INSPECTIONS

SEC. 701. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

"PREINSPECTION AT FOREIGN AIRPORTS

"SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—(1) Subject to paragraph (4), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of this section.

"(2) Not later than November 1, 1994, and each subsequent November 1, the Attorney General shall compile data identifying—

"(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years,

"(B) the number and nationality of such aliens arriving from each such foreign airport, and

"(C) the primary routes such aliens followed from their country of origin to the United States.

"(3) Subject to paragraph (4), not later than 4 years after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines based on the data compiled under paragraph (2) and such other information as may be available would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States without valid documentation. Such preinspection stations shall be in addition to those established prior to or pursuant to paragraph (1).

"(4) Prior to the establishment of a preinspection station the Attorney General, in consultation with the Secretary of State, shall ensure that—

"(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

"(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

"(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967).

"(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(2), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.

"(c) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 235 the following new item:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 702. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel on such detection" after "United States", and

(2) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.".

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1994.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

SEC. 703. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541, by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title or imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544, by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title or imprisoned not more than 10 years";

(3) in section 1545, by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title or imprisoned not more than 10 years";

(4) in section 1546(a), by striking "five years" and inserting "10 years";

(5) in section 1546(b), by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title or imprisoned not more than 10 years"; and

(6) by adding at the end the following:

"§ 1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a) of this title) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title) is 20 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

(c) ASSET FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by inserting after subparagraph (F) the following:

"(G) Any property used in committing an offense under section 1543 or 1546 of this title or for which the maximum authorized imprisonment is set by section 1547 of this title.".

TITLE VIII—ASYLUM

SEC. 801. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Section 235(b) (8 U.S.C. 1225(b)) is amended to read as follows:

"(b) INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.—

"(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(2)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) does not present the documentation required (if any) to obtain legal entry to the United States; and

"(ii) does not indicate either an intention to apply for provisional asylum (under section 208) or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for immediate inspection at the port of entry by an asylum officer under subparagraph (C) any alien who (i) does not present the documentation required (if any) to obtain legal entry to the United States, and (ii) has indicated an intention to apply for provisional asylum or a fear of persecution. Such an alien shall not be considered to

have been inspected and admitted for purposes of this Act.

"(C)(i) If an asylum officer determines that an alien has a credible fear of persecution, the alien shall be entitled to apply for provisional asylum under section 208.

"(ii)(I) Subject to subclause (II), if an asylum officer determines that an alien does not have a credible fear of persecution the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by another asylum officer at the port of entry of a decision under subclause (I).

"(iii) For the purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of his or her claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer that the alien could establish eligibility for provisional asylum under section 208.

"(iv) Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable pursuant to this paragraph. In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (I) is an alien, and (II) was ordered excluded from the United States pursuant to this paragraph.

"(v) Notwithstanding any other provision of law, no court shall have jurisdiction (I) to review the procedures established by the Attorney General for the determination of exclusion pursuant to this paragraph, or (II) to enter declaratory or injunctive relief with respect to the implementation of this paragraph. Regardless of the nature of the suit or claim, no court shall have jurisdiction except by habeas corpus petition as provided in clause (iv) to consider the validity of any adjudication or determination under this paragraph or to provide declaratory or injunctive relief with respect to the exclusion of any alien pursuant to this paragraph.

"(vi) In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion or deportation entered under sections 235, 236, and 242.

"(3)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (2)(A) or 2(B), or

"(iii) if the conditions described in section 273(d) exist.

"(4) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.

"(5) An alien has not entered the United States for purposes of this Act unless and until such alien has been inspected and admitted by an immigration officer pursuant to this subsection.

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(2), deportation"; and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(2), if".

SEC. 802. ASYLUM.

(a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"SEC. 208. ASYLUM.-

(a) PROVISIONAL ASYLUM.—

"(1) RIGHT TO APPLY.—The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for provisional asylum in accordance with this section.

"(2) CONDITIONS FOR GRANTING.—

"(A) MANDATORY CASES.—The Attorney General shall grant provisional asylum to an alien if the alien applies for provisional asylum in accordance with the requirements of this section and establishes that it is more likely than not that in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) such alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(B) DISCRETIONARY CASES.—The Attorney General may grant provisional asylum to an alien if the alien applies for provisional asylum in accordance with the requirements of this section and establishes that the alien is a refugee within the meaning of section 101(a)(42).

"(C) EXCEPTIONS.—(i) Subparagraphs (A) and (B) shall not apply to an alien if the Attorney General determines that—

"(I) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(II) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(III) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(IV) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(V) a country willing to accept the alien has been identified (other than the country described in subparagraph (A)) to which the alien can be deported or returned and the alien does not establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(ii)(I) For purposes of clause (i)(II), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.

"(II) The Attorney General shall promulgate regulations that specify additional crimes that will be considered to be a crime described in clause (i)(II) or (i)(III).

"(III) The Attorney General shall promulgate regulations establishing such additional limitations and conditions as the Attorney General considers appropriate under which an alien shall be ineligible to apply for provisional asylum under subparagraph (B).

"(3) PROVISIONAL ASYLUM STATUS.—In the case of any alien granted provisional asylum under paragraph (2)(A), the Attorney General, in accordance with this section—

"(A) shall not deport or return the alien to the country described under paragraph (2)(A);

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(4) TERMINATION.—Provisional asylum granted under paragraph (2) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that—

"(A) the alien no longer meets the conditions described in paragraph (2) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided;

"(B) the alien meets a condition described in paragraph (2)(C); or

"(C) a country willing to accept the alien has been identified (other than the country described in paragraph (2)) to which the alien can be deported or returned and the alien cannot establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(5) ACCEPTANCE BY ANOTHER COUNTRY.—In the case of an alien described in paragraph (2)(C)(i)(V) or paragraph (4)(C), the alien's deportation or return shall be directed by the Attorney General in the sole discretion of the Attorney General, to any country which is willing to accept the alien into its territory (other than the country described in paragraph (2)(A)).

"(b) PROVISIONAL ASYLUM APPLICATIONS.—

"(1) IN GENERAL.—

"(A) DEADLINE.—Subject to subparagraph (B), an alien's application for provisional asylum shall not be considered under this section unless—

"(i) the alien has filed, not later than 30 days after entering or coming to the United States, notice of intention to file such an application, and

"(ii) such application is actually filed not later than 60 days after entering or coming to the United States.

"(B) EXCEPTION.—An application for provisional asylum may be considered, not withstanding that the requirements of subparagraph (A) have not been met, only if the alien demonstrates by clear and convincing evidence changed circumstances in the alien's country of nationality (or in the case of an alien with no nationality, in the country where the alien last habitually resided) affecting eligibility for provisional asylum.

"(2) REQUIREMENTS.—An application for provisional asylum shall not be considered unless the alien submits to the taking of fingerprints and a photograph in a manner determined by the Attorney General.

"(3) PREVIOUS DENIAL OF ASYLUM.—An application for provisional asylum shall not be considered if the alien has been denied asylum by a country in which the alien had access to a full and fair procedure for determining his or her asylum claim in accordance with a bilateral or multilateral agreement between that country and the United States.

"(4) FEES.—In the discretion of the Attorney General, the Attorney General may impose reasonable fees for the consideration of an application for provisional asylum, for employment authorization under this section, and for adjustment of status under section 209(b). The Attorney General is authorized to provide for the assessment and payment of any such fee over a period of time or by installments.

"(5) EMPLOYMENT.—An applicant for provisional asylum is not entitled to engage in employment in the United States. The Attorney General may authorize an alien who has filed an application for provisional asylum to engage in employment in the United States, in the discretion of the Attorney General.

"(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS APPLICATIONS.—At the time of filing a notice of intention to apply for provisional asylum, the alien shall be advised of the consequences, under subsection (e), of filing a frivolous application for provisional asylum.

"(c) SANCTIONS FOR FAILURE TO APPEAR.—

"(1) Subject to paragraph (2), the application for provisional asylum of an alien who does not appear for a hearing on such application shall be summarily dismissed unless the alien can show exceptional circumstances (as defined in section 242B(f)(2)) as determined by an asylum officer or immigration judge.

"(2) Paragraph (1) shall not apply if written and oral notice were not provided to the alien of the time and place at which the asylum hearing was to be held, and in the case of any change or postponement in such time or place, written and oral notice were provided to the alien of the new time or place of the hearing.

"(d) ASYLUM.—

"(1) ADJUSTMENT OF STATUS.—Under such regulations as the Attorney General may prescribe, the Attorney General shall adjust to the status of an alien granted asylum the status of any alien granted provisional asylum under subsection (a)(2)(A) or (a)(2)(B) who—

"(A) applies for such adjustment;

"(B) has been physically present in the United States for at least 1 year after being granted provisional asylum;

"(C) continues to be eligible for provisional asylum under this section; and

"(D) is admissible under this Act at the time of examination for adjustment of status under this subsection.

"(2) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(A), (B), (C), (D), or (E)) of an alien whose status is adjusted to that of an alien granted asylum under paragraph (a)(2) may be granted the same status as the alien if accompanying, or following to join, such alien.

"(3) APPLICATION FEES.—The Attorney General may impose a reasonable fee for the filing of an application for asylum under this subsection.

"(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIVOLOUS APPLICATIONS.—

"(1) IN GENERAL.—If the Attorney General determines that an alien has made a frivolous application for provisional asylum under this section and the alien has received the notice under subsection (b)(5), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an application considered to be 'frivolous' includes, but is not limited to, an application which contains a willful misrepresentation or concealment of a material fact.".

(b) CLERICAL AMENDMENT.—The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

SEC. 803. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM HEARING; JUDICIAL REVIEW.

(a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is amended—

(1) in the heading, by striking "ASYLUM" and inserting "PROVISIONAL ASYLUM";

(2) by striking "asylum" each place it appears and inserting "provisional asylum"; and

(3) in subparagraph (A), by striking all after clause (iii) and inserting "shall not be eligible for any benefits under this Act.".

(b) JUDICIAL REVIEW.—Section 106 (8 U.S.C. 1105a) is amended by adding at the end the following subsection:

"(d) The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders granting or denying provisional asylum, except that—

"(1) a petition for review may be filed not later than 90 days after the date of the issuance of the final order granting or denying provisional asylum;

"(2) the venue of any petition for review under this subsection shall be in the judicial circuit in which the administrative proceedings were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit; and

"(3) notwithstanding any other provision of law, a determination granting or denying provisional asylum based on changed circumstances pursuant to section 208(b)(1)(A)(ii) shall be in the sole discretion of the officer conducting the administrative proceeding.".

SEC. 804. CONFORMING AMENDMENTS.

(a) LIMITATION ON DEPORTATION.—Section 243 (8 U.S.C. 1253) is amended by striking subsection (h).

(b) ADJUSTMENT OF STATUS.—Section 209(b) (8 U.S.C. 1159(b)) is amended—

(1) in paragraph (2) by striking "one year" and inserting "2 years"; and

(2) by amending paragraph (3) to read as follows:

"(3) continues to be eligible for provisional asylum under section 208,".

(c) ALIENS INELIGIBLE FOR TEMPORARY PROTECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C. 1254a(c)(2)(B)(ii)) is amended by striking "section 243(h)(2)" and inserting "section 208(a)(2)(C)".

(d) ELIGIBILITY FOR NATURALIZATION.—Section 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "section 208(a)(2)(C).".

(e) FAMILY UNITY.—Section 301(e) of the Immigration Act of 1990 (Public Law 101-649) is amended by striking "section 243(h)(2)" and inserting "section 208(a)(2)(C).".

SEC. 805. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—

(1) The amendments made by this title shall not apply to applications for asylum or withholding of deportation made before the first day of the first month that begins more than 180 days after the date of the enactment of this Act and no application for provisional asylum under section 208 of the Immigration and Nationality Act (as amended by section 801 of this title) shall be considered before such first day.

(2) In applying section 208(b)(1)(A) of the Immigration and Nationality Act (as amended by this title) in the case of an alien who has entered or came to the United States before the first day described in paragraph (1), notwithstanding the deadlines specified in such section—

(A) the deadline for the filing of a notice of intention to file an application for provisional asylum is 30 days after such first day, and

(B) the deadline for the filing of the application for provisional asylum is 30 days after the date of filing such notice.

(3) The amendments made by section 803(b) (relating to adjustment of status) shall not apply to aliens granted asylum under section 208 of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.

TITLE IX—FUNDING

SEC. 901. REDUCTION IN OVERHEAD COSTS INCURRED IN FEDERALLY SPONSORED RESEARCH.

(a) LIMITATION.—Notwithstanding any other law, on and after the date of the enactment of this Act, each head of a Federal agency making a grant to, or entering into a contract with, an institution of higher education for research and development, shall—

(1) reduce the overhead payment rate used to pay for indirect costs related to such research and development to a rate not to exceed 50 percent of the modified total direct costs that are incurred by such institution for such research and development; and

(2) return the amount saved as a result of paragraph (1) to the general fund of the Treasury.

(b) CBO SCORING.—The Congressional Budget Office estimates that the reduction in overhead payments for federally funded university research required by this section will produce savings of $1,240,000,000 over the 5-year period beginning October 1, 1994, and ending September 30, 1999.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "indirect costs" means administrative costs and the costs of library and student services, building and equipment, and operations and maintenance;

(2) the term "institution of higher education" has the meaning stated in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "Federal agency" means a department, agency, or instrumentality of the Federal Government (including an executive agency (as defined in section 105 of title 5, United States Code)); and

(4) the term "modified total direct costs" means the costs of—

(A) salaries and wages;

(B) fringe benefits;

(C) materials, supplies, services and travel; and

(D) awarding a subgrant to, or entering into a subcontract for, not more than $25,000.

SECTION-BY-SECTION SUMMARY OF THE ILLEGAL IMMIGRATION CONTROL ACT OF 1994

TITLE I—INTERDICTION

Section 101—Physical barriers

This section will require the Immigration and Naturalization Service to install additional structures (fences, ditches, etc.) at the border to deter unauthorized crossings of high illegal entry.

Section 102—Border Patrol agents

There is authorized to be appropriated for each of the fiscal years 1995–1999 for salaries

and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of Border Patrol agents by 6,000 full-time equivalent agent positions and the necessary support personnel.

Section 103—Interior Repatriation Program

To deter the "revolving door" of re-entries by those just deported to a border area, this section requires that illegal entrants (who have entered the country illegally at least 3 prior times) from Canada or Mexico be repatriated to the interior of their countries.

Section 104—Dentention facilities

Increase the detention capacity at the border, thus allowing increased detention of illegal crossers rather than releasing them into the community. Additional structures may be built or abandoned military bases may be used for this purpose.

Section 105—Notice to Service to port of entry arrivals

Require that 24 hour notice be given to the INS by ships of their arrival so as to permit inspection (this notice is already given to Customs).

TITLE II—ALIEN SMUGGLING

Section 201—Expanded forfeiture for smuggling or harboring illegal aliens

Expand the INS's current seizure and forfeiture authority of conveyances used in the smuggling or harboring of illegal aliens to include seizure and forfeiture of all property in such cases.

Section 202—Including alien smuggling as a racketeering activity for purposes of racketeering influenced and corrupt organizations (RICO) enforcement authority

Includes alien smuggling as a racketeering activity for purposes of RICO enforcement authority.

Section 203—Enhanced penalties for certain alien smuggling and for employers who knowingly employ smuggled aliens

Enhanced penalties for any person who knowingly contracts or agrees with another party for that party to provide for employment of an illegal alien and also provides for fines and up to 10 years imprisonment.

Section 204—Wiretap authority for alien smuggling investigations

Provides federal wiretap authority to aid in the criminal investigation of alien smuggling and of fraud related to the misuse of visas, permits and other travel documents.

TITLE III—IMMIGRATION AND NATURALIZATION SERVICE INVESTIGATORS

Section 302—INS investigators

There is authorized to be appropriated for each of fiscal years 1995–1999 for salaries and expenses such amounts as may be necessary to provide for an increase in the number of INS investigators by 1,000 full-time equivalent positions and the necessary support personnel; (such as detention and deportation personnel).

TITLE IV—GOVERNMENT BENEFITS

Section 401—Prohibit benefits for certain categories of aliens

This section prohibits federally funded welfare benefits, with the exception of emergency medical care, for aliens other than those lawfully admitted as permanent residents, refugees, asylees or parolees.

Section 402—Unemployment benefits

Specifically denies unemployment compensation to aliens who have not been granted employment authorization pursuant to the INA.

Section 403—Housing benefits

Legislates HUD guidelines to prevent subsidized housing from going to aliens other than those admitted as permanent residents, asylees, or parolees.

Section 404—SAVE system

Authorizes an increase in automated SAVE (Systematic Alien Verification of Entitlement) system which is used to verify the immigration status of aliens applying for benefits.

Section 405—Limitation on Federal financial assistance to localities that refuse to cooperate in the arrest and deportation of unlawful aliens

This section reduces by 20% federal aid to "sanctuary cities" that have an official policy not to cooperate with the INS or Department of Justice with respect to the arrest and detention of illegal aliens.

Section 406—Uniform vital statistics

Establishes pilot program (3 of 5 states that have the largest numbers of illegal immigrants) a database of birth and death records to prevent fraud against the government through the use of false birth or death certificates. This will greatly reduce fraud in the "breeder" documents that people use to get fake cards.

TITLE V—CRIMINAL ALIENS

Section 501—Authorizing registration of aliens on criminal probation or criminal parole

Authorizes the registration with the INS of aliens on criminal probation or criminal parole. This is intended to help INS keep track of deportable criminal aliens.

Section 502—Expansion in definition of "aggravated felony"

Expands definition of "aggravated felony" for purposes of the Immigration and Nationality Act (INA). Under this definition, aggravated felonies include the current offenses (murder, drug trafficking, trafficking in firearms or explosives, money laundering, and violent crimes for which the sentence is over 5 years) plus the following: firearms violations, failure to appear before a court to answer a felony charge, demanding or receiving ransom money, unlawful conduct relating to RICO, immigration-related offenses including alien smuggling and sale of fraudulent documents, child pornography, owning or operating a prostitution business, treason, and tax evasion exceeding $200,000.

Section 503—Deportation procedures for certain criminal aliens who are not permanent residents

Provides for prompt deportation of any alien who is not a permanent resident alien and whom the Attorney General determines is deportable and has been convicted of an aggravated felony. A final order of deportation could be issued during such alien's imprisonment and executed upon the alien's release.

Eliminates the following procedures for non-permanent resident criminal aliens: (1) administrative hearing before an immigration judge, (2) administrative review of the Board of Immigration Appeals of the immigration judge's determination, (3) availability of current grounds of relief from deportation, and (4) federal court review of the Attorney General's deportation on any grounds other than whether the person sought to be deported is an alien and whether the alien has in fact been convicted of an aggravated felony. The alien has 14 days to seek federal court review before final deportation.

The expedited deportation proceedings currently included in the section 242A and applicable to all aliens would be limited to permanent resident aliens. Current section 242A language allows for the institution of deportation proceedings while the alien is incarcerated, with the intent of completing the process so that the alien can be deported upon his or her release.

Section 504—Judicial deportation

Allow federal trial courts to issue an order of deportation during the sentencing phase of the criminal trial of an alien convicting of an aggravated felony. This section applies to all criminal aliens, including permanent residents.

Such an order must have been requested by the U.S. Attorney with concurrence of the INS Commissioner. Notice of intent to seek a judicial order of deportation must be given promptly after an adjudication of guilt plea. The government would still be responsible for showing that the defendant is an alien subject to deportation and that the crime the alien has been convicted of meets the definition of an "aggravated felony;" a charge containing factual allegations on these two matters must be filed at least 20 days prior to the sentencing date.

Judicial deportation would replace current administrative deportation procedures in those cases where it is sought. Aliens found deportable under this process would continue to have the right to appeal their deportation to the appropriate federal circuit court of appeals.

Judicial deportation would not be required in every criminal trial of an aggravated felon alien, and the Attorney General would retain his or her right to seek an administrative determination of deportability if the federal court denies a motion for judicial deportation.

Section 505—Restricting defense to deportation for certain criminal aliens

Restricts defenses to deportation for criminal aliens convicted of aggravated felonies. As a result of amendments made by this section, the only defense to deportation for aggravated felon aliens would be for permanent resident aliens who have lived in the U.S. in such status for at least seven years and who have been sentenced to less than five years imprisonment for such felony.

Currently, a permanent resident alien is ineligible for relief under section 212(c) (for permanent resident aliens who have lived in the U.S. for seven consecutive years) if he or she has served five or more years for one or more aggravated felonies. This section would amend the language to make aliens who have been sentenced to five or more years ineligible for section 212(c) relief.

This standard is more relevant to judging the seriousness of an offense since dangerous criminals are at times released prematurely due to prison overcrowding or other reasons unrelated to the seriousness of the crime. Moreover, the current standard presents a serious logistical obstacle to the speedy commencement of deportation proceeding since it may be unknown until five years have been served whether the alien would be able to seek relief under section 212(c)

This section also makes it clear that aggravated felons may not request or be granted withholding of deportation under section 243(h). The Immigration Act of 1990 unambiguously denied aggravated felon's ability to request a hearing on eligibility for withholding of deportation was not addressed. Although the Executive Office for Immigration Review has determined that no hearing is possible in such cases, litigation on this issue is likely.

This section does not affect the Attorney General's authority to designate a country other than that of the alien's nationality for

deportation. It is consistent with the intent of the UN protocol Relating to the Status of Refugees to permit denial of withholding of deportation in cases of persons convicted of a "particularly serious crime."

Section 506—Enhanced penalties for failing to depart, or reentering, after final order of deportation

Currently, an alien who is deportable for criminal offenses, document fraud, or security risk is subject to criminal penalties of up to 10 years of imprisonment for failure to depart. However, there are no penalties for aliens deportable for other reasons who fail to depart. Subsection (a) retains the current 10 year penalty and provides for criminal penalties of up to 2 years imprisonment for aliens who are issued deportation orders on other grounds and who fail to depart.

Subsection (b) increases the penalties for criminal aliens who reenter the U.S. after being formally deported. Currently, an alien convicted of a felony other than an aggravated felony who re-enters is subject to 5 years in prison and a criminal fine; this subsection extends the penalties to aliens convicted of three or more misdemeanors and increases the maximum prison sentence to 10 years. Aggravated felons who re-enter the U.S. currently are subject to criminal fines and up to 15 years in prison; this subsection increases the maximum prison sentence to 20 years. Language also is added to make it clear that any alien who stipulates to deportation during a criminal trial shall be considered to have been formally deported.

Subjection (c) would allow a court in a criminal proceeding against a deported alien who re-enters the U.S. to re-examine the underlying deportation order only if the alien demonstrates (1) that he/she exhausted available administrative remedies, (2) that the deportation proceedings improperly deprive the alien of the opportunity for judicial review, and (3) that the entry of order of deportation was "fundamentally unfair." This language taken from United States v. Mendoza-Lopez, 481 U.S. 828 (1987), is intended to ensure that minimum due process was followed in the original deportation proceeding while preventing wholesale, time consuming attacks on underlying deportation orders.

Section 507—Miscellaneous and technical changes

Responds to two holdings of the 9th Circuit. Subsection (a) makes it clear that deportation proceedings may be conducted telephonically, where waived or agreed to by the parties, in the absence of the alien.

Subsection (b) makes it clear that nothing in this Act (directing the AG to begin deportation proceedings as quickly as possible after a conviction) shall be construed to create a legally enforceable right or benefit.

Section 508—Criminal alien tracking center

Utilize a criminal alien tracking center that can assist Federal, state and local law enforcement agencies to track aliens who may be subject to deportation by reason of their conviction of aggravated felonies through their prison sentences and afterwards until they are deported.

Section 509—Prison transfer treaty study

Require the Attorney General and the Secretary of State to report on the use and effectiveness of the Prisoner Transfer Treaty with Mexico, to remove from the U.S. aliens who have been convicted of crimes in the U.S.

Section 510—Expediting criminal alien deportation and exclusion

This Section will allow the deportation of a criminal alien, in certain cases, prior to completion of his/her sentence if the INS petitions the appropriate court or authority to release the alien to the Service in order to execute an order of deportation. If the alien returns to the U.S. he will have to serve the remainder of his sentence and serve additional time for immigration violations.

Section 511—Incarceration of or payment for criminal aliens by the Federal Government

This section requires the Federal government to take custody of criminal aliens who are incarcerated in state or local correctional facilities or else contract with the state or local government to pay for the cost of incarceration.

TITLE VI—TERRORIST ALIENS

Section 601—Removal of alien terrorists

In deporting alien terrorists, this section establishes the use of special court procedures when a deportation proceeding would pose a risk to the national security of the U.S. because such proceedings would disclose classified information. In addition to permitting the use of classified information, this section also addresses appeals procedures in such cases.

Section 602—Membership in a terrorist organization as a basis for exclusion from the U.S. under the Immigration and Nationality Act

The section provides that membership in a terrorist organization is sufficient cause for exclusion.

TITLE VIII—INSPECTIONS

Section 701—Preinspection at foreign airports

Preinspection both combats illegal immigration by preventing undocumented aliens from reaching U.S. soil and reduces delays at domestic airports. This section provides for INS to establish preinspection stations at 5 of the 10 most heavily trafficked foreign airports within 2 years of this bill's enactment and to establish another 5 in 4 years.

This section requires that before establishing a preinspection station, the Attorney General shall ensure that U.S. employees at the station and their families will receive protection and will not be subject to safety risks, and that the country in which the station is established maintains practices and procedures in accordance with the 1951 Convention Relating to the Status of Refugees.

Section 702—Training of airline personnel in detection of fraudulent documents

Airline Personnel at foreign airports must examine a passenger's travel documents before the passenger boards the airplane. However, many aliens are boarding airplanes headed for the U.S. by using fraudulent documents, indicating that airline personnel are not receiving adequate training to detect such documents.

This section requires INS to use at least 5% of the money in the Inspections Fee Account in order to train airline personnel in the detection of fraudulent documents. If an airline fails to participate in INS training programs regarding the detection of fraudulent documents, the Attorney General may suspend the airline's landing rights.

Section 703—Passport and visa offenses penalties

Modify the penalties for certain passport and visa related fraud.

TITLE VIII—ASYLUM

Section 801—Inspection and exclusion by immigration officers

Aliens seeking to immigrate to the United States are increasingly using commercial international flights to circumvent U.S. immigration laws. The number of aliens arriving at U.S. airports with either fraudulent or no documents has grown explosively in recent years. Most arrivals are paroled into the community with instructions to report several months in the future for a hearing before an immigration judge. Many of these individuals do not show up for their hearing and simply disappear.

Expedited Exclusion

This section rewrites sec. 235(b) of the INA, which governs inspection and exclusion, and provides for an expedited exclusion procedures for aliens who (1) arrive either at ports of entry or elsewhere in the U.S., (2) do not have proper documentation, and (3) do not have a credible claim of persecution.

Under this provision, if the examining immigration officer determines that an alien seeking entry to the U.S. does not present the documentation required to obtain entry to the U.S. and doesn't indicate a fear of persecution, the officer may exclude the alien without further hearing or review.

If an alien does not have the proper documentation required for entry but indicates a fear of persecution, the examining officer must refer the alien to an INS asylum officer at the port of entry. Then, if the asylum officer determines the alien has a credible fear of persecution, the alien is entitled to apply for provisional asylum. If the asylum officer determines that an alien does not have a credible fear of persecution, the officer can order the alien excluded from the United States, subject to immediate supervisory review.

Credible fear of persecution is defined as a significant possibility that the alien could establish eligibility for provisional asylum and that it is more probable than not the statements made in support of the alien's claim are true.

The only type of judicial review authorized for an alien found excludable under the expedited exclusion provision is a petition for habeas corpus. Such habeas corpus review is limited to determining whether the petitioner is an alien and whether the petition was ordered excluded under the expedited exclusion procedures.

Exclusion and Deportation

Section 801 also changes the procedures by which some aliens are removed from the country. Currently, aliens who are apprehended at a port of entry are entitled to an exclusion hearing. However, aliens who have "entered" the U.S., including aliens who have entered the U.S. illegally, are entitled to the more cumbersome procedures of deportation. Thus, it is considerably more difficult to remove aliens who succeed in entering the U.S. than those who are apprehended at a port of entry.

This section provides that an alien has not "entered" the United States for purposes of the INA unless the alien has been inspected and admitted by an immigration officer, but who has been physically present in the U.S. for a continuous period for 1 year, will be considered to have entered the U.S. and will be removable through deportation procedures.

Section 802—Asylum

Currently, adjudication of an asylum claim through the various administrative and judicial levels is extremely time consuming. Underserving applicants have taken advantage of the present backlogs (over 300,000 pending asylum cases) and unnecessary levels of review and appeal to delay for years and years the resolution of their cases.

This section rewrites sec. 208 of the INA, involving asylum, to revamp and streamline the asylum process.

Qualifications

Under current law, an alien who fears persecution can apply for asylum under sec. 243(h) of the INA, or in many circumstances, both. To be granted asylum, an alien must prove that the alien has a "well-founded fear" of being persecuted, whereas to be granted withholding an alien must prove that his or her life or freedom "would be threatened" by persecution. The courts have interpreted "would be threatened" to mean "more likely than not" and well founded fear" to mean "good reason to fear" a burden of proof that is not as great as more likely than not. A grant to asylum is discretionary with the Attorney General. A grant of withholding of deportation is mandatory if the applicant meets the requirements of sec. 243(h).

Under the new sec. 208 an alien who fears persecution would be allowed to apply for only one form of relief, provisional asylum.

The section retains the existing burdens of proof in that (1) the Attorney General is required to grant provisional asylum to an alien who establishes that it is "more likely than not" that the alien would be persecuted in his or her home country and (2) the Attorney General is given the discretion to grant provisional asylum to an alien who establishes a "good reason to fear" persecution.

Reflecting current practice, the Attorney General may not grant provisional asylum to an alien who participated in persecution, has been convicted of a particularly serious crime, or is a danger to U.S. security. The Attorney General is directed to promulgate regulations specifying additional limits making aliens ineligible for discretionary provisional asylum. An alien is also not entitled to provisional asylum if the A.G. determines there is another country to which the alien can be sent where the alien will not be persecuted.

The Attorney General is authorized to terminate provisional asylum status for an alien who is no longer subject to persecution because of changed circumstances in the alien's home country. Status may also be terminated if it is discovered the alien was ineligible for provisional asylum, or if a country has been identified to which the alien can be sent where the alien will not be persecuted.

The section also requires an applicant to submit to being fingerprinted and photographed in order to ensure a means of identifying applicants and to determine which applicants fail to appear for hearings.

Deadlines for Applications

Currently there are no deadlines by which asylum applications must be filed. An alien who has been in the U.S. illegally for years may claim asylum at any time. This allows aliens to use asylum as a defense to deportation.

This subsection establishes deadlines for provisional asylum applications. An alien is required to file a notice of intent to file a provisional asylum application within 30 days after arriving in the U.S. The application itself must be filed within 60 days. An applicant who misses the deadlines is allowed to apply only if he or she can show that circumstances changed in the home country after the deadline expired.

Applications for asylum will not be considered for persons previously denied asylum in countries that utilized a full and fair procedure as dictated in multilateral agreements between that country and the U.S.

Reasonable fees may be charged for these applications and employment authorization will only be granted at the discretion of the Attorney General rather than automatically upon application. Applications will also be dismissed if an alien does not appear for this hearing, unless he can show exceptional circumstances.

Adjustment of Status

This Section also allows aliens who have been granted provisional asylum to receive full asylum status. To do so an alien must be present in the U.S. in provisional asylum status for one year, continue to be eligible for provisional asylum, not be firmly resettled in any other country, and be admissible for adjustment under the same status. After being in asylum status for one year, the alien and the alien's spouse and children can adjust to permanent resident status. The Attorney General may charge a reasonable fee for the filing of an asylum application.

Frivolous Applications

Under this provision, any alien who received notice of the consequences of filing a frivolous provisional asylum application and who files such application will not be eligible in the future for any immigration benefits under the INA. Applications which contain willful and material misrepresentations will be considered frivolous.

Section 803—Failure to appear for asylum hearing; judicial review

Under this section, an alien who was given proper notice and fails to appear for a provisional asylum hearing will not be eligible in the future for any immigration benefit under the INA.

This section also provides that judicial review of provisional asylum cases will be heard by the appropriate Federal Court of Appeals. A determination granted or denying provisional asylum on the basis of a claim of changed circumstances will be in the sole discretion of the Attorney General.

Section 804—Conforming amendments

This section contains conforming amendments to the INA.

Section 805—Effective dates

Most amendments made by Title VIII would take effect on the date of enactment of the act. Some effective dates are after enactment of this act in order to allow INS time to prepare for the changes.

Section 901—Reduction in overhead costs incurred in federally sponsored research

Provides for a reduction in overhead costs incurred in federally sponsored research by limiting the reimbursement rate for a university to 50% for overhead/indirect costs incurred for conducting R&D that the government sponsors. CBO estimates this will produce savings of $1.24 billion dollars over the 5 year period FY 1995 through FY 1999.

By Mr. CRAIG (for himself, Mr. DOMENICI, Mr. DECONCINI, Mr. WALLOP, Mr. BENNETT, Mr. BINGAMAN, Mr. BURNS, Mr. HATCH, Mr. KEMPTHORNE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SIMPSON, and Mr. STEVENS):

S. 2106. A bill to establish a fee schedule for users of communications sites on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

THE EQUITABLE COMMUNICATION SITE FEE ACT OF 1994

Mr. CRAIG. Madam President, thousands of broadcast towers, translators, microwave relay stations, and other telecommunications facilities licensed by the Federal Communications Commission are located on Federal sites across the United States. They provide a vital public service to our local communities, particularly those in the rural West, where communication outlets are few and cable television is often not available.

Yet this important communications link is in danger of being broken if the Congress does not resolve the problem of determining an equitable fee increase for the use of communications sites on Federal lands.

I'm pleased to report that Senators DOMENICI, DECONCINI, WALLOP, and I are introducing legislation based on the Congress' own Radio and Television Broadcast Use Advisory Committee report: the Equitable Communication Site Fee Act of 1994. We are joined in introducing the bill today by Senators BENNETT, BINGAMAN, BURNS, HATCH, KEMPTHORNE, MURKOWSKI, PRESSLER, SIMPSON, and STEVENS.

As many of my colleagues know, over the years, the BLM and Forest Service have put forward a number of proposals to increase communication site fees—sometimes as much as 1,500 percent. Both broadcasters and nonbroadcasters agree that some increase in these fees is justified, but an increase along the lines proposed by these agencies would have shut down many operations. It's for that reason the Appropriations Committee has repeatedly approved moratoriums stopping those proposals.

In an attempt to find a more equitable fee increase, the Congress included a provision in the 1992 Interior appropriations bill, establishing an advisory committee consisting of representatives from industry, BLM, and the Forest Service. After studying the issue, the advisory committee issued a report containing the elements necessary to finally resolve this ongoing problem. The report included proposed fee increases ranging from approximately 200 to 900 percent. Although these are dramatic increases, they were based on a methodology that took into account the market in which the user operates, and therefore reflect fair market value.

The bill we are introducing today would implement the advisory committee's recommendations. It would also address modifications for nonbroadcast users, based on the same methodology used for the broadcasters. I'm happy to note that broadcasters and nonbroadcasters are supportive of these recommendations and willing to pay the higher fees.

Madam President, we must not continue wasting Federal resources by postponing this decision year after year. The Equitable Communication Site Fee Act would resolve this issue fairly and reasonably. I hope my colleagues agree and will support the bill with their cosponsorship and their vote.

This is to establish a fair and equitable formula for those communications sites and towers very critically important to the communications and broadcast system of the Rocky Mountain States and your State of California, and others, that there is now an equitable process for determining annualized fees for both the public and private sector in their need to stake out high ground for the purpose of communication.

Madam President, let me conclude my introducing legislation today better known as the Equitable Communications and Site Fee Act of 1994.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equitable Communication Site Fee Act of 1994".

SEC. 2. RADIO AND TELEVISION USE FEE.

The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) is amended—

(1) by redesignating sections 510 and 511 as sections 511 and 512, respectively; and

(2) by inserting after section 509, the following new section 510:

"SEC. 510. USE FEES FOR USERS OF COMMUNICATIONS SITES ON PUBLIC LANDS.

"(a) DEFINITIONS.—For the purposes of this section—

"(1) the term 'ADI TV households' means the area of dominant influence for television, an exclusive geographic area based on measurable television viewing patterns, as described in section 73.3555(e)(3)(i) of title 47, Code of Federal Regulations, or any succeeding regulation;

"(2) the term 'commercial mobile radio communications site' means a multipurpose communications site that is—

"(A) operated for profit;

"(B) operated by a site owner, manager, or permittee who leases space to a variety of users, including individuals and businesses of all sizes, for the purpose of providing—

"(i) land mobile radio communications services;

"(ii) paging services;

"(iii) cellular telephone services;

"(iv) private or commercial mobile services;

"(v) radio or television broadcasting services;

"(vi) microwave transmissions; and

"(vii) satellite receiver stations; and other related and compatible users and services; and

"(C) is located on a site managed by either the United States Forest Service or the Bureau of Land Management under the terms of a lease, permit, or right-of-way;

"(3) the term 'FM translator station' means a station in the broadcast service operated for the purpose of retransmitting the signals of an FM radio broadcast station or another FM broadcast translator station without significantly altering any characteristic of the incoming signal other than its frequency and amplitude, for the purpose of providing FM broadcast service to the general public;

"(4) the term 'holder' means an individual, partnership, corporation, association, or other business entity, and any Federal, State, or governmental entity that has applied for, and received, a site use authorization;

"(5) the term 'MSA population' means the metropolitan market survey area for radio in an exclusive geographic area based on measurable listening patterns;

"(6) the term 'private radio communication site' means a communications site that—

"(A) is operated by an entity to provide internal telecommunications capabilities;

"(B) is operated by an individual, industry, or other entity with private telecommunications service requirements;

"(C) provides land mobile, aeronautical, maritime, microwave, or satellite radio services; and

"(D) is located on a site managed by either the National Forest Service or the Bureau of Land Management under the terms of a lease, permit, or right-of-way;

"(7) the term 'radio broadcast communications site' means a site on which is located a commercial broadcast station that—

"(A) is licensed for the dissemination of aural communications intended to be received by the general public;

"(B) is operated on a channel in either—

"(i) the AM broadcast band of frequencies, which extends from 535 to 1705 kHz; or

"(ii) the FM broadcast band, which extends from 88 to 108 MHz;

"(C) is located on a site managed by either the United States Forest Service or the Bureau of Land Management under the terms of a lease, permit, or right-of-way; and

"(D) does not include the operation of—

"(i) FM translators;

"(ii) FM boosters;

"(iii) AM synchronous transmitters; or

"(iv) passive repeaters that operate pursuant to part 74 of title 47, Code of Federal Regulations, or succeeding regulation;

"(8) the term 'Secretaries' means the Secretary of Agriculture and the Secretary of the Interior;

"(9) the term 'site use authorization' means a permit, term permit, lease, easement, or right-of-way that authorizes occupancy, use, rights, or privileges on public land for the transmission or reception of radio, television, telephone, telegraph, and other electronic signals and other means of communication;

"(10) the term 'television broadcast communications site' means a site on which is located a commercial broadcast station that—

"(A) is licensed for the transmission of simultaneous visual and aural signals intended to be received by the general public;

"(B) is operated on a channel in the television broadcast band, which extends from 54 to 806 MHz;

"(C) is located on a site managed by either the United States Forest Service or the Bureau of Land Management under the terms of a lease, permit, or right-of-way; and

"(D) does not include the operation of—

"(i) low power television stations;

"(ii) UHF or VHF television translator stations; or

"(iii) passive repeaters that operate pursuant to part 74 of title 47, Code of Federal Regulations, or succeeding regulation; and

"(11) the term 'television translator station' means a station in the broadcast service operated on a VHF or UHF channel for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristic of the original signal other than its frequency and amplitude, for the purpose of providing television reception to the general public.

"(b) BROADCAST COMMUNICATIONS SITES.—

"(1) ESTABLISHMENT OF FEE.—The Secretary of Agriculture, with respect to National Forest System land administered by the Forest Service, and the Secretary of the Interior, with respect to public lands administered by the Bureau of Land Management, shall establish and collect an annual fee for the use of radio and television communications sites and commercial mobile radio communications sites located on public lands in accordance with the following fee schedules:

"(A) TELEVISION AND RADIO BROADCAST COMMUNICATIONS SITES.—

"Television Rental Fee Schedule

"ADI TV Households (Rank)	Rental Fee
1–10	$42,000
11–30	21,000
31–70	10,500
71–120	5,250
121–210	2,625
Non-ADI	2,500.

"Radio Rental Fee Schedule

"MSA Population (Rank)	Radio Rental Fee
1–10	$29,400
11–30	14,700
31–90	7,350
91–160	3,675
161–261	1,838
Unrated	1,500.

"(B) COMMERCIAL MOBILE RADIO COMMUNICATIONS SITES.—

"Nonbroadcast Fee Schedule

"Population Served	Rental Fee
1,000,000 +	$12,000
500,000–999,999	5,000
250,000–499,999	3,500
150,000–249,999	2,000
75,000–149,999	1,000
30,000–74,999	500
29,999 and fewer	300.

"(2) ANNUAL REVIEW.—The fees established under this section shall be reviewed annually by the Forest Service and the Bureau of Land Management.

"(3) ADJUSTMENT.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the fee established under this section shall be adjusted annually to reflect changes in the Consumer Price Index published by the Department of Labor.

"(B) LIMITATIONS.—

"(i) The fee charged for a television or radio broadcast communications site for any given year shall not increase less than 3 percent or more than 5 percent of the fee charged to the holder in the preceding year.

"(ii) The fee charged for a commercial mobile radio communications site for any given year shall not increase less than 1 percent or more than 3 percent of the fee charged to the holder in the preceding year.

"(C) NOTICE.—Not later than 60 days before the effective date of an adjustment under this paragraph, the Secretaries shall transmit to Congress notice of such adjustment.

"(4) LIMITATION ON FEE.—During the first year in which the schedule established pursuant to paragraph (1) is in effect, if the amount of the fee charged for a holder pursuant to the schedule is—

"(A) greater than the amount that the holder paid for the use of the site on January 1, 1993, plus $1,000, the holder shall pay an amount equal to the sum of—

"(i) the amount the holder paid for the use of the site on January 1, 1993; and

"(ii) $1,000; or

"(B) less than the amount the holder paid for the use of the site on January 1, 1993, the holder shall pay the greater amount until such time as the fee charged under the schedule equals or exceeds the amount charged on January 1, 1993.

"(5) ADDITIONAL USERS.—In the case of a television or radio communications site—

"(A) if a holder is permitted under the terms of the site use authorization to grant access to the site to users other than the holder, the Secretary concerned shall charge an annual fee in an amount equal to 25 percent of the gross income the holder receives from additional users during each year;

"(B) each site use authorization shall require the holder to provide to the Secretary concerned a certified list identifying all additional users of the site and gross revenues received from each additional user; and

"(C) additional users shall not be required to obtain separate authorization to use the site.

"(6) TRANSLATOR STATIONS.—The Secretary of the Interior, with respect to public lands administered by each of its internal bureaus, including the Bureau of Land Management, shall establish and collect an annual fee for the use of television translator stations and FM translator stations located on public lands, in accordance with the regulations governing the collection of such fees on National Forest System land administered by the National Forest Service of the Department of Agriculture.

"(7) REGULATIONS.—The Secretaries shall promulgate and implement appropriate regulations to carry out this section. The regulations shall implement consistent policies and procedures between the Department of Agriculture and the Department of the Interior.

"(8) ADVISORY GROUPS.—

"(A) ESTABLISHMENT.—Not later than 10 years after the date of enactment of this section, the Secretaries shall establish a broad-based advisory group for each of—

"(i) the television and radio broadcast industries; and

"(ii) the commercial mobile radio industry.

"(B) MEMBERS.—The members of each advisory group shall include representatives from the relevant communications industries.

"(C) DUTIES.—The advisory groups shall review the fee schedule and other criteria for determining fair market value for the use of communications sites on public land.

"(D) REPORT.—Not later than 1 year after the date on which the advisory groups are established under this paragraph, the advisory groups shall report their findings to Congress.

"(c) ADVISORY COMMITTEE FOR PRIVATE RADIO COMMUNICATIONS SITE USERS.—

"(1) ESTABLISHMENT.—The Chief Forester of the National Forest Service and the Director of the Bureau of Land Management shall jointly establish a broad-based advisory committee. The advisory committee shall be comprised of an equal number of representatives from—

"(A) private radio communications site users from public and private communications sites;

"(B) the National Forest Service; and

"(C) the Bureau of Land Management.

"(2) DUTIES.—The advisory committee shall—

"(A) review recommendations for acceptable criteria for determining fair market values and next best alternative uses;

"(B) review existing methodology for determining fair market value and next best alternative uses;

"(C) assess the validity of the methodology, taking into account all reasonable alternatives; and

"(D) evaluate and recommend appropriate fee waivers or discounts for public services by communications site users who provide for the public convenience, interest, and necessity, as required for licensing under the Communications Act of 1934.

"(3) REPORT.—Not later than 8 months after the date of enactment of the Equitable Communication Site Fee Act of 1994, the advisory committee shall report its finding to

the Committees on Appropriations of the Senate and the House of Representatives.".

Mr. DECONCINI. Madam President, I rise today to join Senator CRAIG, and others in sponsoring the Equitable Communications Site Fee Act of 1994. I commend the distinguished Senator from Idaho for his diligence in developing and introducing this very important legislation. For over 8 years, Congress and the Federal agencies have been working to resolve the issue of what constitutes fair market value for communication sites on public lands administered by the Bureau of Land Management and the Forest Service.

In 1992, the Appropriations Committee established an 11 member advisory committee to study this important issue and make recommendations. This committee was appointed jointly by the Secretaries of Agriculture and Interior and represented a broad spectrum of experts from Government agencies, private industry, an appraiser, and representatives from the BLM and the Forest Service. The report was finalized in December 1992. The advisory committee made a number of valuable recommendations to implement a fee structure that would reasonably increase communication site fees on public lands. Our bill would implement the recommended fee structure contained in the advisory committee's report.

Over the past 4 years, the administration has moved to increase the fees charged to broadcast and non-broadcast users of communication sites to reflect fair market value. Fair market value appraisals developed by the Forest Service proposed increases as high as 2,650 percent over current rates. Rate increases of this magnitude would drive many users of these sites out of the markets they serve, rural areas in particular. Moratoriums in the Interior Appropriations bill have prevented these huge rate increases, but this process is costing the Federal Government money every year.

Both broadcasters and non-broadcasters are willing to pay higher fees and are supportive of this bill. The bill provides limitations to the amount that fees can be adjusted during the first year for which the fee schedule is established. It also provides for annual adjustments to the fees based on changes in the Consumer Price Index with appropriate adjustment limitations for any given year. This will allow broadcasters and non-broadcasters to adapt to the new fee schedules in an orderly manner and minimize the impact to their operations.

Madam President, I urge my colleagues to support the Equitable Communication Site Fee Act of 1994, to raise communication site fees and resolve this longstanding problem.

Mr. BURNS. Madam President, I am pleased to cosponsor with my good friend and colleague Senator LARRY CRAIG and others, legislation to set fair broadcasting user fees on Federal lands.

As a former broadcaster and member of the Senate who takes a personal, active interest in national communications policy, I know first-hand how rural communities in Western States heavily rely upon local radio and television broadcasting service.

Broadcasting service is not merely entertainment. More importantly and critically, its local news, weather, public service, farming and ranching news, high school sports events, and so forth—all provided free to the public and vital to a community's proper functioning.

The best sites for broadcasting transmitters in Western States dominated by mountainous terrain are mountain tops which often are on Federal lands.

Mountain transmission ensures that broadcast signals have clear reception. Broadcasters, in most cases, have no other choice but to build their towers on mountains in order to reach and serve their community of license.

These mountains are owned primarily by the Federal Government and managed either by the U.S. Forest Service or the BLM. At the same time, these sites are good for little other than broadcast towers or sheep grazing.

All sides recognize that increases in rental fees for these Federal sites are appropriate. But the agencies need to balance fair return for these rentals with a recognition of the vital, free public service provided by the broadcast site lessors.

That fairness and balance has been lacking to date in the proposed unfair, unjustifiably high increases by agencies. That is why Congress has blocked these increases for 5 years in a row, and why Congress established an advisory group to develop recommendations for a fair resolution of this issue.

This bill simply codifies into law the recommendations of the advisory group which appears to me to be fair, reasonable, and sound solution.

The advisory group recommends a fee schedule, which is much easier to implement than individual site appraisals. The schedule reflects the public service that these broadcast stations provide, and reflects appropriate distinctions between fees for radio and television stations. The schedule would provide for substantial increases in the monies the Federal Government would receive from these sites.

Congress cannot support any proposal that merely seeks to raise the most money possible from these broadcasters, who are providing vital service to their local communities. The advisory group recommendations are sound, and I believe that this Congress should codify them and put this contentious issue to rest.

Mr. HATCH. Madam President, I rise today to express my support for the Equitable Communication Site Fee Act of 1994 introduced by my colleagues, Senators CRAIG, DOMENICI, WALLOP, and DECONCINI and others. Adoption of this legislation will finally, and fairly, address the ongoing issue of assessing an equitable fee increase for the use of communication sites on public lands.

The issue of charging a fee to broadcasters and nonbroadcasters who use sites on lands administered by the Bureau of Land Management [BLM] or the U.S. Forest Service [USFS] is critical to Utah. In fact, the directive prohibiting these agencies from assessing a dramatic increase in these fees was first proposed in 1987 by my former colleague, Jake Garn, and similar language has been adopted by this body every year since then.

This yearly discussion on this issue led to the creation in 1992 of the Radio and Television Broadcast Use Fee Advisory Committee composed of individuals representing Federal, State, and local governments, and private or commercial interests in the communications area. I am pleased to note that Mr. Kent Parsons from Monroe, UT, was a member of that committee. The legislation we are introducing today will implement the committee's report and address other modifications for nonbroadcast users.

The prime sponsors have discussed the legislation in detail, so I will not repeat what has already been stated. But, I would like to briefly indicate for my colleagues why the solution contained within this legislation is so critical to Utah.

Utah is home to one-tenth of the country's broadcast translators, representing a total number of approximately 100 locations. The large majority of these translators are located on public land managed by the BLM and USFS. The primary purpose for these translators is to provide radio and television signals emanating from the heavily populated Wastach Front to the rural areas of Utah. Without these translators, 20 percent of Utah's total population would be unable to access radio, television, or cable signals. Most people in our society take their access to radio and television for granted.

Those who own and operate our translators in Utah are key to keeping this portion of our population "plugged in," in many respects, with the day-to-day occurrences throughout the world. These owners are primarily nonprofit entities, such as municipalities, counties, or civic groups; commercial broadcasters, who lease very few sites throughout Utah, are heavily dependent on these nonprofit entities to operate and maintain the translators. If the fees to lease these sites increase dramatically, commercial broadcasters will be unwilling to pay the higher rent required by the nonprofit groups to continue the annual operation and maintenance involved with the trans-

lator. It simply will not make economic sense to the commercial broadcast stations in our State to pay a huge amount for a service that only minimally expands its audience. The owners of the translators will be placed in an untenable situation, and will, more likely than not, be forced to discontinue operation of the translator.

There are also other benefits, other than commercial radio, television or cable broadcasts, that are received by our communities from these stations. For example, the translator station located on USFS land on Kaysville Peak, just north of Salt Lake City, provides a direct link between the Davis County School District administrative offices and the district's school buses. Without this station, the district's ability to communicate with individual buses and manage the daily bus system would be severely impaired, if not logistically impossible. The communications link provided by the Kaysville Peak translator is also a safety link for those transporting children on rural roads in bad weather. On a side note, this body recently adopted legislation I introduced to give Kaysville City the right to continue to operate and maintain this station, thus ensuring continue functioning of this radio link throughout the school year. For that, I thank my colleagues.

Most of Utah's translator operators recognize that an increase in the fees paid for access to Federal lands may be in order. But, a large increase implemented in a short period of time will have the effect I just described. An increase that is fair and that is incorporated over a sufficient time period is the right medicine to resolve this situation. The Utah Broadcasters Association has indicated their strong support for this legislation.

Madam President, the Salt Lake Tribune recently labeled Utah's translator system one of the most complex in the world, as "mountaintop hopscotch." I think it would be helpful for my colleagues in understanding this issue to describe how a signal moves from Salt Lake City to Henrieville, a city with a population of 126, which is located 272 miles south of Salt Lake City. As the newspaper reported, "the signal originates at the privately-owned transmitted tower sites in the Oquirrh Mountains west of Salt Lake City. It is picked up and boosted first at a site above Levan, then again at Monroe Peak in Sevier County—then onto a peak above Bryce Canyon National Park—then over to Henderson Rim in Garfield County—across to the City of Tropic—and into Henrieville."

If any one of these links is not operational, the system breaks down, and the signal will not make it to the residents of Henrieville. There are many other network examples, even more complex than this one, that demonstrate how crucial these translator stations are to communicating with our rural areas.

Since 70.2 percent of Utah's land is owned and managed by the Federal Government, there are very limited alternatives available to local governments and community groups on which to locate these stations other than on public lands.

As I mentioned, Mr. Kent Parsons from Monroe, UT, with considerable experience in communication sites in 10 western states over a 36-year period, served on the Radio and Television Broadcast Use Fee Advisory Committee. He indicated in a letter to me last year that the committee's report, which is the basis for Senator CRAIG'S legislation, achieved "the best solution to a very complex and controversial fee increase proposal." He went on to say that the committee spent considerable time—approximately 65 hours of meetings—to arrive at a consensus fee increase proposal that was "not only fair, but also reasonable." Mr. Persons closed his letter by stating that any effort moving away from the committee's fee proposal would be tantamount to "taking us back to square one" on this issue.

I agree wholeheartedly with Mr. Parsons, which is why I am strongly supporting the fair, reasonable, and workable solution outlined in this legislation. I commend my colleagues for their work on this issue. In particular, my good friend from Idaho, Senator CRAIG, has shown tremendous leadership in putting the advisory committee's proposal formally before this body.

I encourage my colleagues to review the product of the committee and to support this legislation that embodies its recommendation.

By Mr. SPECTER:

S. 2107. A bill to authorize the appointment of an additional bankruptcy judge for the eastern district of Pennsylvania; to the Committee on the Judiciary.

EASTERN DISTRICT OF PENNSYLVANIA BANKRUPTCY JUDGESHIP ACT OF 1994

Mr. SPECTER. Mr. President, I am introducing legislation today to authorize the creation of a new bankruptcy judgeship for the eastern district of Pennsylvania. This measure follows on a recommendation by the Judicial Conference of the United States, after a careful review of the bankruptcy caseload in the district, to create a new bankruptcy judgeship there.

From 1961 to 1991, there were three bankruptcy judges in the eastern district of Pennsylvania. During this period, bankruptcy filings in the eastern district increased 1,630 percent. In 1991, in order to address the caseload crisis in the court, I introduced legislation to create an additional bankruptcy judgeship in the eastern district. I subsequently introduced a second bill to authorize the creation of two new bankruptcy judgeships for the district, to bring the number of bankruptcy judges there to five. That legislation was incorporated into broader legislation, creating 32 new bankruptcy judgeships nationally, that was enacted in 1992. Despite the adoption of this legislation authorizing two additional bankruptcy judgeships for the eastern district, the positions were not funded and filled until late in 1993.

The same circumstances that led to the creation of the two additional bankruptcy judgeships in 1992 are present again. Information provided to me by the eastern district reflects a need for the creation of additional bankruptcy judgeships.

In the 4-year period ending September 30, 1993, bankruptcy filings in the eastern district increased 42.9 percent, from 8,258 cases in fiscal year 1990 to 11,800 cases in fiscal year 1993. During the same period, the number of chapter 11 business reorganization filings increased from 257 in fiscal year 1990 to 377 in fiscal year 1993, an increase of 46.7 percent. The number of chapter 11 filings is particularly relevant because these filings require a substantial amount of judicial time. The number of chapter 13 filings for this period greatly exceeded the national average.

The eastern district has also informed me that its bankruptcy judges face one of the most complex caseloads of any bankruptcy court in the country. The weighted caseload for the eastern district is substantially higher than the national average. The weighted caseload is a means developed by the judiciary to measure the complexity of cases; it assigns a larger number to more complex cases that take more time than routine matters. During fiscal year 1992, the eastern district had a weighted caseload of 1,969 case-related hours per judge compared with the national average of 1,437 case-related hours per judge. These figures indicate that the bankruptcy judges in the eastern district handled a weighted caseload that was 37 percent higher than the national average. Even after the recent creation and filling of the two new judgeships, the eastern district has the fifth heaviest weighted bankruptcy caseload in the Federal judicial system.

In September 1993, in response to the ever-increasing bankruptcy caseload in the eastern district of Pennsylvania, the judges of the eastern district recommended that additional bankruptcy judgeships for the district be created. The Judicial Conference of the United States, acting pursuant to this recommendation, has recommended the addition of a new bankruptcy judgeship in the eastern district. In the opinion of the Federal judiciary, therefore, the creation of a new bankruptcy judgeship for the eastern district of Pennsylvania

is vital to the continued functioning of the Federal judicial system in the 10 counties in eastern Pennsylvania.

After reviewing information submitted to me by the eastern district, I agree that the need exists for the creation of a new bankruptcy judgeship in the eastern district of Pennsylvania to address the increased caseload and cure the disparity in weighted caseload between the eastern district and bankruptcy courts in the rest of the Nation. Accordingly, I am introducing legislation to authorize the creation of a sixth permanent bankruptcy judgeship in the eastern district of Pennsylvania. I hope that this legislation will be swiftly considered and adopted by the Congress.

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

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

S. 2107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL BANKRUPTCY JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

Section 152(a)(2) of title 28, United States Code, is amended in the item relating to the Eastern District of Pennsylvania by striking "5" and inserting "6".

By Mr. ROTH:

S. 2108. A bill to express U.S. policy with respect to the North Atlantic Treaty Organization; to the Committee on Foreign Relations.

NATO REVITALIZATION ACT

Mr. ROTH. Mr. President, I arise today to introduce the Roth-Hyde bill on the expansion of the North Atlantic Treaty Organization. I send a copy of the bill to the desk.

Last January, President Clinton met with the political leaders of NATO's other 15 member nations. Many of us had hoped that from that meeting would come a proposal to allow Central European democracies which aspired to NATO membership to join our alliance.

In the event, no such clear proposal emanated from the Brussels summit and the Senate subsequently spoke out in favor of expanding the alliance by passing the McConnell amendment to the State Department authorization bill by a voice vote of 94 to 3.

Instead of proposing an immediate expansion of NATO, the alliance's political leaders issued an invitation to all members of the former Warsaw Pact, all CIS member states and all traditionally neutral nations to join the so-called Partners for Peace Program.

Under the aegis of this program, applicants would negotiate agreements with NATO Headquarters, agreements which would allow them to undertake a variety of cooperative undertakings with NATO's Armed forces, the exact nature of these undertakings varying with the capabilities of the different applicants.

The Partners for Peace initiative does not, contrary to many commentators, contradict the need to expand NATO. To the contrary, in issuing the invitation to join the initiative, NATO leaders specifically stated and reserved to themselves the right to expand the alliance's membership.

I would like to say to my colleagues who, like me, support alliance expansion that we should support Partners for Peace. Any NATO expansion initiative which permits three of four Central European nations to enter the alliance will leave several disappointed, rejected governments in Eastern Europe. Consequently, any initiative to expand NATO into Central Europe will have to be accompanied by some sort of NATO outreach program in Eastern Europe.

That program would demonstrate that, while some states are regarded as unready for full NATO membership, the alliance wishes to cooperate with them and to assist them in their endeavors to consolidate their democracies. Partners for Peace is such a program. In my opinion, if handled properly, it can provide that broad context within which a narrower, prudent expansion of NATO can take place.

My colleague, Congressman HYDE, and I are introducing our bill because we both believe that the serious work which will stem from the Partners for Peace initiative has not yet been undertaken. Now it is time to put some flesh on the bare bones of this initiative.

Most notably, the Clinton administration has made no effort to establish the relationship between Partners for Peace and alliance expansion. What criteria should applicants be expected to meet, what milestones should they pass, under the aegis of this program, that will make them eligible for full alliance membership? If Partners for Peace is to live up to its potential, these questions must be answered.

Consequently, the bill which Congressman HYDE and I are introducing calls upon the Clinton administration to initiate a fleshing out of Partners for Peace, one which will lay down clear criteria of alliance expansion and thereby clarify the path which those who seek membership in the alliance must take.

Mr. President, when the Partners for Peace proposal was first aired, there were allegations both that the Clinton administration had formulated the initiative simply in order to sidestep the alliance expansion issue and that it had resolved to make that sidestep maneuver because the Russian Government was opposed to NATO expanding into Central Europe. I sincerely hope that these allegations are false. NATO policy should be made in Washington, DC, and in the other 15 alliance capitals.

That policy cannot and should not be made in Moscow. The Russian authorities have absolutely no right to aspire to a zone of influence in Central Europe. The governments of that region are sovereign entities, signatories to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and, as such, they have the right to join any alliance or international organization they wish, free from external pressure.

If the Clinton administration did think that Partners for Peace would allow it to sidestep the expansion question, it was mistaken. Those nations who wish to join NATO genuinely feel that they need alliance membership and they will continue to press their applications. We will be able to test the administration's commitment to NATO by seeing how it responds to this initiative.

If it is not fully committed it will allow the matter to languish and it will put little U.S. effort into making Partners for Peace a going concern. If, on the other hand, it is committed, it will build on the initiative, playing a leading role in cooperative military undertakings with Partners for Peace members while, simultaneously, telling us all how the initiative relates to NATO expansion and how it can be sued to facilitate the entry into the alliance of those nations who can legitimately aspire to alliance membership.

Mr. President, no American, I am sure, wishes to repeat the experience we have undergone twice this century; no one wishes to fight another war in Europe. But the history of the last 40 years has clearly demonstrated that conflict is best avoided if would-be aggressors are deterred rather than ignored. NATO stood together and deterred the Soviet Union from launching its long-planned invasion of Western Europe.

Surely, we now must recraft NATO so that it can deter the host of lesser, but nonetheless serious, threats to stability and to our interests in Europe. Thus the peace can be kept and conflict of the type we now see in Bosnia avoided. I sincerely believe that adoption of the Roth-Hyde bill will constitute a useful step in this direction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NATO Revitalization Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) for over 40 years, the North Atlantic Treaty Organization has helped guarantee the security, freedom, and prosperity of the United States and our partners in the alliance;

(2) the North Atlantic Treaty Organization has expanded its membership on 3 different occasions since its founding in 1949;

(3) the steadfast and sustained commitment of the member countries of the North Atlantic Treaty Organization to mutual defense against the threat of communist domination played a significant role in precipitating the collapse of the Iron Curtain and the demise of the Soviet Union;

(4) in the place of that threat, new security threats are emerging to the shared interests of the member countries of the North Atlantic Treaty Organization;

(5) although these new threats are more geographically and functionally diverse and less predictable, they still imperil shared interests of the United States and our North Atlantic Treaty Organization allies;

(6) Western interests must be protected on a cooperative basis without an undue burden falling upon the United States;

(7) the North Atlantic Treaty Organization is the only multilateral organization that is capable of conducting effective military operations to protect Western interests;

(8) the valuable experience gained from ongoing military cooperation within the North Atlantic Treaty Organization was critical to the success of joint military operations in the 1991 liberation of Kuwait;

(9) the North Atlantic Treaty Organization is an important diplomatic forum for discussion of issues of concern to its member states and for the peaceful resolution of disputes;

(10) admission of Central and East European countries that have recently been freed from Communist domination to the North Atlantic Treaty Organization could contribute to international peace and enhance the security of those countries;

(11) a number of countries, including the Visegrad countries (the Czech Republic, Hungary, Poland, and Slovakia) and the Baltic states (Estonia, Latvia, and Lithuania), have expressed interest in North Atlantic Treaty Organization membership; and

(12) in recognition of this interest, the "Partnership for Peace" proposal offers limited military cooperation to many European countries not currently members of the North Atlantic Treaty Organization, without establishing benchmarks or guidelines for eventual North Atlantic Treaty Organization membership.

SEC. 3. UNITED STATES POLICY.

It should be the policy of the United States—

(1) to continue our commitment to and active leadership role in the North Atlantic Treaty Organization;

(2) to join with our North Atlantic Treaty Organization allies to redefine the role of the alliance in the post-Cold War world, taking into account—

(A) the fundamentally changed security environment of Central and Eastern Europe,

(B) the need to assure all countries of the defensive nature of the alliance and the desire of its members to work cooperatively with all former adversaries,

(C) the emerging security threats posed by the proliferation of nuclear, chemical, and biological weapons of mass destruction and the means to deliver them,

(D) the continuing challenges to the interests of all North Atlantic Treaty Organization member countries posed by unstable and undemocratic regimes harboring hostile intentions, and

(E) the dependence of the global economy on a stable energy supply and the free flow of commerce;

(3) to urge the North Atlantic Treaty Organization to support the eventual expansion of alliance membership to European countries that meet appropriate standards, including—

(A) shared values and interests,

(B) democratic governments,

(C) free market economies,

(D) civilian control of the military,

(E) adherence to the values, principles, and political commitments embodied in the Helsinki Final Act of the Conference on Security and Cooperation in Europe, and

(F) commitment to further the principles of the North Atlantic Treaty Organization and to contribute to the security of the North Atlantic area;

(4) to urge the North Atlantic Treaty Organization—

(A) to extend membership to countries that meet the standards set forth by the North Atlantic Treaty Organization, and

(B) to establish benchmarks and a timetable for eventual membership for selected countries in transition; and

(5) to affirm that North Atlantic Treaty Organization military planning should include joint military operations beyond the geographic bounds of the alliance under Article 4 of the North Atlantic Treaty when the shared interests of the United States and other member countries require such action to defend vital interests.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. ROCKEFELLER, Mr. BURNS, Mr. INOUYE, Mr. PACKWOOD, Mr. FORD, Mr. PRESSLER, Mr. BREAUX, Mr. BRYAN, Mr. ROBB, Mr. DORGAN, Mr. GLENN, Mr. BENNETT, Ms. MIKULSKI, Mr. HEFLIN, Mr. SHELBY, Mrs. FEINSTEIN, Mr. MURKOWSKI, and Mr. JEFFORDS):

S.J. Res. 187. A joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance"; to the Committee on the Judiciary.

NATIONAL APOLLO ANNIVERSARY OBSERVANCE

• Mr. HOLLINGS. Mr. President, this year marks the 25th anniversary of the historic *Apollo* 11 mission to the Moon. As chairman of the Committee on Commerce, Science, and Transportation, I am today introducing legislation to designate July 16–24, 1994, as "National Apollo Anniversary Observance." I would note that Congressman MINETA is introducing a companion resolution in the House of Representatives.

On July 16, 1969, America sent astronauts Neil Armstrong, Edwin (Buzz) Aldrin, Jr., and Michael Collins on a phenomenal voyage to the Moon. The world watched as these explorers traveled over 238,700 miles from the Earth to set foot on the surface of another world.

The mission to the Moon began in May 1961, when President Kennedy challenged the Nation to place a person on the Moon, and ensure the astronaut's safe return, by the end of the decade. With the flight of *Apollo* 11, the Nation accomplished this goal. On July 20, 1969, Neil Armstrong and Buzz Aldrin became the first humans to step onto the surface of the Moon while command module pilot Michael Collins orbited above.

As Michael Collins stated later in an address to a joint session of Congress,

We have taken to the moon the wealth of this Nation, the vision of its political leaders, the intelligence of its scientists, the dedication of its engineers, and careful craftsmanship of its workers and the enthusiastic support of its people.

We have brought back rocks, and I think it's a fair trade. For just as the Rosetta Stone revealed the language of ancient Egypt, so may these rocks unlock the mystery of the origin of the moon and indeed, even of our Earth and solar system.

The *Apollo* 11 mission to the Moon is one of the greatest achievements of our century. The *Apollo* 11 mission and subsequent missions to the Moon brought us closer to understanding the Earth and its relationship to other celestial bodies. It continues to inspire awe and wonderment, touching all cultures and each generation. The *Apollo* 11 mission not only opened the door to the future of human space flight, it broadened our perceptions of the human potential.

I encourage my colleagues to join me in cosponsoring this legislation to commemorate the 25th anniversary of our Nation's historic voyage to the Moon. I ask that the National Apollo Anniversary Observation joint resolution be reprinted in the RECORD.

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

S.J. RES. 187

Whereas President Kennedy in 1961 called upon the United States to face the challenge of those extraordinary times by sending a mission to the Moon;

Whereas the United States Government, the National Aeronautics and Space Administration, and the American people committed great resources time, and human labor within one decade to span the 238,700 miles between the Earth and the Moon;

Whereas the United States rose to the challenge and formulated the Apollo missions culminating in the liftoff on July 16, 1969, of the Apollo 11 Mission to the Moon;

Whereas 25 years ago astronaut Neil Armstrong, with the help of Colonel Edwin (Buzz) Aldrin, Jr. (USAF) and Lieutenant Colonel Michael Collins (USAF), took that first significant step and became the first human to set foot on the surface of another world;

Whereas that small step furthered the development of space technology for the lasting benefit of all mankind; and

Whereas such an event united the world and our many cultures for a brief moment under the flag of peaceful exploration: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 16, 1994, through July 24, 1994, is designated as "National Apollo Anniversary Observance", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 14, a bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

S. 30

At the request of Mr. ROTH, his name was added as a cosponsor of S. 30, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 293

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 293, a bill to provide for a National Native American Veterans' Memorial.

S. 600

At the request of Mr. BOREN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 600, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit.

S. 1030

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1030, a bill to amend chapter 17 of title 38, United States Code, to improve the Department of Veterans Affairs program of sexual trauma counseling for veterans and to improve certain Department of Veterans Affairs programs for women veterans.

S. 1514

At the request of Mr. COVERDELL, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1514, a bill entitled the "Guaranteed Deficit Reduction Act of 1993."

S. 1691

At the request of Mr. CONRAD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1691, a bill to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property used to control environmental pollution and for soil and water conservation expenditures.

S. 1704

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1704, a bill to amend the Immigration Reform and Control Act of 1986 concerning interim assistance to States for legalization (SLIAG).

S. 1805

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1822

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 1843

At the request of Mr. DOLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1843, a bill to downsize and improve the performance and accountability of the Federal Government.

S. 1974

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1974, a bill to authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform.

S. 2030

At the request of Mr. ROTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2030, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 2042

At the request of Mr. DOLE, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2042, a bill to remove the United States arms embargo of the Government of Bosnia and Herzegovina.

S. 2051

At the request of Mr. WARNER, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 2051, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 2061

At the request of Mr. BUMPERS, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2061, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 178

At the request of Mr. DOMENICI, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. D'AMATO], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Connecticut [Mr. DODD] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year".

SENATE JOINT RESOLUTION 183

At the request of Mr. ROTH, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution designating the week beginning May 1, 1994 as "Arson Awareness Week".

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 185

At the request of Mr. D'AMATO, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Arizona [Mr. DECONCINI], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate

Resolution 185, a resolution to congratulate Phil Rizutto on his induction into the Baseball Hall of Fame.

AMENDMENT NO. 1695

At the request of Mr. DOLE the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of Amendment No. 1695 proposed to S. 2042, a bill to remove the United States arms embargo of the Government of Bosnia and Herzegovina.

SENATE RESOLUTION 213—RELATIVE TO SENIOR POWER DAY

Mr. RIEGLE (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 213

Whereas Senior Power Day is a Michigan organization which annually brings together 4,000 to 8,000 senior citizens in order to educate them about issues concerning senior citizens and to communicate with Federal and State lawmakers about those issues;

Whereas Senior Power Day is officially recognized by the White House Conference on Aging;

Whereas on May 18, 1994, Senior Power Day again will gather at the State Capitol in Lansing, Michigan;

Whereas this year's gathering is the 20th such gathering;

Whereas the theme of this year's gathering is "Senior Power: Celebrating 20 Years of Effective Advocacy";

Whereas as part of this year's gathering, Senior Power Day will host a hearing of the Special Committee on Aging of the United States Senate; and

Whereas Senior Power Day advocates issues of concern to citizens of all ages and has emphasized the need to adopt a national health insurance plan and has stressed the intergenerational benefits of adequate health care, long-term care, and school reform: Now, therefore, be it

Resolved, That it is the sense of the Senate that May 18, 1994, should be recognized as "Senior Power Day".

AMENDMENTS SUBMITTED

HEALTH SECURITY ACT

BINGAMAN AMENDMENT NO. 1697

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill (S. 1779) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; as follows:

On page 14, line 22, add after the period the following new sentence: "An eligible health care provider shall be compensated for health care services provided to an undocumented alien if such services are determined by the Secretary to be essential health services under subtitle I of title III.".

On page 15, line 14, add after the period the following new subsection:

"(d) PUBLIC HEALTH.—Upon application by a state, in a form and manner designated by the Board, the Board may make eligible to obtain the comprehensive benefits package, individuals described in subsections (a), (b), and (c) and regulate the nature of the eligibility of such individuals, to preserve the public health of communities while inhibiting travel and immigration to the United States for the sole purpose of obtaining health care services."

On page 577, between lines 8 and 9, insert the following new subtitle:

Subtitle I—Border Health Improvement

SEC. 3801. SHORT TITLE.

This subtitle may be cited as the "Border Health Act of 1994".

SEC. 3802. FINDINGS.

Congress finds the following:

(1) The cost of health care in the United States has reached extreme proportions, accounting for 1/7 of our economy and more than 14 percent of our Nation's gross domestic product. In 1992, United States health care spending totaled $823,000,000,000.

(2) It is estimated that 37,400,000 Americans are currently without health insurance.

(3) A serious and growing problem of uncompensated health care exists along the international border of the United States and Mexico.

(4) Increased movement across the border of United States and Mexico, rapid population growth, poverty, and the lack of a health care infrastructure contribute to the severity of this problem.

(5) Recent economic changes, including the passage of the North American Free Trade Agreement, will further stress this region.

(6) The Federal Government is charged with the responsibility of mediating problems that arise along our international borders.

(7) The cost of care provided to undocumented individuals has placed an undue burden on the hospitals, health clinics, other health facilities, and providers delivering medical services in the United States along the United States-Mexico border.

(8) The responsibility for funding health care services provided to undocumented individuals along the United States-Mexico border should rest with the Federal Government. Currently the disproportionate share of that burden is born by States.

(9) Without an increase in Federal security at the border, and in a time of significant economic development in that region, the number and cost of cases of uncompensated care will not be reduced over the coming years.

(10) Because of the excessive cost of this problem and the Federal Government's responsibility to address these issues, a mechanism for direct provider reimbursement of the cost of care provided to undocumented individuals should be developed by the Federal Government.

SEC. 3803. PURPOSE.

It is the purpose of this subtitle to establish a mechanism through which the Secretary will reimburse health care providers for specific care provided to undocumented individuals along the United States-Mexico border.

SEC. 3804. DEFINITIONS.

As used in this subtitle:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission established under section 3806.

(2) ELIGIBLE HEALTH CARE PROVIDER.—The term "eligible health care provider" means those providers delivering essential health services (as defined in this section) within the United States-Mexico Border Area (as defined in this section).

(3) ESSENTIAL HEALTH SERVICES.—The term "essential health services" means

(A) emergency care (as defined under section IX of the Consolidated Omnibus Budget Reconciliation Act of 1985);

(B) public health services, including immunizations, intended to prevent or treat communicable diseases; and

(C) family planning services.

(4) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. Such term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(5) RESIDENT ALIEN.—The term "resident alien", when used in reference to a country, means an alien lawfully admitted for permanent residence to the United States or otherwise permanently residing in the United States under color of law (including residence as an asylee, refugee, or parolee).

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(7) UNDOCUMENTED INDIVIDUAL.—The terms "undocumented individual" and "the undocumented" means an individual not lawfully admitted for permanent residence to the United States and not otherwise permanently residing in the United States under color of law.

(8) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

SEC. 3805. PROVIDER COMPENSATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a provider compensation program under which the Secretary will implement a procedure for reimbursing health care providers for essential health care services provided to undocumented persons who are not eligible for coverage under section 1005. Such a program shall include—

(1) procedures for determinations by the Secretary that health care services provided to undocumented individuals are essential health services for which reimbursement under this subtitle is available;

(2) the establishment of a fee schedule with respect to such reimbursements that is based on the Medicare Disproportionate Share Hospital formula; and

(3) the provision of reimbursements to health care providers directly or through a contract with an intermediary.

(b) ESSENTIAL SERVICE REQUIREMENTS.—

(1) IN GENERAL.—Reimbursement under this subtitle may not be provided for health care services that are provided to undocumented individuals if such services do not qualify as essential health services.

(2) STATE REIMBURSEMENT.—The provision of Federal funds for the purpose of providing reimbursements under this subtitle shall not preclude States from providing reimbursements using State resources.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section, $600,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2000.

SEC. 3806. BORDER HEALTH COMMISSION.

(a) ESTABLISHMENT.—The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

(b) DUTIES.—It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to develop and implement a comprehensive plan for carrying out the actions recommended by the needs assessment through—

(A) assisting in the coordination of public and private efforts to prevent potential health problems and resolve existing health problems,

(B) assisting in the coordination of public and private efforts to educate the population, in a culturally competent manner, concerning such potential and existing health problems; and

(C) developing and implementing culturally competent programs to prevent and resolve such health problems and to educate the population, in a culturally competent manner, concerning such health problems where a new program is necessary to meet a need that is not being met through other public or private efforts; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private person in the other country for the cost of a health care service that such person furnishes to a citizen or resident alien of the first country who is unable, through insurance or otherwise, to pay for the service.

(c) OTHER AUTHORIZED FUNCTIONS.—In addition to the duties described in subsection (b), the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private persons who act to prevent or resolve such problems or who educate the population concerning such health problems.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(A) The Secretary of Health and Human Services or the Secretary's delegate.

(B) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(C) Two individuals residing in the United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals—

(i) who have a demonstrated interest or expertise in health issues of the United States-Mexico Border Area; and

(ii) whose name appears on a list of 6 nominees submitted to the President by the chief executive officer of the State where the nominees resides.

(2) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(3) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States—

(A) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

(e) REGIONAL OFFICES.—The Commission should designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's governor and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

(f) REPORTS.—Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for payment of the United States share of the expenses of the Commission, such sums as may be necessary.

• Mr. BINGAMAN. Mr. President, last fall, President Clinton set forth several specific goals for the Nation when he presented the Health Security Act. Over the past several months, three goals have emerged as the most important: universal health coverage for all Americans; cost containment; and quality health care. Very shortly, the members of the Senate Labor and Human Resources Committee, of which I am a member, will be discussing these goals in great detail.

Today, I would like to focus the attention of my colleagues on one specific aspect of comprehensive health care reform: the very serious and growing health problems being experienced along our international border with Mexico. This is an issue of tremendous concern to me, as a New Mexican, but it should be of concern to all of us. Developing solutions will require that we work together, in a bipartisan and binational manner, toward common goals.

I was born a short distance from the United States-Mexico border, and I grew up in Silver City, a small New Mexico town less than 90 miles north of the border. My father still lives there today.

Over the years, I have seen the border area change and grow. The over-developed environments of the Texas, Arizona, and California borders have been seriously degraded by water and air pollution from unregulated industries, widespread lack of sanitation facilities, toxic waste and other ground contaminants, and rapidly growing populations. Today, the threats these hazards pose are spreading. No longer are these problems exclusive to a geographic region or a State. Disease and death do not know political boundaries. They threaten all of us, Americans and Mexicans alike.

I have seen the problems first-hand, and I know we face an enormous task. I also know that our task will grow in urgency and importance as the United States and Mexico continue to open their borders and the NAFTA agreement is implemented. For these reasons, I am committed to seeing that this amendment is part of the Senate's health care reform effort.

New Mexico's border region is one of the State's fastest growing areas. Dona Ana County, our State's most populous border county, grew by 40 percent between 1980 and 1990. It is projected to grow another 30 percent before the year 2000. Despite this rapid growth, or perhaps because of it, New Mexico's border region is one of the poorest areas of the State and the Nation. Dona Ana County has been ranked as the 10th poorest county in the Nation, in terms of per capita income. Of the county's total population, 56 percent are Hispanic. More than one-third of them live below the poverty line.

These statistics alone would force tremendous stress on the health care infrastructure of any region. But the residents of Dona Ana County and the rest of New Mexico face another serious challenge: they, along with the people of Texas, Arizona, and California, are on the front line of our country's environmental and health problems. Local hospitals and health clinics are being crippled by the burden of uncompensated health service delivery to undocumented people who reside illegally in the United States or cross the border to receive health care.

The amendment I am filling today places the financial responsibility for

providing care to undocumented immigrants in border regions where it rightfully should be, with the Federal Government, rather than the States. It also incorporates the concept of a binational Border Health Commission, which I introduced as S. 1229 last summer.

Through this amendment, the Secretary of Health and Human Services would be required to establish a provider compensation program to reimburse providers for essential health services they provided to undocumented individuals. These services include: emergency care, as defined under title X of COBRA 1985; public health services intended to prevent or treat communicable disease; and family planning services. The Secretary would establish fee schedules for these services, based on the Medicare disproportionate share hospital formula, and develop a method for providing payment.

In conjunction with the Federal compensation program, a Border Health Commission would be established through this amendment. The concept for the commission grew out of a 1991 border health conference sponsored by the Texas Medical Association. At that time, the medical societies of the border States—Texas, New Mexico, Arizona, and California—made a commitment to draft legislation that would lay the groundwork for a high-level, Binational Commission, which would work in coordination to protect the health and well-being of the residents of both countries.

In July 1993, Representative RON COLEMAN introduced the Border Health Commission Act in the House of Representatives. At the same time, I, along with Senators MCCAIN, and SIMON, introduced S. 1225, the Border Health Commission Act, making the commitment of the border area medical associations a reality. I remain committed to the concept of the Commission and, as I stated earlier, have included those provisions in this amendment today. The Commission's key duty would be to develop a comprehensive long-term plan of action to target the border health problem.

Mr. President, with this amendment, we have the opportunity to assess our border problems in the proper framework. We also have the opportunity in New Mexico to create a model for developing comprehensive solutions to these serious binational problems. We have a lot of work ahead of us, but together, with a common plan and common goals, I believe we can make great strides in addressing the health problems of our Nation's southern border.•

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on prepayment penalties for Sec. 503 Development Company Loans and on the status of the Sec. 504 Development Company Loan Program. The hearing will be held on Tuesday, May 17, 1994, at 10:00 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, deputy staff director of the Small Business Committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, May 11, 1994, at 10 a.m., in SR-332, on the administration's crop insurance proposal.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. 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 Wednesday, May 11, beginning at 10 a.m. to conduct a hearing on discrimination in homeowners insurance.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on May 11, 1994, at 10 a.m. on S. 1822 and the electric utilities' entry into telecommunications.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, May 11, at 10 a.m. to hold a hearing on the international convention on the elimination of all forms of racial discrimination—Ex. C, 95-2.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session on May 11, 1994, at 10 a.m. to consider S. 1981, the Orphan Drug Act Amendments of 1994; S. 784, Dietary Supplement Health and Education Act of 1993; and the pending nominations of Marca Bristo and Kate Pew Wolters, to be members of the National Council on Disability; Patricia Ann Brown, Ira Ronald Feldman, Barbara Wallace Grossman, and Leo O'Donovan, to be members of the National Council on the Arts; and Fred Garcia to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

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

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, May 11 beginning at 9:30 a.m., to conduct a hearing to discuss the possible health effects to nonsmokers of environmental tobacco smoke.

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

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION AND INDUSTRIAL BASE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Technology, Acquisition, and Industrial Base of the Committee on Armed Services be authorized to meet on Wednesday, May 11, 1994, at 10 a.m., in open session to receive testimony on the technology reinvestment program of the Department of Defense in review of the defense authorization request for fiscal year 1995 and the future years defense program.

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

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet at 2:00 p.m. on Wednesday, May 11, 1994, in open/closed session, to receive testimony on the Ballistic Missile Defense program in review of the defense authorization request for fiscal year 1995 and the future years defense program.

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

ADDITIONAL STATEMENTS

WORLD ROWING CHAMPIONSHIPS

• Mr. COATS. Mr. President, I am pleased that my colleagues have acted so quickly to pass legislation to suspend the duty temporarily on equipment necessary for athletes competing in the 1994 World Rowing Championships.

The world championships have occurred annually since 1893; however, the United States has never played host to the event until this year. I am delighted that Indianapolis will be hosting this great event at the beautiful Eagle Creek Reservoir. The world

championships will run from September 11 through September 18, 1994. Over 1,000 athletes representing more than 40 nations will compete in 23 events. Indeed, it will be the premiere event to prepare rowers for the 1996 Olympics.

Rowing has a long history in America. The first intercollegiate competition was a rowing event between Yale and Harvard in the late 1800's and it quickly caught on as a great spectator sport. The tradition continues today with events such as the "Head of the Charles" which attracts thousands of spectators each year.

It was my pleasure to support this legislation which has become part of an omnibus event duty-free bill. Although this bill includes other amateur competitions being held in the United States this decade, it is particularly important to rowing because of the amount of equipment required. Waiving the bond requirement for the equipment relieves the competing teams of an unnecessary expense and eases their entry into the United States.

I am looking forward to the 1994 World Rowing Championships and I invite all my colleagues, rowers and nonrowers, to come to Indianapolis for this exciting event.●

TO HONOR THE LANSDOWNE FIRE COMPANY ON ITS 100TH ANNIVERSARY

● Mr. WOFFORD. Mr. President, I rise today to honor the Lansdowne Fire Company of Lansdowne, PA, on its 100th anniversary.

On December 18, 1890, before Lansdowne Borough existed, fire destroyed a row of small wooden stores on the east side of South Lansdowne Avenue, north of the railroad tracks. On January 2, 1994, the borough contracted with the Lansdowne Water Co. for 12 fire hydrants. In early December 1894, concerned citizens organized the Lansdowne Fire Company. Elected were Joseph S. Van Sandt, president, and Joseph L. Lowden, fire chief. The first hand-drawn apparatus, a two-wheel hose reel, was housed in the three-story tank house of the Lansdowne Water Co., located behind 15 Madison Avenue.

The Lansdowne Fire Company was incorporated on November 9, 1897, by the Commonwealth court. This 1897 charter allowed the company to own real and personal property "provided that the clear yearly income or value of said real estate shall not exceed $20,000." They operated under the original charter until December 4, 1978, when a new corporate charter officially gave nonprofit status under all applicable Pennsylvania and United States—IRS—laws.

A permanent home was provided in the 1903 borough hall at 12 East Baltimore Avenue. A property they owned was contributed, and this was acknowledged by borough ordinances recognizing the Lansdowne Fire Company, conveying tenancy of its quarters, and granting an annual appropriation of $200.

Given larger facilities, horse-drawn apparatus was added by a ladder wagon in 1904 and a chemical wagon prior to 1908. They never had horses. When the fire alarm sounded, a nearby stable would send a team and other teams going by were loaned for the duration of the emergency. In 1913, converting a horse-drawn hearse, they began one of the country's first ambulance services.

The Lansdowne Fire Company motorized prior to 1914 with an American La France chemical/booster truck which cost $7,500. Later, two 1925 American La France trucks were obtained, a 750-gallon-per-minute engine and a city-service ladder. Also in 1925, a motorized ambulance was purchased. The approximate cost of these three units was $30,000.

Fire Chief George A. Gowan was the first member whose life was sacrificed in the performance of fire-fighting duty. Chief Gowan succumbed from severe exposure to smoke, cold, and water on December 29, 1925. In 1928, an Autocar 250 g.p.m. booster truck was obtained. On August 21, 1937, they housed an Autocar 750 g.p.m. engine and in 1939, it was driven to the 1939 New York World's Fair.

Chief Walter L. Fraim became the second member to die in the line of duty on June 10, 1940. He may best be remembered for his blood-donor work, and a blood bank was named in his honor. A 1941 Buick ambulance went in service and the real threat of war gave first-aid training new priority. On January 14, 1942, a Mack city-service ladder replaced the 1925 ladder. Fifty-one members saw active duty in World War II. Those serving on the home front organized high school students as auxiliary junior firemen, some of whom later went into military service.

On April 12, 1944, the 50th anniversary was celebrated with a banquet. Lessons learned from the war gave greater importance to organized, standardized training. H. Newton Walls and Russel P. Wentzel, Sr., intensified ongoing efforts to train better and more effective firefighters, greatly raising morale and pride.

When peacetime truck production resumed, a new Mack 500 g.p.m. engine was housed on November 1, 1947. A 1949 blue Buick Ambulance replaced the 1941 unit. In 1953, the 1937 Autocar was rebuilt with a new pump and was recertified by the underwriters as a first line engine. In 1954, a Mack 750 g.p.m. engine replaced the 1928 Autocar booster. In 1956, a GMC-Christopher rescue truck replaced the ambulance and was one of the first emergency-only units in this area, taking patients to the closest hospital.

Assistant Chief G. William Joines died on November 22, 1961, from the onset of a heart attack at a working fire. The third member to be lost in the line of duty, he was also a Lansdowne Police Department sergeant. On June 17, 1961, they housed their first aerial ladder, an 85-foot cab-ahead Seagrave. A double housing occurred on August 26, 1967, a 1966 1,000 g.p.m. cab-ahead Seagrave replaced the 1947 Mack, and a 1966 International rescue truck costing $7,750 replaced the 1966 GMC-Christopher rescue.

On May 10, 1969, the 75th anniversary was observed with a large parade. Plectron tone-alerting radios were placed in service December 19, 1969. The first alert was for a working fire in Clifton Heights on Christmas morning. In 1972, the four 7th district companies hired Delaware emergency medical technician instructors to start local E.M.T. training as there was no Pennsylvania program yet.

A 1974 Chevrolet-Providence Body Co. modular rescue vehicle replaced the 1966 International. Carrying a Hurst "Jaws-of-Life" tool, it was called an Emergency Care and Rescue Unit. In 1975, a 1,500-g.p.m. enclosed-cab-ahead Hahn costing $60,000 was obtained, and this addition focused their attention on the need for a new station. The Hahn spent its first year at the Yeadon Fire House, prompting a group visitation to borough council. The result was the "tin shed" on the municipal parking lot and at last the Hahn was home in Lansdowne. On May 17, 1977, a bond issue for a new combination police, fire, and borough building was defeated at the polls, 1302 to 1143.

Norman D. Wilson, fire policeman, became the fourth member to die in the line of duty. He had a fatal heart attack while directing traffic at a collision on the infamous Marshall Road curve on January 20, 1979.

On November 2, 1982, a $500,000 new station bond issue passed by a 4-to-1 majority. On August 26, 1983, they gave a $61,739 check to the borough for the fifth bay to house the ambulance, electricity-saving skylights, and a station-wide fire sprinkler system. On October 4, 1986, a double housing and building dedication parade was held. A 1985 enclosed-cab-ahead Hahn-Fire Spire 100-foot aerial ladder costing $302,000 replaced the 1961 Seagrave aerial ladder. A 1984 Ford-Collins Ambulance replaced the 1974 Chevrolet rescue. The new station with 4 double bays and a single bay replaced the 1903 station and tin shed. The tin shed was torn down.

A 1991 Ford-Horton ambulance costing $85,000 replaced the 1984 unit and a 1989 used Chevrolet Caprice was purchased for use as a command car, rotating weekly between chiefs, and it is also used to transport members to fire schools and other events.

On September 26, 1906, the first ladies auxiliary was organized with 10 mem-

bers, and by 1914 had 35 members. The present ladies auxiliary was formed on May 5, 1952, and currently has 30 members.

Through the years, the Lansdowne Fire Company has helped other fire companies to get started. They lent a hand-drawn "spider" hose real to the Highland Park Fire Company in 1912, and a hand-drawn hose cart to the Cardington Fire Company in 1916. In 1955, the members Vincent J. Christi and Frank Z. Russel helped to found the Primos-Secane-Westbrook Park Fire Company, "Beans" Russel becoming the first chief. They also gave hose and equipment to various companies throughout history.

Mr. President, I am proud to honor the service of the Lansdowne Fire Company on its 100th anniversary, and I wish the company the best for the next 100 years.●

TRIBUTE TO JUDICIAL COURT COMMISSIONER HARRY HALLOWAY

● Mr. KOHL. Mr. President, today I rise to pay tribute to Milwaukee County Judicial Court Commissioner Harry Halloway. His many years of service to the city of Milwaukee demonstrate his true commitment to the community he calls home.

For years, Commissioner Halloway has carried out his duties in a fair and consistent manner, while showing compassion and understanding to those who come before him. With the hundreds of thousands of cases he has presided over, Commissioner Halloway deserves to be commended for his excellent record of administering justice in the highly efficient manner with which he goes about his profession.

Not only is Commissioner Halloway a credit to the community which he serves, but also a respected and dedicated family man who gives so much of himself for the benefit of others. Harry Halloway is truly someone the people of Milwaukee can appreciate for his many contributions to the community. With this in mind, I stand and wholeheartedly commend Milwaukee County Judicial Court Commissioner Harry Halloway for his career of dedicated public service.●

RETIREMENT OF MAYOR CHESTER W. GROBSCHNIDT

● Mr. KOHL. Mr. President, I rise today to honor an outstanding public servant, Mayor Chester W. Grobschnidt of South Milwaukee, WI. After 9 years as an alderman and 28 years in city hall, he retired from municipal government this April 18. Throughout Wisconsin, people consider his tenure one of the most successful in the State's history.

The citizens of South Milwaukee will attest to Mayor Grobschnidt's many contributions to their community. He has improved municipal services, including the city administration building and street department. South Milwaukee can now feel more secure with Mayor Grobschnidt's work on the city's fire fighting facilities and wastewater treatment center. Students and professionals alike can thank him for South Milwaukee's expanded library. The mayor also established the Chester A. Grobschnidt senior center in the city administration building for senior citizens' enjoyment and education. These are Mayor Grobschnidt's legacies; he is a tough act to follow.

I applaud the mayor for epitomizing good, effective municipal government. The residents of South Milwaukee will always remember fondly his qualified and stable leadership. I wish Mayor Grobschnidt a happy, well deserved retirement.●

TRIBUTE TO NATIONAL NURSING HOME WEEK

● Mr. LAUTENBERG. Mr. President, I rise today to call to the attention of the Senate the celebration of National Nursing Home Week from May 8 through 14, 1994.

National Nursing Home Week honors the tireless and unselfish work of those who serve our Nation's nursing homes. I proudly recognize the dedication and commitment these workers have to improving the lives of others. We must all honor the contributions these outstanding citizens perform.

Nursing homes across the Nation provide our citizens with services that make up an integral part of our health care system. One example of the many facilities that provide such top quality care to its residents is the Plaza Nursing and Convalescent Center, located in my homestate of New Jersey.

Let us all salute and applaud the efforts made by those who work in nursing homes as we celebrate this very special week.●

STREATOR, IL, AN ALL-AMERICAN CITY

● Mr. SIMON. Mr. President, I want to take this opportunity to congratulate the city of Streator, IL, on being selected as 1 of 30 finalists in the 1994 All-American City Award competition. Streator has the proud distinction of being the only Illinois city to be represented in this prestigious competition, which is sponsored by the National Civic League.

The people of Streator have consistently demonstrated a strong sense of civic pride and involvement, with community volunteers often spearheading their efforts. For example, over 10,000 volunteer hours were devoted to preparing and organizing the 1993 Streatorland quasi-centennial celebration. In addition, the city raised over $355,000 for the construction of an industrial park to expand Streator's economic base. In an effort to involve local citizens in community planning, over 100 people have come together to develop a strategic plan for Streator's future.

As far as I am concerned, Mr. President, Streator is already an All-American city. I salute the fine people of Streator and wish them every success in this competition.●

VISTA: 30 YEARS OF SERVICE TO AMERICA

● Mr. SIMON. Mr. President, I was pleased to read Colman McCarthy's recent article in the Washington Post entitled "VISTA at 30: Quietly Thriving." VISTA—Volunteers in Service to America—has a rich and commendable history. Started in the sixties, VISTA has been quietly lifting hopes and changing people's lives for the better for the last three decades.

My home State of Illinois has a strong VISTA connection. Currently we have more than 160 VISTA volunteers serving in 23 projects in urban and rural communities throughout Illinois. We take pride in VISTA's service and recognize the commitment these volunteers have to their community and their country.

VISTA is thriving in community health centers, Head Start programs, literacy programs, neighborhood centers, community development corporations and in housing projects across the country. At Literacy Volunteers of America in Chicago, VISTAs are recruiting volunteer tutors, organizing community support for local literacy programs and developing a bilingual tutor training program. The VISTAs of the Contact Ministries program in Springfield, IL, have established a shelter and housing program, provide food and other necessities to over 9,000 low-income individuals and are developing innovative educational programs to help 200 individuals affected by substance abuse. Starting in June, a new team of VISTAs will be placed in rural areas of southern Illinois with the Illinois Coalition for Community Services to address the issues of illiteracy and unemployment through the development of youth-focused educational activities and job training. In urban locations in Illinois, VISTAs will address the crime and gang problems through neighborhood organizing and positive youth leadership programs.

VISTA volunteers understand that the most valuable resources in low-income communities are the people who live and work there. VISTA taps into local resources, talent, and energy. Working to build local infrastructures, VISTAs help show communities that they are equipped to strengthen their own neighborhoods.

The impact of these quiet warriors against poverty has been felt in neigh-

borhoods and community based programs all across this country. The 30th anniversary of VISTA provides us a great opportunity to give VISTA and its volunteers the recognition they deserve. I encourage my colleagues to look at your own communities; you will be impressed with the contributions of VISTA volunteers to your part of the country. This is an occasion to salute both current and former volunteers, and to renew our own commitment to the fight against poverty in our Nation.

The article follows:

[From the Washington Post, May 3, 1994]

VISTA AT 30: QUIETLY THRIVING

(By Colman McCarthy)

HOUMA, LA.—Gratitude and respect are among the emotions Maia Bloomfield has felt this past year. She is a member of VISTA—Volunteers in Service to America—and came to this bayou community in southeast Louisiana after graduating last spring with a history degree from Minnesota's Carleton College. Bloomfield, who is 22 and a native of Bethesda, Md., where she was a student leader at Bethesda-Chevy Chase High School, has thrown herself wholeheartedly into Project Learn. It is an adult literacy program, funded by United Way and run by Catholic Social Services.

Bloomfield recruits tutors for Project Learn and sets up workshops to train low-income housing residents to tutor other residents. Two afternoons a week from 4:30 to 6:30 she helps 30 mostly black children with schoolwork and, lately, practice for a play about Harriet Tubman. She also works with food stamp recipients who need help with reading and writing.

Bloomfield's gratitude is for the chance to serve here, to have cultural and political ties to the Northeast but to be accepted by Houmans as if she were raised on gumbo soup, crawfish pie and the teachings of Kingfish Huey Long. Her respect is for the children and families she helps teach and organize—for not giving up and for believing in themselves. The teaching and learning flow both ways.

In Houma, where the economy is hurting because the local fishing and oil industries have been shaky, at best, in recent years, five VISTA volunteers are at work. Three were recruited locally and all work on literacy.

Each of the several Houma residents I spoke with who either supervise Bloomfield or work with her endorsed VISTA as a local treasure. It is that way nationally. This year is the 30th anniversary of the program, created as part of the Economic Opportunity Act. Among its sister programs also begun in the mid-1960s—Head Start, Job Corps, Legal Services, Upward Bound, Foster Grandparents—VISTA has been the retiring, unnoticed member of the family. How well is it known that more than 100,000 volunteers have served in 12,000 projects? Who is aware that 4,000 VISTAs are serving urban and rural communities in 50 states?

For a few perilous years in the 1980s, it appeared as if the program would not survive. Under Ronald Reagan's first budget, funding dropped nearly 50 percent. In 1981, which was Jimmy Carter's last budget, VISTA peaked at $30 million. By 1983, the year of Reagan's second budget, funding was $11 million. The ranks of volunteers declined from 4,200 to 1,700.

Before the plug was to be totally yanked, which was part of the larger Reagan plan to heighten the assault on the poor, the force of a minor miracle occurred: Friends of VISTA. This was a coalition of supporters and former volunteers—including Sen. John D. "Jay" Rockefeller IV (D-W.Va.), who served in West Virginia in the early days—who came together for the rarest of missions: protecting a government program from the outside from government attackers on the inside. The coalition had saved VISTA during the Nixon years, breathed easier under Carter and then mobilized for the Reagan wreckers.

Calm times—no, energized times—have returned. Last month, James Scheibel, a reflective liberal, the former mayor of St. Paul and now in the Clinton administration as the director of ACTION, the federal domestic volunteer agency, told a House subcommittee that next year's budget request for VISTA is $59 million. This is a deserved and needed increase of $16 million—or 39 percent—above the 1994 funding. This will allow an increase of more than 1,100 volunteers.

With Jim Scheibel leading VISTA in Washington and volunteers like Maia Bloomfield in Houma, the original promise of the program cannot help but thrive. In this rural Louisiana community, the spirit of self-help is strong, as it is in other areas of the country where volunteers are running or creating food banks, wastewater systems, cooperatives, for low-income farmers or anything else that fulfills what then-Gov. Bill Clinton said of VISTA volunteers in Arkansas: They "taught us about the importance and power of people building from within."

In Houma, or anywhere else, what other power matters as much?•

BEING ON THE FRONT LINE

• Mr. SIMON. Mr. President, earlier this week an article appeared in the Washington Post that described an ordinary day at MedSTAR unit, the medical shock trauma acute resuscitation unit in northwest Washington. As the recipient of potentially fatal gun shot victims, MedSTAR witnesses firsthand the crime and bloodshed that is taking place on our streets. I would ask that the article be printed for the RECORD.

[From the Washington Post, May 5, 1994]

THE TRAGIC HOLES IN PRO-GUN LOGIC

(By Steve Twomey)

Today, the House of Representatives will vote on whether to ban some assault weapons, and it's having a tough time deciding, hard as that may be to believe. Maybe Gage Ochsner can help the good congresspeople. He knows a lot about guns. More precisely, he knows bullets.

Ochsner, a trauma surgeon, sat yesterday a few feet from the room where he struggles to offset what the evil bullets do, although even when he does his best work, it's often not enough. He must go out to the waiting family and announce that a son, brother or husband is gone. The ensuing anguish often winds up expressed as a fist on the nearest wall. "I don't know how many times we've had to fix plaster," Ochsner said.

His office is the MedSTAR unit, the Medical Shock Trauma Acute Resuscitation unit, a kind of super emergency room at Washington Hospital Center in Northwest Washington. If a life edges near the Big Precipice because of a bullet, a knife or an accident, it often is pulled back in one of the seven bays of MedSTAR.

It's where a life had come, in fact, exactly 24 hours before our conversation. Code Yellow: an inbound male, with a whole lot of holes. Ochsner, a tall, lanky Oklahoman of 40, led the response team Tuesday.

Oddly, he doesn't work for Washington Hospital Center. He's a commander in the Navy. But the Navy figures that a great way to give its doctors experience in treating the horrible wounds they will encounter in combat is to send them to MedStar.

Ponder that: Military doctors obtain battlefield expertise by working at a civilian hospital in peacetime.

It is war out there on our streets.

In the six years he's been working at MedSTAR, Ochsner estimates, he has treated at least 500 gunshot victims. In other words, he alone has treated almost as many casualties in a single District hospital as the U.S. military treated during the Gulf War. He says doctors who come from France, Britain and Australia to get smarter about treating "penetration" wounds sometimes see more of them at MedSTAR in one night than they do in their countries in one year.

Tuesday was just one more case. But it's never just one more case. Ochsner said they all get to him. The victims never become just a problem on a table. Tuesday, it was a kid no more than 18. He appeared to be in great shape, Ochsner recalled, except, of course, for the gaping holes.

He had four in the abdomen.

And one on the left side.

And one on the right side.

And two in the neck.

"And I'm not sure," Ochsner said, "but I think he had some extremity wounds."

How many were entrance wounds and how many were exit weren't Ochsner's immediate concern. The kid was in cardiac arrest and had been for some time, and the chance of saving him was nearly zero, but the team opened his chest to gain access to vital organs.

When Ochsner started at MedSTAR, he didn't see so many people hit so many times. While it's obvious that having multiple wounds is worse than having one, they pose specific problems for an emergency-room physician. The more wounds, the greater the blood loss and the greater the chance the victim will die not from any one wound, but from the cumulative effect. And multiple wounds make it hard for a doctor to trace the internal paths of bullets: Which one went where and hit what?

Of course, multiple wounds are the specialty of assault guns. They fire zillions of rounds in nanoseconds, increasing the chance that the target will be (a) hit and (b) hit often. And the target usually is human, since shooting deer or tin cans with an assault weapon is no test of any true hunter or marksman.

Once the kid's chest was cut open, Ochsner looked at the heart. It held no blood. One of the bullets had cut his aorta and his ticker had pumped itself dry. The MedSTAR team had no hope.

Anything unusual about how this all unfolded?

"No," Ochsner said.

Ponder that one too: An otherwise healthy teenager winds up riddled with holes on a spring day and dies, and there's nothing unusual about it. Happens all the time.

Maybe I shouldn't have brought up this kid. Ochsner said the weapon of damage was a .357 magnum, not an assault weapon, so the teenager would not have been saved by a ban and isn't directly relevent to the House debate.

Except, of course, he is. What happened to him is what's going on out there. When the extraordinary act of killing becomes ordinary, we have reached madness. To do nothing is to conspire. The problem with trauma," Ochsner said, "is that it's not cancer. It's not something where the family, they're kind of prepared. . . . they may have had lunch with this person. They may have just talked to him. Then he's dead. It's a very abrupt process."

Banning assault weapons won't stop this process. It will change very little on the streets, because assault weapons just aren't used that often. But it certainly will do no harm. Not even the National Rifle Association really believes these weapons are useful for anything but shooting people. It is fighting a stupid fight because it believes the ultimate goal is confiscating all guns.

Ochsner doesn't want that. Neither do I. He's a hunter. But he has no problem with tough regulations and banning a kind of weapon whose sole purpose is to create work for him. How anyone could have difficulty with that "completely escapes me."

Me too, doc. Maybe Congress should watch you battle a Code Yellow. Maybe Congress should help you repair the walls.●

A SALUTE TO NEW YORK'S ADVERTISING COMMUNITY

● Mr. D'AMATO. Mr. President, last week I had the pleasure of meeting Burtch Drake, president, and several representatives of the American Association of Advertising Agencies to discuss the importance of the advertising industry to New York. Truly, in making American industry and technological advances widely known and appreciated, Madison Avenue has made itself the mecca and envy of advertisers everywhere. I am glad they are part of the lively pulse of New York.

Celebrating the power of the New York advertising industry and its contribution to the economic and social vitality of New York City and the United States as a whole, New York City Mayor Rudy Giuliani has proclaimed May 18, 1994 as "New York Advertising Day." To celebrate New York Advertising Day, leaders of the advertising industry will gather in the summer garden of the Rockefeller Center for a spectacular gala. Sponsors of the gala are the Advertising Women of New York and the Advertising Club of New York.

New York City continues to be the center of the advertising world. Almost 45 percent of all U.S. advertising expenditures originate in the New York City area and that translates into over 500,000 jobs in advertising and allied industries in the metropolitan area. Twelve of the 15 largest advertising agencies are headquartered in New York City and have their largest offices there. It is also the home of hundreds of media companies and outlets and many thousands of other companies and production houses which serve the advertising industry.

Advertising is a good New York citizen. The industry contributes over $1 billion annually to the city and its residents through public service advertising and pro bono activities. Members of the industry donate their time and talent creating ad campaigns for such worthwhile causes as drug use prevention and AIDS research, and programs to battle child abuse, illiteracy, and alcoholism. Both the Advertising Council and the Partnership for a Drug-Free America were created by the advertising industry as a focus for on-going pro bono activities.

By recognizing May 18 as New York Advertising Day, we all can join in in recognizing the importance of this industry's contributions to the city's economy and quality of life.●

LOBBYING DISCLOSURE ACT OF 1993

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 349) entitled "An Act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decision making process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term "client" means any person or entity (including a State or local government) who employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity or another person or entity. An organization whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of any person or entity that employs or retains a lobbyist to conduct lobbying activities on behalf of another person or entity, the client is both the person or entity that employs or retains the lobbyist and the person or entity on whose behalf the lobbyist conducts lobbying activities. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

(A) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments, or

(B) the individual member or members, when the lobbying activities are, directly or indirectly, financed separately by one or more individual members and not by the coalition's or association's dues and assessments.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term "covered executive branch official" means—

(A) the President or the President-elect;

(B) the Vice President or the Vice President-elect;

(C) any officer or employee (other than a clerical or secretarial employee) of the Executive Office of the President or any individual functioning in the capacity of such an officer or employee on an unpaid basis;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or executive order;

(E) any officer or employee serving in a Senior Executive Service position, as defined in section 3132 (a)(2) of title 5, United States Code;

(F) any member of the uniformed services whose pay grade is at or above O-7 under section 201 of title 37, United States Code; and

(G) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code, including an employee listed in schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—

(A) IN GENERAL.—The term "covered legislative branch official" means—

(i) a Member of Congress or a Member-elect of Congress;

(ii) an elected officer of either House of Congress;

(iii) any employee of a Member of Congress or of a committee of either House of Congress;

(iv) any employee on the leadership staff of the House of Representatives and any employee on the leadership staff of the Senate;

(v) any employee of a joint committee of the Congress; and

(vi) any employee of a working group or caucus organized to provide legislative services or other assistance to Members of Congress.

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) the terms "employee on the leadership staff of the House of Representatives" and "employee on the leadership staff of the Senate" have the meanings given these terms in section 207(e)(4) of title 18, United States Code;

(ii) the term "employee" includes any individual functioning in the capacity of an employee described in subparagraph (A) on an unpaid basis but the term does not include a clerical or secretarial employee, and

(iii) the term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner, to the Congress.

(5) DIRECTOR.—The term "Director" means the Director of the Office of Lobbying Registration and Public Disclosure.

(6) EMPLOYEE.—Except as provided in paragraph (4)(B)(ii), the term "employee" means any individual who is an officer, employee, partner, director, or proprietor of an organization, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the organization for their services.

(7) FOREIGN ENTITY.—The term "foreign entity" means a foreign principal as such term is defined in subsection (b) of section 1 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)).

(8) GRASS ROOTS LOBBYING COMMUNICATIONS.—The term "grass roots lobbying communications" means—

(A) any communication that attempts to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof;

(B) any communication between an organization and any bona fide member of such organization to directly encourage such member to make a communication to a covered executive branch official or a covered legislative branch official with regard to a matter described in clause (i), (ii), (iii), or (iv) of paragraph (10)(A) of section 3; and

(C) any communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B).

(9) LOBBYING ACTIVITIES.—

(A) DEFINITION.—The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended at the time it is performed, for use in contacts, and coordination with the lobbying activities of others. Except as provided in subparagraph (B), lobbying activities also include—

(i) grass roots lobbying communications, and

(ii) any communication described in clause (iii), (v), (vii), (viii), or (xvi) of paragraph (10)(B),

to the extent that such communications are made in support of a lobbying contact.

(B) RELIGIOUS ORGANIZATIONS.—Lobbying activities do not include grass roots lobbying communications by churches, their integrated auxiliaries, conventions or associations of churches, and religious orders that are exempt from filing Federal income tax returns under paragraph (2)(A)(i) or (2)(A)(iii) of section 6033(a) of the Internal Revenue Code of 1986, unless such communications are made by any person or organization required to be identified under section 4(b)(5) of this Act.

(10) LOBBYING CONTACT.—

(A) DEFINITION.—The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license), except that this clause does not include communications that are made to any covered executive branch official—

(I) who is serving in a Senior Executive Service position described in paragraph (3)(E), or

(II) who is a member of the uniformed services whose pay grade is lower than O-9 under section 201 of title 37, United States Code,

in the agency responsible for taking such administrative or executive action; or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term "lobbying contact" does not include communications that are—

(i) made by public officials acting in their official capacity;

(ii) made by representatives of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication, or other material which is widely distributed to the public through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) requests for meetings, requests for the status of matters described in clauses (i), (ii), (iii), and (iv) of subparagraph (A), or other similar requests, if the requests do not include attempts to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to a written request for specific information from a covered executive branch official or a covered legislative branch official;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to officials in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding, or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) written comments filed in the course of a public proceeding or other communications that are made on the record in a public proceeding;

(xv) a petition for agency action made in writing pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this subclause does not apply to any communication with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) disclosures by an individual to the appropriate authority on account of which that individual is protected against adverse personnel actions, or other reprisals, under the amendments made by the Whistleblower Protection Act of 1989, the Inspector General Act of 1978, or other provision of law;

(xviii) made by a church, its integrated auxiliary, a convention or association of churches, or a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(i) or (2)(A)(iii) of section 6033(a) of the Internal Revenue Code of 1986 if the communication constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion; and

(xix) between—

(I) officials of a self-regulatory organization recognized by Federal law, and

(II) the Federal regulatory agency with jurisdiction over such organization,

relating to the regulatory responsibilities of such organization under such law.

The term "media organization", as used in clause (ii), means an organization engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(11) LOBBYIST.—The term "lobbyist" means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client.

(12) ORGANIZATION.—The term "organization" means any corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations.

(13) PUBLIC OFFICIAL.—The term "public official" means any elected official, appointed official, or an employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university which is an agency or instrumentality of the government of any State or of a local unit of government thereof, or which is owned or operated by such a government or by any agency or instrumentality of one or more such governments;

(ii) a government-sponsored enterprise as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974; or

(iii) a public utility, including any entity that provides gas, electricity, water, or communications, which is an agency or instrumentality of the government of any State or States or of a local unit of government of a State or which is owned, controlled, or operated by such a government or by any agency or instrumentality of one or more such governments;

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), or (iii) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(14) The term "State" means each of the several States, the District of Columbia, and any commonwealth territory, or possession of the United States.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—

(1) GENERAL RULE.—Not later than 30 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Office of Lobbying Registration and Public Disclosure.

(2) ORGANIZATION RULE.—Any organization that has one or more employees who are lobbyists shall make the registration required by paragraph (1) on behalf of such employees.

(3) EXEMPTION.—

(A) GENERAL RULE.—Notwithstanding paragraph (1) or (2), an individual or organization whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbyist making lobbying contacts on behalf of a client other than the organization employing such lobbyist), or

(ii) total expenses in connection with lobbying activities (in the case of a lobbyist making lobbying contacts on behalf of the organization employing such lobbyist),

do not exceed, or are not expected to exceed $2,500 (as estimated under section 5) in the semiannual period described in section 5(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.—The $2,500 figure in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of the enactment of this Act, and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $100.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes or has agreed to contribute more than $5,000 toward the lobbying activities of the registrant in the semiannual period described in section 5(a) in which the registration is made; and

(B) significantly participates or has agreed to participate significantly in the planning, supervision, or control of such lobbying activities;

(4) the name, address, principal place of business, amount of any contribution of more than $5,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the lobbying activities of the registrant; or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) the name, address, and principal place of business of any person or organization retained by the registrant (other than an employee of the registrant) to conduct grass roots lobbying communications on behalf of the registrant or the client of the registrant (other than a person or organization that is separately registered under this Act in connection with such representation);

(6) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client, and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(7) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee was first required to register as a lobbyist on behalf of the client, the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—

(1) MULTIPLE CLIENTS.—In the case of a registrant making lobbying contacts on behalf of more than one client, a separate registration under this section shall be filed for each such client.

(2) MULTIPLE LOBBYISTS.—Any organization that has one or more employees who are lobbyists shall file a single registration under this section for each client on whose behalf its employees act as lobbyists covering all lobbying contacts made by such employees on behalf of such client.

(3) MULTIPLE CONTACTS.—If a registrant makes another lobbying contact for the same client with a covered executive branch official or covered legislative branch official, such contact will not require another registration under paragraph (1).

(d) TERMINATION OF REGISTRATION.—A registrant who after registration does not—

(1) engage in any lobbying activities in a semiannual reporting period on behalf of the client with respect to which the registrant registered, and

(2) anticipate any additional lobbying activities for such client in the 12-month period following such reporting period,

shall notify the Director of the termination of such activities and shall not be required to file any additional reports with respect to such client under this section.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—

(1) IN GENERAL.—No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 4, each registrant shall file a report with the Office of Lobbying Registration and Public Disclosure on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(2) EXEMPTION.—

(A) INCOME OR EXPENSES OF LESS THAN $2,500.—Any registrant whose—

(i) total income for a particular client for matters that are related to lobbying activities on behalf of that client (in the case of a registrant described in subsection (b)(3)), or

(ii) total expenses in connection with lobbying activities (in the case of a registrant described in subsection (b)(4)),

are less than $2,500 in a semiannual period (as estimated under paragraph (3) or (4) of subsection (b), or paragraph (3) of subsection (c), as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director in such form as the Director may prescribe.

(B) ADJUSTMENT.—The $2,500 figure in subparagraph (A) shall be adjusted as provided in section 4(a)(3)(B).

(b) CONTENTS OF REPORT.—Each semiannual report filed under subsection (a) shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants, and loans;

(B) a statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client during the semiannual filing period;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client;

(D) a description of the interest in the specific issues, if any, of any foreign entity identified under section 4(b)(4); and

(E) a list of the specific issues on which any person or organization required to be identified under section 4(b)(5) has engaged in grassroots lobbying communications on behalf of the client;

(3) in the case of a registrant engaged in lobbying activities on behalf of a client other than the registrant, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities;

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period; and

(5) a good faith estimate of the total expenses that the registrant and its employees incurred in connection with grassroots lobbying communications on behalf of the client (including any amount paid in connection with such communications to a person or organization required to be identified under section 4(b)(5)).

(c) ESTIMATES OF INCOME OR EXPENSES.—For purposes of this section, estimates of income or expenses shall be made as follows:

(1) $200,000 OR LESS.—Income or expenses of $200,000 or less shall be estimated in accordance with the following categories:

(A) At least $2,500 but not more than $10,000.

(B) More than $10,000 but not more than $20,000.

(C) More than $20,000 but not more than $50,000.

(D) More than $50,000 but not more than $100,000.

(E) More than $100,000 but not more than $200,000.

(2) MORE THAN $200,000.—Income or expenses in excess of $200,000 shall be estimated and rounded to the nearest $100,000.

(3) ESTIMATES BASED ON TAX REPORTING SYSTEM.—In the case of any registrant that reports lobbying expenditures as required by section 6033 of the Internal Revenue Code of 1986, regulations prescribed under section 7 of this Act shall provide that the registrant may make a good faith estimate of amounts that would be required to be disclosed under such section of the Internal Revenue Code of 1986 for the applicable semiannual period (by category of dollar value) to meet the requirements of subsection (b)(4), if each time the registrant makes such an estimate, the registrant informs the Director that the registrant is making such an estimate.

(4) CONSTRUCTION.—In estimating total income or expenses under this section, a registrant is not required to include—

(A) the value of contributed services for which no payment is made; or

(B) the expenses for services provided by an independent contractor of the registrant who is separately registered under this Act.

(d) CONTACTS.—

(1) CONTACTS CONSIDERED CONTACTS WITH COMMITTEES.—For purposes of subsection (b)(2), any contact with a member of a committee of Congress, an employee of a committee of Congress, or an employee of a member of a committee of Congress regarding a matter within the jurisdiction of such committee shall be considered a contact with the committee.

(2) CONTACTS CONSIDERED CONTACTS WITH HOUSE OF CONGRESS.—For purposes of subsection (b)(2), any contact with a Member of Congress or an employee of a Member of Congress regarding a matter which is not within the jurisdiction of a committee of Congress of which that Member is a member shall be considered a contact with the House of Congress of that Member.

(3) CONTACTS CONSIDERED CONTACTS WITH FEDERAL AGENCIES.—For purposes of subsection (b)(2), any contact with a covered executive branch official shall be considered a contact with the Federal agency that employs that official.

(e) EXTENSION FOR FILING.—The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, upon the request of the registrant, for good cause shown.

SEC. 6. PROHIBITION ON GIFTS, MEALS, TRAVEL, ENTERTAINMENT, REIMBURSEMENTS, AND LOANS; ITEMIZATION OF CERTAIN EXPENDITURES.

(a) IN GENERAL.—

(1) REGISTRANTS AND LOBBYISTS.—In accordance with this section, each registrant (including a lobbyist employed by, or a lobbyist who is a member of, a registrant) or any client of a registrant shall be—

(A) prohibited from providing, directly or indirectly, gifts, meals, travel, entertainment, reimbursements, and loans described in subsection (b), and

(B) required to make an itemized disclosure of expenditures described in subsection (c) and provided, directly or indirectly,

to a covered legislative branch official, to an entity that is maintained or controlled by a covered legislative branch official, or to any other person or entity on behalf of a covered legislative branch official (collectively referred to in this subsection as a "covered person or entity").

(2) FOREIGN LOBBYISTS.—For purposes of this section, a registrant or any client of a registrant shall include a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act) and an agent of a foreign principal (as defined in section 1(c) of such Act).

(b) PROHIBITION.—A registrant (including a lobbyist) or any client of a registrant may not provide, directly or indirectly (with funds of a registrant or a client), to or on behalf of or for a covered person or entity:

(1) TRAVEL, ENTERTAINMENT, FOOD, AND LODGING.—Payment for local or long-distance transportation, entertainment, food, or lodging, whether provided in kind, by purchase of a ticket, by payment in advance or by reimbursement, or otherwise.

(2) REIMBURSEMENT.—Reimbursement of an expense.

(3) LOAN.—A loan.

(4) GIFTS.—Any other item of value.

(c) DISCLOSURE.—With respect to expenditures described in this subsection, the prohibitions prescribed by subsection (b) with respect to an expenditure will not apply to a registrant or any client of a registrant if the registrant discloses the expenditure of the registrant or the client, in the registrant's semiannual report under section 5(a) or in a separate report on itemized expenditures subject to the same filing requirements, as follows:

(1) IN GENERAL.—With respect to each expenditure described in paragraph (2), the registrant shall disclose—

(A) the name and position of the covered legislative branch official or other covered person or entity to whom or which or on behalf of whom or which the expenditure was made;

(B) the type of the expenditure;

(C) the date on which the expenditure was made; and

(D) the amount of the expenditure.

(2) EXPENDITURES SUBJECT TO DISCLOSURE.—The following expenditures are subject to disclosure under paragraph (1):

(A) Necessary travel-related expenditures made by a registrant described in section 5(b)(4) or a client of a registrant described in section 5(b)(3) for a covered legislative branch official or a person on behalf of such an official in connection with speaking engagements, fact finding trips, substantial participation in an event sponsored by an entity described in section 170(c) or 527(e) of the Internal Revenue Code of 1986, and similar events if the expenditure covers the costs of a trip for a period of not more than—

(i) 4 consecutive days in the case of domestic travel and 7 consecutive days (excluding travel days) in the case of international travel, and

(ii) 24 hours before or after such person's actual participation in the event in the case of domestic travel or 48 hours before or after such person's actual participation in the event in the case of international travel.

Necessary travel-related expenditures include reimbursements for necessary transportation whether or not such transportation occurs within the periods described in clause (i) or (ii), but does not include expenditures for travel, lodging, or entertainment collateral to the event or meals taken other than in a group setting to which all other attendees are invited.

(B) Honorary degrees and associated meals and entertainment provided to a covered person or entity.

(C) Food, refreshment, or entertainment provided a covered person or entity while attending a meeting or event with persons who are not United States citizens while on official travel to a foreign area.

(3) CONFERENCES.—With respect to each financial contribution or expenditure relating to a conference, retreat, or similar event for or on behalf of covered legislative branch officials which is sponsored by or affiliated with an official congressional organization, the registrant shall disclose—

(A) the nature of the conference, retreat, or similar event;

(B) the date or dates on which the conference, retreat, or other event occurred;

(C) the identity of the organization that sponsored or is affiliated with the event; and

(D) a single aggregate figure for the contributions or expenditures made by the registrant or client of the registrant in connection with the conference, retreat, or similar event.

(4) EVENTS.—With respect to each financial contribution or expenditure that relates to a widely attended event that is hosted or cohosted with, or in honor of, 1 or more covered legislative branch officials, the registrant shall disclose—

(A) the name and position of each such covered legislative branch official that hosted, cohosted, or was honored at such event;

(B) the nature of the event;

(C) the date on which the event occurred; and

(D) a single aggregate figure for the contributions or expenditures made by the registrant in connection with the event.

(5) CHARITABLE CONTRIBUTIONS.—With respect to each charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made in lieu of an honorarium on the basis of a designation, recommendation, or other specification made by a covered legislative branch official, the registrant shall disclose—

(A) the name and position of each such covered legislative branch official;

(B) the name of any covered person or entity to whom or which the contribution was made;

(C) the date on which the contribution was made; and

(D) the value of the contribution.

(6) CONTRIBUTIONS TO LEGAL DEFENSE FUND.—With respect to each contribution or other payment made to a legal defense fund established for the benefit of a covered legislative branch official, the registrant shall disclose—

(A) the name and position of each such covered legislative branch official;

(B) the name of any other person or entity to whom or which the contribution was made;

(C) the date on which the contribution was made; and

(D) the value of the contribution.

(7) NOTIFICATION.—Not less than 3 weeks after an expenditure required to be reported under this subsection is made, the registrant or any client of a registrant who made or for whom was made such expenditure shall provide, in a standard format determined by the Office of Lobbying Registration and Public Disclosure, to any covered person or entity, whose name the registrant or client intends for the registrant to include in either the registrant's semiannual report under section 5(a) or a separate report on itemized expenditures under this subsection, a complete list of the information the registrant intends to disclose relative to that covered person or entity. The registrant shall not list in its report referred to in this paragraph any information relative to a covered person or entity who—

(A) was not the subject of the expenditure referred to in the preceding sentence, or

(B) reimburses the person making such expenditure the full amount of such expenditure within 30 days of the receipt of notification under this paragraph.

(d) EXCEPTIONS.—The following are not subject to subsection (b) or (c):

(1) Anything for which market value is paid by the recipient.

(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act.

(3) An item of little intrinsic value such as a greeting card, baseball cap, or a T-shirt or a personalized item such as a plaque, certificate, or trophy that is intended solely for recognition of a covered legislative branch official.

(4) Food and attendance provided to a covered person or entity at an event sponsored by an organization described in section 170(c) or 527(e) of the Internal Revenue Code of 1986.

(5)(A) An item described in subsection (b) (hereafter in this paragraph referred to as an "item") given under circumstances which make it clear that the item is given for a nonbusiness purpose and is motivated by a family relationship or personal friendship and not by the position of the recipient. In determining if the giving of an item is motivated by a family relationship or personal friendship, at least the following factors shall be considered:

(i) The history of the relationship between the individual giving the item and the individual receiving the item, including whether or not items have previously been exchanged by such individuals.

(ii) Whether the item was purchased by the individual who gave the item.

(iii) Whether the individual who gave the item also at the same time gave the same or similar item to other covered persons or entities.

(B) The giving of an item shall not be considered to be motivated by a family relationship or personal friendship if the family member or friend seeks—

(i) to deduct the value of such item as a business expense on the family member's or friend's Federal income tax return, or

(ii) reimbursement either from a registrant or from a client.

(6) Items which are not used and which are promptly returned to the donor.

(7) Except with respect to items described in subsection (c)—

(A) attendance, food, and refreshments at widely attended gatherings, including conventions, conferences, symposiums, retreats, dinners, receptions, viewings, or similar events if such attendance, food, and refreshments are unsolicited by the recipient and provided by the sponsor of the event,

(B) meals or entertainment that are unsolicited by the recipient and not paid for either directly or indirectly (including with funds of a registrant or client) by a lobbyist or an agent of a foreign principal (as defined in section 1(c) of the Foreign Agents Registration Act) and not paid for either directly or indirectly by a registrant described in section 5(b)(3), if an employee (other than a lobbyist) of—

(i) a registrant described in section 5(b)(4), or

(ii) a client of a registrant described in section 5(b)(3),

acting in a representational capacity, substantially participates in the meal or entertainment, and

(C) modest items of food or refreshment such as soft drinks, coffee, or doughnuts offered other than as part of a meal.

(8) Rewards and prizes given to competitors in contests or events, including random drawings open to the public.

(9) Loans from financial institutions on terms generally available to the public.

(10) Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all Government employees whether or not restricted on the basis of geographical considerations.

(11) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(12) Anything which is paid for by the Government or secured by the Government under Government contract.

(13) Any gift accepted under specific statutory authority except section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31–2).

(14) Reduced membership or other fees for participation in organizational activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(15) Opportunities and benefits offered to members of a group or class in which membership is unrelated to congressional employment.

(16) Opportunities and benefits offered to members of an organization, such as credit unions, in which membership is related to congressional employment if similar benefits are broadly available to large segments of the public through organizations of similar size.

(17) Gifts resulting from the covered legislative branch official's outside business or employment activities when it is clear that such benefits have not been offered or enhanced because of the covered legislative branch official's official status.

(18) Gifts resulting from the business or employment activities of a covered legislative branch official's spouse when it is clear that such benefits have not been offered or enhanced because of the covered legislative branch official's official position.

(19) Informational materials that are sent to a covered legislative branch official's office in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

(20) Home State products, food, or other items of minimal value used primarily for promotional purposes.

(e) DEFINITION.—For purposes of this section, the term "market value" when applied to a gift means the retail cost a person would incur to purchase the gift. The market value of a gift of a ticket entitling the holder to food, refreshments, or entertainment is the retail cost of similar food, refreshments, or entertainment.

(f) CLIENTS.—

(1) NOTICE TO CLIENTS.—A registrant described in section 5(b)(3) shall by written notice inform any client of the registrant of the requirements of this section applicable to the client. Such notice shall be provided at the time the registrant registers on behalf of such client under section 4 and at the beginning of each semiannual reporting period under section 5(a).

(2) NOTICE BY CLIENTS.—If a client of a registrant makes an expenditure which such registrant will be required to report under subsection (c), the client shall promptly notify the registrant of such expenditure. Failure to provide such notice shall be considered to be a violation of this Act.

(g) HOUSE RULES.—Clause (4) of Rule XLIII of the Rules of the House of Representatives is amended by adding at the end the following: "A Member, officer, or employee of the House of Representatives shall not accept a gift given by a lobbyist or registrant subject to the Lobbying Disclosure Act of 1994 in knowing violation of that Act.".

SEC. 7. ESTABLISHMENT AND DUTIES OF OFFICE OF LOBBYING REGISTRATION AND PUBLIC DISCLOSURE.

(a) ESTABLISHMENT.—

(1) OFFICE AND DIRECTOR.—There is established as an independent agency in the executive branch an Office of Lobbying Registration and Public Disclosure, which shall be headed by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be an individual who, by demonstrated ability, background, training, and experience, is especially qualified to carry out the functions of the position. The term of service of the Director shall be 5 years.

(2) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Lobbying Registration and Public Disclosure.".

(3) EMPLOYEES AND SERVICES.—The Director may—

(A) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

(B) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance or by reimbursement from funds of the Office in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under subparagraph (B) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.

(b) DUTIES.—The Director of the Office of Lobbying Registration and Public Disclosure shall—

(1) after notice and a reasonable opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House of Representatives, and the Administrative Conference of the United States, prescribe such regulations, forms, and penalty schedules as are necessary to carry out this Act;

(2) provide guidance and assistance on the registration and reporting requirements of this Act, including the issuance of published decisions and advisory opinions;

(3) review the registrations and reports filed under this Act and make such verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of the registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this Act;

(5) ensure that the computer systems developed pursuant to paragraph (4)—

(A) allow the materials filed under this Act to be accessed by client name, lobbyist name, and registrant name;

(B) are compatible with computer systems developed and maintained by the Federal Election Commission, and that information filed in the two systems can be readily cross-referenced; and

(C) are compatible with computer systems developed and maintained by the Secretary of the Senate and the Clerk of the House of Representatives;

(6) make copies of each registration and report filed under this Act available to the public, upon the payment of reasonable fees, not to exceed the cost of such copies, as determined by the Director, in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received;

(7) preserve the originals or accurate reproduction of—

(A) registrations filed under this Act, and

(B) of reports filed under this Act,

for a period of not less than 3 years from the date on which the registration or report is received;

(8) maintain a computer record of—

(A) the information contained in registrations, and

(B) the information contained in reports filed under this Act for not less than 5 years after the date on which such reports are received;

(9) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(10) make information compiled and summarized under paragraph (9) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(11) provide, by computer telecommunication or other transmittal in a form accessible by computer, to the Secretary of the Senate and the Clerk of the House of Representatives copies of all registrations and reports received under sections 4 and 5 and all compilations, cross-indexes, and summaries of such registrations and reports, as soon as practicable (but not later than 3 working days) after such material is received or created;

(12) make available to the public a list of all persons whom the Director determines, under section 9(c) or 10(c), to have violated this Act and submit such list to the Congress on a semiannual basis;

(13) upon request, indicate if an individual who may have been the subject of a lobbying contact is or has been within 3 years before the date of the request a covered executive branch official or a covered legislative branch official; and

(14) transmit to the President and the Congress a report, not later than March 31 of each year, describing the activities of the Office and the implementation of this Act, including—

(A) a financial statement for the preceding fiscal year;

(B) a summary of the registrations and reports filed with the Office with respect to the preceding calendar year;

(C) a summary of the registrations and reports filed on behalf of foreign entities with respect to the preceding calendar year; and

(D) recommendations for such legislative or other action as the Director considers appropriate.

SEC. 8. INITIAL PROCEDURE FOR ALLEGED VIOLATIONS.

(a) ALLEGATION OF A VIOLATION.—Whenever the Office of Lobbying Registration and Public Disclosure has reason to believe that a person may be in violation of the requirements of this Act, the Director shall notify the person in writing of the nature of the alleged violation and provide an opportunity for the person to respond in writing to the allegation within 30 days after the notification is sent or such longer period as the Director may determine appropriate in the circumstances.

(b) INITIAL DETERMINATION.—If the person responds within the period described in the notification under subsection (a), the Director shall—

(1) issue a written determination that the person has not violated this Act if the person provides adequate information or explanation to make such determination; or

(2) make a formal request for information under subsection (c) or a determination under section 9, if the information or explanation provided indicates that such person may have violated this Act.

A determination under paragraph (1) may be published by the Director with the names redacted if the Director determines the determination without the names provides useful guidance.

(c) FORMAL REQUEST FOR INFORMATION.—If a person fails to respond in writing within the period described in the notification under subsection (a) or the response is not adequate to determine whether such person has violated this Act, the Director may make a formal request for specific additional written information (subject to applicable privileges) that is reasonably necessary for the Director to make such determination. Each such request shall be structured to minimize any burden imposed, consistent with the need to determine whether the person is in compliance with this Act, and shall—

(1) state the nature of the conduct constituting the alleged violation which is the basis for the inquiry and the provision of law applicable thereto;

(2) describe the class or classes of material to be produced pursuant to the request with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the person may assemble and make available for inspection and copying or reproduction the material so requested.

(d) NONDISCLOSURE OF INFORMATION.—Information provided to the Director under this section and sections 9 and 10 shall not be made available to the public without the consent of the person providing the information, except to the extent such information may be included in—

(1) any new or amended registration or report filed in connection with an inquiry under this section; or

(2) a written decision issued by the Director under section 9 or 10 after appropriate redaction by the Director to protect the interests of innocent parties.

SEC. 9. DETERMINATIONS OF VIOLATIONS.

(a) NOTIFICATION AND HEARING.—If the information provided to the Director under section 8 indicates that a person may have violated this Act, the Director shall—

(1) notify the person in writing of this finding and, if appropriate, a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days after the notice is sent; and

(2) if requested in writing by that person within that 30-day period, afford the person an opportunity for a hearing on the record under the provisions of section 554 of title 5, United States Code.

(b) DETERMINATION.—Upon the receipt of a written response under subsection (a)(1) when no hearing under subsection (a)(2) is requested, upon the completion of a hearing requested under subsection (a)(2), or upon the expiration of 30 days in a case in which no such written response is received, the Director shall review the information received under this section (including evidence presented at any such hearing) and section 8 and make a final determination whether there was a violation and a final determination of the penalty, if any. If no written response was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final order not subject to appeal.

(c) WRITTEN DECISION.—

(1) DETERMINATION OF VIOLATION.—If the Director makes a final determination under subsection (b) that there was a violation, the Director shall issue a public written decision—

(A) directing the person to correct the violation; and

(B) assessing a civil monetary penalty in an amount determined as follows:

(i) In the case of a minor violation, the amount shall be no more than $10,000, depending on the nature and extent of the violation.

(ii) In the case of a significant violation, the amount shall be more than $10,000, but no more than $200,000, depending on the nature and extent of the violation and the extent to which the person may have profited from the violation.

(2) DETERMINATION OF NO VIOLATION OR INSUFFICIENT EVIDENCE.—If the Director determines that no violation occurred or there was not sufficient evidence that a violation occurred, the Director shall issue a written notice of such determination to the person charged. Such notice may be published by the Director with names redacted if the Director determines it provides useful guidance.

(d) CIVIL INJUNCTIVE RELIEF.—If a person fails to comply with a directive to correct a violation under subsection (c), the Director shall refer the case to the Attorney General to seek civil injunctive relief in the appropriate court of the United States to compel such person to comply with such directive.

(e) PENALTY ASSESSMENTS.—

(1) GENERAL RULE.—No penalty shall be assessed under this section unless the Director finds that the person subject to the penalty knew or should have known that such person was in violation of this Act. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the violation and such other matters as justice may require.

(2) REGULATIONS.—Regulations prescribed by the Director under section 7 shall define minor and significant violations. Significant violations shall be defined to include a failure to register and any other violation that is extensive or repeated if the person who commits such violation knew or should have known that the action constituting the violation was a violation of this Act.

(f) LIMITATION.—No proceeding shall be initiated under this section relating to a registration or report filed or required to be filed under this Act unless the Director notifies the person who is to be the subject to the proceeding of the alleged violation within 3 years after the date on which such registration or report was filed or was required to be filed.

SEC. 10. OTHER VIOLATIONS.

(a) LATE REGISTRATION OR FILING; FAILURE TO PROVIDE INFORMATION.—If a person registers or files a report after a registration or filing is required under this Act, or fails to provide information requested by the Director under section 8(c), the Director shall—

(1) notify the person in writing of the violation and a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days after the notice is sent; and

(2) if requested by that person within that 30-day period, afford the person a hearing in accordance with section 9(a)(2).

(b) DETERMINATION.—Upon the receipt of a written response under subsection (a)(1) when no hearing under subsection (a)(2) is requested, upon the completion of a hearing requested under subsection (a)(2), or upon the expiration of 30 days in a case in which no such written response is received, the Director shall review the information received under subsection (a) (including evidence presented at any such hearing) and, unless the Director determines, on the basis of such information, that the late filing or failure to provide information was justified, the Director shall make a final determination of a violation and a final determination of the penalty, if any. If no written response or request for a hearing was received under subsection (a) within the 30-day period provided, the determination and penalty assessment shall constitute a final order not subject to appeal.

(c) WRITTEN DECISION.—

(1) DETERMINATION OF VIOLATION.—If the Director makes a final determination under subsection (b) that there was a violation, the Director shall issue a public written decision—

(A) in the case of a late registration or filing, assessing a civil monetary penalty of $200 for each week by which the filing was late, with the total penalty not to exceed $10,000; or

(B) in the case of a failure to provide information—

(i) directing the person to provide the information within a reasonable period of time; and

(ii) except where the Director determines that the violation was the result of a good faith dispute over the validity or appropriate scope of a request for information, assessing a civil monetary penalty in an amount not to exceed $10,000.

(2) DETERMINATION OF NO VIOLATION OR INSUFFICIENT EVIDENCE.—If the Director determines that no violation occurred or there was not sufficient evidence that a violation occurred, the Director shall issue a written notice of such determination to the person charged. Such notice may be published by the Director with names redacted if the Director determines it provides useful guidance.

(d) CIVIL INJUNCTIVE RELIEF.—In the case of a person failing to comply with a directive issued under subsection (c)(2)(A), the Director shall refer such matter to the Attorney General, who shall seek civil injunctive relief in the appropriate court of the United States to compel such person to comply with such directive unless the Attorney General finds no reasonable likelihood that the Government would prevail.

SEC. 11. JUDICIAL REVIEW.

(a) FINAL DECISION.—A written decision issued by the Director under section 9 or 10 shall become final 60 days after the date on which the Director provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) APPEAL.—Any person adversely affected by a written decision issued by the Director under section 9 or 10 may appeal such decision, except as provided under section 9(b) or 10(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Director provides notice of the Director's decision and by simultaneously sending a copy of such notice of appeal to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) RECOVERY OF PENALTY.—Any penalty assessed in a written decision which has become final under this Act may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Director or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

SEC. 12. RULES OF CONSTRUCTION.

(a) CONSTITUTIONAL RIGHTS.—Nothing in this Act shall be construed to prohibit or interfere with—

(1) the right to petition the government for the redress of grievances,

(2) the right to express a personal opinion, or

(3) the right of association,

protected by the First Amendment to the Constitution.

(b) PROHIBITION OF ACTIVITIES.—Nothing in this Act shall be construed to prohibit, or to authorize the Director or any court to prohibit lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of this Act.

(c) AUDIT AND INVESTIGATIONS.—Nothing in this Act shall be construed to grant general audit or investigative authority to the Director, or to authorize the Director to review the files of a registrant, except in accordance with the requirements of section 8.

SEC. 13. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), is amended—

(1) in section 1—

(A) by striking out subsection (j);

(B) in subsection (o), by striking out "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting in lieu thereof "any activity which the person engaging in believes will, or which he intends to, in any way influence";

(C) in subsection (p) by striking out the semicolon and inserting in lieu thereof a period; and

(D) by striking out subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking out "established agency proceedings, whether formal or informal." and inserting in lieu thereof "judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 3 (22 U.S.C. 613), by adding at the end the following:

"(h) Any agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) of this Act if the agent is required to register and does register under the Lobbying Disclosure Act of 1994 in connection with the agent's representation of such person or entity.".

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal";

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) in the matter preceding clause (i) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "(i) in the form of prints, or" and all that follows through the end of the subsection and inserting in lieu thereof "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking out "political propaganda" and inserting in lieu thereof "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a), by striking out "and all statements concerning the distribution of political propaganda";

(B) in subsection (b), by striking out ", and one copy of every item of political propaganda"; and

(C) in subsection (c), by striking out "copies of political propaganda,";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2), by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking out subsection (d); and

(9) in section 11 (22 U.S.C. 621), by striking out ", including the nature, sources, and content of political propaganda disseminated or distributed".

SEC. 14. AMENDMENTS TO THE BYRD AMENDMENT.

(a) REVISED CERTIFICATION REQUIREMENTS.—Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1994 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3), by striking out all that follows "loan shall contain" and inserting in lieu thereof "the name of any registrant under the Lobbying Disclosure Act of 1994 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) REMOVAL OF OBSOLETE REPORTING REQUIREMENT.—Section 1352 of title 31, United States Code, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 15. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.—

(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

SEC. 16. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5205(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined in section 3 of the Lobbying Disclosure Act of 1994)" after "an agent for a foreign principal".

(b) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Section 219(a) of title 18, United States Code, is amended (1) by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1994 in connection with the representation of a foreign entity, as defined in section 3(7) of that Act" after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938", and (2) by striking out ", as amended,". Section 201(c)(1) of such title is amended by inserting "or rule or regulation issued pursuant to section 7353(b) by the supervising ethics office as defined in section 7353(d)(1) (A) through (E) of title 5" after "as provided by law".

(c) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 3(7) of the Lobbying Disclosure Act of 1994)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

SEC. 17. IDENTIFICATION OF FOREIGN CLIENT.

(a) ORAL LOBBYING CONTACT.—Any person who makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official on behalf of a foreign client shall, on the request of the official, identify the client on whose behalf the lobbying contact was made, state that such client is considered a foreign client under this section, and state whether such person is registered on behalf of that client under section 4. Such person shall, within one week of such lobbying contact, send to the covered legislative branch official or the covered executive branch official written confirmation of the information provided.

(b) WRITTEN LOBBYING CONTACT.—Any person who makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official on behalf of a foreign client shall identify the client on whose behalf the lobbying contact was made, state that such client is considered a foreign client under this section, and state whether such person is registered on behalf of that client under section 4.

(c) DEFINITION.—For purposes of subsections (a) and (b), the term "foreign client" means a foreign entity as defined in section 3(7) or any organization or combination of persons under United States or foreign law if more than 50 percent of its members are foreign entities, if more than 50 percent of the equitable ownership of the organization or combination is held by foreign entities, or if more than 50 percent of its financial support is provided by foreign entities.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this Act.

SEC. 19. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 20. EFFECTIVE DATES AND INTERIM RULE.

(a) IN GENERAL.—Except as otherwise provided in this section, the provisions of this Act shall take effect 1 year after the date of the enactment of this Act.

(b) ESTABLISHMENT OF OFFICE.—The provisions of sections 7 and 18 and the amendments made by section 16 shall take effect on the date of the enactment of this Act.

(c) REPEALS AND AMENDMENTS.—The repeals and amendments made under sections 13, 14, and 15 shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(d) REGULATIONS.—Proposed regulations required to implement this Act shall be published for public comment no later than 270 days after the date of the enactment of this Act. No later than 1 year after the date of the enactment of this Act, final regulations required to implement this Act shall be published.

(e) PHASE-IN-PERIOD.—No penalty shall be assessed by the Director under section 9(e) for a violation of this Act, other than for a violation of section 6, which occurs during the first semiannual reporting period under section 5 after the effective date prescribed by subsection (a).

(f) INTERIM REPORTING RULE.—

(1) RULE.—For 3 years after the date of the enactment of this Act, any registrant engaged in lobbying activities on its own behalf that is denied a deduction for expenditures associated with such lobbying activities under section 162(e) of the Internal Revenue Code of 1986, may make a good faith estimate (by category of dollar value) of the amount of the deduction denied for the applicable semiannual period to meet the requirements of section 5(b)(4) of this Act. Each time a registrant elects to estimate lobbying expenditures pursuant to this paragraph, the registrant shall inform the Director that it is making such an estimate.

(2) STUDY.—Within 120 days of the filing of reports by registrants under section 5 in the second semiannual reporting period, the Comptroller General of the United States shall review reporting by registrants under paragraph (1) in such periods and report to the Congress—

(A) the differences between the definition of lobbying activities in section 3 and the definition of lobbying expenditures in such section 162(e) as each are implemented by regulations;

(B) the impact any such differences may have on the amounts reported by the registrants who elect to estimate lobbying expenditures pursuant to paragraph (1); and

(C) any changes to this Act or to such section 162(e) which the Comptroller General may recommend to harmonize the two definitions.

(g) TRANSITIONAL FILING REQUIREMENT.—

(1) SIMULTANEOUS FILING.—Subject to the provisions of paragraph (2), each registrant shall transmit simultaneously to the Secretary of the Senate and the Clerk of the House of Representatives an identical copy of each registration and report required to be filed under this Act.

(2) SUNSET PROVISION.—The simultaneous filing requirement under paragraph (1) shall be effective until such time as the Director, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, determines that the Office of Lobbying Registration and Public Disclosure is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 7(b)(11).

(3) IMPLEMENTATION.—The Director, the Secretary of the Senate, and the Clerk of the House of Representatives shall take such actions as necessary to ensure that the Office of Lobbying Registration and Public Disclosure is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 7(b)(11) on the effective date of this Act, or as soon thereafter as reasonably practicable.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment, agree to the request for a conference, and that the Chair be authorized to appoint conferees.

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

The PRESIDING OFFICER (Mr. FEINGOLD) appointed Mr. GLENN, Mr. LEVIN, Mr. AKAKA, Mr. COHEN, and Mr. STEVENS conferees on the part of the Senate.

D-DAY NATIONAL REMEMBRANCE DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Judiciary Committee be discharged from further consideration of House Joint Resolution 303, D-day Remembrance, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 303) to designate June 6, 1994 as D-day National Remembrance Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. If there is no objection, the bill is considered read the third time, and passed.

The preamble was agreed to.

Mr. FORD. I move to reconsider the vote and move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, May 12; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate proceed to the consideration of the conference report accompanying S. 636, the Freedom of Access to Clinics Act, as provided for under provisions of a previous unanimous-consent agreement; that on Thursday, following the conclusion of the vote on adoption of the conference report accompanying S. 636, the Senate then stand in recess until 2:30 p.m. in order to accommodate a party conference.

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

ORDER TO RECESS UNTIL THURSDAY, MAY 12, 1994, AT 9:30 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today and I see no other Senator seeking recognition, I ask now that the Senate stand in recess as previously ordered upon the completion of the statement of the Senator from Delaware.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2108 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. Mr. President, I yield back the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9:30 a.m., May 12, 1994.

Thereupon, at 6:46 p.m. the Senate recessed until Thursday, May 12, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 1994:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN A. KOSKINEN, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET, VICE PHILIP LADER.

DEPARTMENT OF STATE

RONALD E. NEUMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA.

FRANK G. WISNER, OF THE DISTRICT OF COLUMBIA, 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 INDIA.

CONFIRMATION

Executive nomination confirmed by the Senate May 11, 1994:

UNITED STATES INFORMATION AGENCY

JOHN P. LOIELLO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.