SENATE—*Friday, September 29, 1995*

(Legislative day of Monday, September 25, 1995)

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

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Lord of history, God of Abraham and Israel, we praise You for answered prayer for peace in the Middle East manifested in the historic peace treaty signed yesterday between the Palestinian Liberation Organization and Israel. We press on to the work of this day in the assurance that You are in control and seek to accomplish Your plans through us if we will trust You.

Oh God, together we salute You as Lord of our lives, the One to whom we all must report, the only One we ultimately need to please, and the One who is the final judge of our leadership, we pray that our shared loyalty to You as our Sovereign Lord will draw us closer to one another in the bond of service to our Nation. It is in fellowship with You that we find one another. Whenever we are divided in our differences over secondary matters, remind us of our oneness on essential issues; our accountability to You, our commitment to Your Commandments, our dedication to Your justice and mercy, our patriotism for our Nation, and our shared prayer that through our efforts You will provide Your best for our Nation. There's something else, Lord: We all admit our total dependence on Your presence to give us strength and courage. So with one mind and a shared commitment, we humbly fall on the knees of our hearts and ask that You bless us and keep us, make Your face shine upon us, lift up Your countenance before us, and grant us Your peace. In the name of Jesus. Amen.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The PRESIDENT pro tempore. The clerk will report the pending bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2076) making appropriations for the Department of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Biden amendment No. 2815, to restore funding for grants to combat violence against women.

McCain-Dorgan amendment No. 2816, to ensure competitive bidding for DBS spectrum.

Kerrey amendment No. 2817, to decrease the amount of funding for Federal Bureau of Investigation construction and increase the amount of funding for the National Information Infrastructure.

Biden-Bryan amendment No. 2818, to restore funding for residential substance abuse treatment for State prisoners, rural drug enforcement assistance, the Public Safety Partnership and Community Policing Act of 1994, drug courts, grants or contracts to the Boys and Girls Clubs of America to establish Boys and Girls Clubs in public housing, and law enforcement family support programs, to restore the authority of the Office of National Drug Control Policy, to strike the State and Local Law Enforcement Assistance Block Grant Program, and to restore the option of States to use prison block grant funds for boot camps.

Domenici amendment No. 2819 (to committee amendment on page 26, line 18), to improve provisions relating to appropriations for legal assistance.

AMENDMENT NO. 2816

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the McCain amendment No. 2816 on which there shall be 60 minutes equally divided.

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

Mr. President, I intend to be brief, and I note the presence of the Senator from North Dakota here on the floor. I know that he needs at least 10 minutes of the 30 minutes for this side.

I just want to recap the situation as I see this amendment. First of all, Mr. President, the choice is clear here what we are talking about. The question is whether we will auction this spectrum off, which, according to experts, the value is between $300 and $700 million, or it will be granted to a very large and very powerful corporation in America for considerably less money. Originally it was going to be about $5 million and up to $45 million, and now I understand it is about $100 million.

I want to briefly describe the chronology of how we got where we are today. I want to repeat before I continue, I have no interest in this issue. There is no company in my State. There is no corporation that I have engaged in the dialog on this issue. I am simply involved in this issue, as is the Senator from North Dakota, because what is at stake here is whether the American taxpayers will be deprived of somewhere between $300 and $700 million.

For the record, Mr. President, I point out that on September 16, 1995, ACC, which was the original holder of the license for this spectrum, entered into an agreement with TCI to sell its spectrum to TCI for $45 million. The ACC costs at that time were estimated to have been $5 million. Such a sale would have meant that ACC would actually have profited from warehousing this spectrum for 10 years.

In August and September of 1995, TCI had a sweetheart deal pending before the FCC as follows: TCI would give up some of the allocated DBS spectrum and in return receive the ACC at a cost of $5 million, which is to pay for costs incurred by ACC. The $5 million would not be paid in cash. Instead, it would be in the form of Primestar stock, which could have a much greater value than the original $45 million.

The spectrum given up by TCI is valued at substantially less value than the ACC spectrum. TCI would give up 11 channels at 119 degrees and spectrum, allowing DBS service be provided to Latin America, the Pacific rim, and China.

No industry expert believes at this time that those markets will be nearly as lucrative as the U.S. market. The week of September 18, 1995, TCI proposes it be given the spectrum at 110 degrees west latitude orbit and gives up DBS spectrum as noted above, which is sold at public auction. Whatever the price such spectrum is sold for is the price TCI pays for the 110 degree west longitude orbit spectrum.

September 25, 1995, it is reported that an alternative plan has been developed allowing Primestar access to DBS channels at prices well above $45 million. TCI expected to pay for advanced communications for channels. Now we hear about a plan where TCI will pay $100 million for the channels.

Mr. President, if TCI says the spectrum is worth $100 million and they are prepared to pay $100 million, then let them bid $100 million. TCI is proposing they pay $100 million for the spectrum and they will give up other spectrum.

Under this auction plan they could keep their current spectrum and win at auction the new spectrum. If all spectrum is equal, it does make good business sense for TCI to have as much spectrum as possible. Of course it does. TCI knows the value of spectrum and knows what it wants to give up is valueless compared to what it wants to receive.

Why would one company change the amount it is willing to pay from $5 to $100 million in a matter of months?

Mr. President, last night—I have not had a chance to talk to my friend from

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

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Colorado. He proposed a compromise that the amendment should read that the auction should be conducted within 60 days, and I want to tell my friend from Colorado I am still prepared to accept that amendment.

Mr. President, I reserve the remainder of my time.

Mr. CAMPBELL. Mr. President, there will be much discussion today about estimates of money, but very little about who stands to make it. Of course we are all interested in supporting actions that will aid the National Treasury. However, with regard to this amendment, as the Congressional Budget Office has pointed out, the Federal Communications Commission can hold auctions for the licenses in question, and as I understand it, is already considering a proposal that would raise even more money than we are currently considering in this amendment without any legislative intervention on our part.

However, it should be noted in this debate that one of the supporting groups will definitely gain from the passage of this amendment. The National Rural Telecommunications Cooperative, the NRTC, which has loudly supported this amendment, has very good reason to do so. The NRTC has an exclusive contract in many rural areas to market the DBS service of General Motors' direct TV. So any delay in introducing significant high-power DBS competition will benefit the NRTC's exclusive sales deal.

I do not criticize the NRTC for having such a deal, but I think it is important to know as we discuss this amendment and note who is supporting it, that the NRTC is far from a disinterested party. In fact, the delays that this amendment will create in the ability of any major competitor to challenge the dominance of direct TV works directly in favor of those such as the NRTC who retain monopoly sales rights in rural America.

This is a far more complex subject than we are even aware. The implications of what this amendment would do are unknown. There have been no hearings. The expert agency is already considering the issues involved. It already has the authority to both do what is right and assure maximum benefit for the value of the licenses. It is bad public policy for this body to step in and interfere with the adjudicatory process of an agency when we don't even know who the parties are in the dispute.

That is why the bipartisan leadership of the Commerce Committee opposes this amendment and why my colleagues should also oppose it. The modification of this amendment as offered by the Senator from Arizona [Mr. MCCAIN], seems to resolve our disagreement and heartily support this compromise.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMITTEE AMENDMENT ON PAGE 79, LINES 1 THROUGH 6

Mr. HOLLINGS. Mr. President, on last evening there was a managers' amendment. A mistake in the actual drafting was made. This has been cleared on both sides. Mr. President, I ask unanimous consent the committee amendment on page 79, lines 1 through 6, be withdrawn.

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

So the committee amendment on page 79, lines 1 through 6, was withdrawn.

Mr. HOLLINGS. I thank the Chair and the staff who caught this for us. I am glad it is corrected.

AMENDMENT NO. 2816

Mr. HOLLINGS. Just one word about the McCain-Dorgan amendment. Once again, this, of course, is the Congress injecting itself into the functions and responsibilities of the Federal Communications Commission. There is no question at this very moment the FCC can auction the so-called spectrum that is now in dispute. I emphasize "dispute" because it is a legal case that has been in the courts, now, for over a year. It is on appeal.

There has been a vote, so to speak, informally, at least, by way of reports. Lawyers call from both sides of this case. I understand, now, the vote is 2 to 2 at the FCC: Two members of the FCC disposed toward an auction, two disposed toward what they characterize as the recommendation of the staff—the staff that studied this case and handled the testimony and otherwise. There is one indecisive member.

So we come with an amendment, without any hearings, without really knowing what we are talking about and doing, and we say we know how to grant licenses and everything of that kind, so hereby is the way to do it.

The fact is, this Senator is very anxious, like all Senators, to find money. In fact, at this stage of the Congress, it is like tying two cats by the tails and throwing them over the clothesline and letting them claw each other. No Senator can put up an amendment that he does not take away money from some other Senator or some other function.

So I cosponsored, with the distinguished Senator from Alaska, the auction process that has already reaped some $9 billion. I went along, of course, with another $8.3 billion offset in the telecom bill by way of auction.

So I am very much for auctions, and I am very much for the money being reaped by the Government itself. That is what we are here for, to look out for all the people.

Having said that, I see the parties on the floor here, and they have been discussing it.

So I reserve the remainder of our time.

Mr. DORGAN. Mr. President, under the time agreement, I yield myself such time as I may use from the time allocated to Senator MCCAIN and myself.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. DORGAN] is recognized.

Mr. DORGAN. Mr. President, I would like to discuss this issue generally and begin by saying that I join Senator MCCAIN, the Senator from Arizona, in offering an amendment. I do not have any special interest in this issue. I state, as Senator MCCAIN did, that I do not have company headquarters or company interests in North Dakota dealing with this issue. I do not have any great concern or interest in who ends up with these licenses. That is not my interest. My interest today is with the taxpayer. The issue here is an issue of anywhere from $300 to $700 million. Senator MCCAIN, I think, has well described the history. But let me just thumbnail it again.

Ten years ago, the Federal Communications Commission awarded special national licenses for the launching of direct broadcast satellite systems in three orbital locations. They are the only three orbital locations that are available that will provide DBS services nationally across the country. So 10 years ago, they awarded licenses for these slots would provide direct broadcast satellite services that would reach all across the country. Two of those licensees have performed, and have moved ahead. Another will launch soon. But one of the original licensees did not perform. It did not perform what is called due diligence. It had the license, but in 10 years did not perform due diligence and, therefore, the FCC said, "Since you are not going to perform, we will take the license back."

The original licenses were awarded free of charge in exchange for them going ahead and developing these systems. They got the licenses, which had enormous value, free of charge. When one of the licensees did not perform, the FCC took it back.

What value does it have? If the FCC were to auction it off, were to find a company now to run it, or who wants to participate in this DBS system, it is estimated that at an auction it would raise from $300 to $700 million. It has very substantial value. That is the value to the taxpayers. The taxpayers own this spectrum.

What has happened is when the FCC pulled the license back and said, "If you are not going to perform, we will take the license back," and did, the

company that was not performing began talking with other companies, especially large cable companies, and they began to try to make a deal for this in order to accomplish a handoff. That is the process that is now under discussion at the FCC.

The amendment offered by the Senator from Arizona and myself is an amendment that says we think that this simply should go to auction. Let us just have an auction for the third slot. Let us have the taxpayers, the American public, benefit from the $300 to $700 million that will be raised.

I do not care who wins the auction. I have no interest in any of these companies. It just ought to be auctioned, and the money raised go to the public Treasury, reduce the Federal deficit, or do other things. But in any event, the taxpayers ought to get full value for this spectrum.

That is the point of the amendment. I might say that I think the DBS systems are breathtaking and wonderful achievements. They will provide spectacular new technology and competition in the rural areas of America and all over our country. The Presiding Officer is from Colorado, and Colorado has rural regions and small towns far away from many major locations, just as my State of North Dakota.

I have often wondered how we, in small communities, are going to be able to take advantage of this communications breakthrough. This is part of the answer: Direct broadcast satellite systems that reach all parts of this country.

These are wonderful things for our future. It is going to enhance communications and provide entertainment and information to everyone in this country. It represents competition, as well, competition to the wired cable systems in our country.

So I am excited about all of this. I want all three systems to be up and operating.

The point that we make in this amendment is not a point directed at any company, to favor any company or to penalize any company. God bless them all. Let them go at it and provide this breathtaking new technology. Our point is a point that we make on behalf of the taxpayers. We want this spectrum, which has significant value, to provide its value to the American taxpayer. This is a $300 to $700 million question. And the question ought to be answered, in our judgment, in favor of the American taxpayer.

That is why we bring this amendment to the floor. We want the FCC to auction that third license. That is what our amendment provides.

Mr. President, I reserve the remainder of our time.

AMENDMENT NO. 2816, AS MODIFIED

Mr. McCAIN. Mr. President, I ask unanimous consent to modify my amendment. The modification is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 2816), as modified, is as follows:

At the end of the pending committee amendment, insert the following new section:

"SEC. . COMPETITIVE BIDDING FOR ASSIGNMENT OF DBS LICENSES.

No funds provided in this or any other Act shall be expended to take any action regarding the applications that bear Federal Communications Commission File Numbers DBS-94-11EXT, DBS-94-15ACP, and DBS-94-16MP; Provided further, that funds shall be made available for any action taken by the Federal Communications Commission to use the competitive bidding process prescribed in Section 309(j) of the Communications Act of 1934 (47 U.S.C. section 309(j)) regarding the disposition of the 27 channels at 110 degrees W.L. orbital location; *Provided further*, That the provisions of this section apply unless the Federal Communications Commission determines that an alternative adjudication would yield more money for the U.S. Treasury."

Mr. McCAIN. Mr. President, the modification at the desk is very simple language. It adds one sentence that I have discussed with Senator DORGAN and with Senator BROWN. At the end of the amendment, it adds the following language:

Provided further, that the provisions of this section apply unless the Federal Communications Commission determines that an alternative adjudication would yield more money for the U.S. Treasury.

After discussion with Senator BROWN and Senator DORGAN, Mr. President, that is the whole logic of what we are trying to do here. We find it not only acceptable, but a definition of what we are trying to achieve.

I thank Senator BROWN for agreeing to this modification.

I reserve the remainder of my time. I would like to yield 1 minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the modification that has been offered by Senator McCAIN is one that, as I understand it, would suggest that, if there is an alternative approach that would yield as much or more to the U.S. Treasury and the taxpayer, that would be acceptable. That presumes that approach meets the test of fairness, and meets all the other tests of fairness required under an FCC process.

Again, it is not our intention on the floor of the Senate to be talking about who should be involved in this. I have no interest in that at all—none. The question is, What cost does the American taxpayer, who owns this spectrum, get for this process under these circumstances where one licensee did not perform and the license has been taken back by the FCC?

We want full value for that spectrum. That is what our amendment asks for, and the modification does not change that request. I am pleased to accept the modification, as well.

Mr. BROWN. Mr. President, I want to add my voice of support for the modification.

We are all very wary of having Congress intervene in the middle of the adjudicatory action by the FCC. I think all Members are aware that there is a great deal of money available in the disposition of this matter. What I like so much about the modification, Mr. President, is simply this: It leaves the FCC free to pick an option that raises the most money for the Treasury. It puts this Congress in a position of not trying to dictate an option that may be less advantageous for the taxpayers. It makes it clear that the FCC retains some power to pick the best option for the taxpayers—one that will bring in the most revenue to the United States.

Frankly, it seems to me that the modification represents the appropriate position both for the FCC and for this Congress. We should not be in the business of precluding the options of the FCC while they are adjudicating a matter.

I commend the Senator from Arizona for his modification. I believe it settles this question in terms of this Chamber and that the measure has unanimous support.

Mr. President, I do not know if the Senator wishes to retain his record vote. Obviously, if he does, that is fine. But my sense is that at this point the Chamber is ready to accept his modified amendment unanimously.

Mr. McCAIN. Mr. President, I thank again the Senator from Colorado. I do not know a finer individual in the Senate than Senator BROWN from Colorado. He has always had the interests of the constituents and fairness in mind. It has been a privilege for me to work with him on many, many issues, especially those that are in opposition to procedures around here that sometimes deprive the taxpayers of their hard-earned tax dollars in a way which is unacceptable to the vast majority of them. His agreement to modify this amendment so that it is more clear and achieves the goal which we seek, is I think indicative of the individual.

It is worth pointing out that the company which is directly affected by this legislation is located in his State. So I want to thank him for his agreement. I believe that he has strengthened what we are trying to do and that is to provide the taxpayer with the maximum amount of dollars for the property they actually own.

Mr. President, I have a legal document that I think is important to bolster this argument I would like to ask unanimous consent be made a part of the RECORD. It is a series of legal opinions concerning this entire issue. I am pleased to note again that I am not a lawyer, but I do believe that on an issue like this the CONGRESSIONAL

RECORD should contain legal documentation to bolster the argument the Senator from North Dakota and I have been making on the urgency and importance and the legality of having an auction of this spectrum to provide the taxpayers with the maximum return on this very valuable resource they own.

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

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

NO HOLDER OF AN FCC CONSTRUCTION PERMIT HAS ANY RIGHT TO REGULATORY APPROVAL OF FA TRANSFER FOR PRIVATE PROFIT

Federal law does not provide a right to a private company to hoard spectrum and then sell its bare bones construction permit for private gain. Rather, the Federal Communications Commission has a long-standing public policy against any private party "warehousing" this scarce public resource. Underlying this policy is the requirement contained in the Communications Act of 1934 that a construction permit will be automatically forfeited if the system in question is not ready for operation within the time specified by the Commission's rules or within such further time as the Commission may allow. 47 U.S.C. §319 (b).

The rules for the various services for which the Commission issues licenses specifically address construction permit requirements and the public policy objectives behind these requirements. The Commission routinely revokes construction permits or fails to grant time extensions to permit holders who fail to construct a system on a timely basis as required in each service.

For example:

Direct Broadcast Satellite (DBS) Service.—When the Commission adopted in 1982 the licensing condition rules for DBS service, it determined that these rules were necessary to "assure that those applicants that are granted construction permits go forward expeditiously," *Inquiry into the Development of Regulatory Policy in Regard to Direct Broadcast Satellites*. Report and Order, 90 FCC Rcd. 676, 719 (1982). The rules provide that a construction permittee must complete construction of a satellite of complete contracting for construction of a satellite within one year of the grant of the permit *and* be in operation within six years of the construction permit grant, unless the Commission grants an extension upon a proper showing in a particular case. Transfer of control of the permit will not be considered to justify an extension. See 47 U.S.C. §100.19(b).

In the ACC case, ACC entered into a contract with TCI for reportedly $45 million in TCI stock contingent upon a second extension of ACC's construction permit. ACC and TCI assumed a business risk when it entered this contingent contract because both companies were fully aware that ACC had been "hoarding" spectrum as shown by the record developed at the FCC. Any reliance these companies may have had on FCC approval in this case would have been totally unreasonable and unjustified under the FCC's current DBS rules. As the International Bureau noted in its decision revoking ACC's DBS construction permit.

Advanced has had over ten years, including one four-year extension, in which to construct and launch its DBS system. It has failed to do so. It has thereby failed to meet the Commission's due diligence rules—imposed a decade ago—to ensure that the public received prompt DBS service. In the meantime, the channels and orbital positions assigned to Advanced have gone unused. Other DBS licensees have already begun operation. Only by enforcing the progress requirements of the Commission's rules can we ensure that allocated resources will be efficiently and expeditiously put into productive use.

Advanced Communications Corp. Memorandum Opinion and Order (Released April 27, 1995).

Personal Communications Service (PCS).—Most recently, when the Commission adopted rules for the new PCS service, it specifically included construction requirements. Although the Commission expressed the belief that the use of competitive bidding (or auctions) would provide the winners with economic incentives to construct, and conversely, disincentives to warehouse the spectrum, nevertheless the Commission said "we continue to believe that minimum construction requirements are necessary to ensure that PCS service is made available to as many communities as possible and that the spectrum is used effectively." *Amendment of the Commission's Rules to Establish New Personnel Communications Services*, Memorandum Opinion and Order (Released June 13, 1994). PCS licensees are required to serve at least one-third of the population in their licensed area within 5 years of being licensed and at least two-thirds of the population in this area within 10 years. The rules specifically provide: "failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the license and the licensee will be ineligible to regain it." 47 C.F.R. §24.203(a).

Although the first PCS licensees were only awarded three months ago, PCS licensees are already on notice that if they do not build these systems in a timely fashion, the Commission will revoke these licenses even though the licensee may have paid millions of dollars for the privilege.

Multipoint Distribution Service and Multichannel Multipoint Distribution Service (AKA "Wireless Cable").—When the Commission revised its rules with regard to fixed radio services, the Commission noted that carriers who fail promptly to construct facilities preclude other applicants who are willing, ready, and able of delaying, or even denying, service to the public. *Revision of Part 21 of the Commission's rules*, 2 FCC Rcd. 5713 (1987). The Commission's rules for these services provide that a license shall be forfeited automatically when the period permitted under the construction permit expires. 47 C.F.R. §21.44. See also *Cable TV Services*, 8 FCC Rcd. 3204 (1993) (wireless cable construction permit revoked for failure to construct); *Miami MDS Company*, 7 FCC Rcd. 4347 (1992) (construction permit not renewed because of failure to construct within allotted time period).

Television and Radio Broadcasting.—The Mass Media Bureau routinely revokes construction permits or denies renewals for unbuilt broadcast stations under delegated authority from the Commission. These procedures are so commonplace that they are oftentimes handled by letter from the Bureau rather than by reported decision. See attached letter to New Orleans Channel 20 in which the Mass Media Bureau denies an extension of a construction permit and denies transfer (sale) of the construction permit. The construction permit rules for broadcast stations are contained in 47 C.F.R. §73.3534.

SUBPART A—GENERAL INFORMATION

§100.1 Basis and purpose.

(a) The rules following in this part are promulgated pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of this part is to prescribe the manner in which parts of the radio frequency spectrum may be made available for the development of interim direct broadcast satellite service. Interim direct broadcast satellite systems shall be granted licenses pursuant to these interim rules during the period prior to the adoption of permanent rules. The Direct Broadcast Satellite Service shall operate in the frequency band 12.2–12.7 GHz.

§100.3 Definitions.

Direct Broadcast Satellite Service. A radiocommunication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public. In the Direct Broadcast Satellite Service the term *direct reception* shall encompass both individual reception and community reception.

SUBPART B—ADMINISTRATIVE PROCEDURES

§100.11 Eligibility.

An authorization for operation of a station in the Direct Broadcast Satellite Service shall not be granted to or held by:

(a) Any alien or the representative of any alien;

(b) Any foreign government or the representative thereof;

(c) Any corporation organized under the laws of any foreign government;

(d) Any corporation of which any officer or director is an alien;

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license; or

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representatives thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§100.13 Application requirements.

(a) Each application for an interim direct broadcast satellite system shall include a showing describing the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.

(b) Applicants may request specific frequencies and orbital positions. However, frequencies and orbital positions shall not be assigned until completion of the 1983 Region 2 Administrative Radio Conference for the Broadcasting-Satellite Service. The Commission shall generally consider all frequencies and orbital positions to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain.

§ 100.15 Licensing procedures

(a) Each application for an interim direct broadcast satellite system shall be placed on public notice for 45 days, during which time interested parties may file comments and petitions related to the application.

(b) A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cutoff date shall be considered to have equal priority with the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular requencies or orbital positions, the cutoff date shall be considered in establishing the priority of such requests.

(c) Each application for an interim direct broadcast satellite system, after the public comment period and staff review shall be acted upon by the Commission to determine if authorization of the proposed system is in the public interest.

§ 100.17 License term.

All authorizations for interim direct broadcast satellite systems shall be granted for a period of five years.

§ 100.19 License conditions.

(a) All authorizations for interim direct broadcast satellite systems shall be subject to the policies set forth in the *Report and Order* in General Docket 80-603 and with any policies and rules the Commission may adopt at a later date. It is the intention of the Commission, however, that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime.

(b) Parties granted authorizations shall proceed with diligence in constructing interim direct broadcast satellite systems. Permittees of interim direct broadcast satellite systems shall be required to begin construction or complete contracting for construction of the satellite station within one year of the grant of the construction permit. The satellite station shall also be required to be in operation within six years of the construction permit grant, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit shall not be considered to justify extension of these deadlines.

SUBPART C—TECHNICAL REQUIREMENTS

§ 100.21 technical requirements

Prior to the 1983 Regional Administrative Radio Conference for the Broadcasting—Satellite Service, interim direct broadcast satellite systems shall be operated in accordance with the sharing criteria and technical characteristics contained in Annexes 8 and 9 of the Final Acts of the World Administrative Radio Conference for the Planning of the Broadcasting-Satellite Service in Frequency Bands 11.7-12.2 GHz (in Regions 2 and 3) and 11.7-12.5 GHz (in Region 1), Geneva, 1977; *Provided, however*, That upon adequate showing systems may be implemented that use values for the technical characteristics different from those specified in the Final Acts if such action does not result in interference to other operational or planned systems in excess of that determined in accordance with Annex 9 of the Final Acts.

SUBPART D—OPERATING REQUIREMENTS

§ 100.51 Equal employment opportunities

(a) *General policy*. Equal opportunity in employment shall be afforded all licensees or permittees of direct broadcast satellite stations licensed as broadcasters to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

(b) *Equal employment opportunity program*. Each station shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. Under the terms of its program, a station shall:

[DA 95-944]

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, DC 20554

In the Matter of Advanced Communications Corporation, application for extension of time to construct, launch and operate a direct broadcast satellite system, application for consent to assign direct broadcast satellite construction permit from Advanced Communications Corp. to Tempo DBS, Inc., application for modification of direct broadcast satellite service construction permit; File Nos. DBS-94-11EXT, DBS-94-15ACP, DBS-94-16MP.

MEMORANDUM OPINION AND ORDER

Adopted: April 26, 1995.

By the Chief, International Bureau.

Released: April 27, 1995.

I. Introduction

1. For more than a decade, Advanced Communications Corporation ("Advanced") has had leave to provide the public with Direct Broadcast Satellite (DBS) service. It has had allocated to it scarce public resources—orbital positions and channels—so that it could provide that service. Advanced paid nothing for these resources. It was obligated only to proceed with due diligence to provide the service it promised. After more than a decade, Advanced has not provided—and is not close to providing—DBS service to the public. It has failed to meet its due diligence obligation. Advanced must now return the public resources it holds to the public so that these resources can be put to use by others.

2. Advanced has filed an application for a second four-year extension of time in which to construct, launch, and initiate service from its DBS system. Advanced has also filed an application for consent to assign its construction permit to Tempo DBS, Inc. (Tempo DBS). Finally, Advanced has applied for authority to modify its construction permit to allow it to substitute satellites now being constructed for Tempo Satellite, Inc.[1] Dominion Video Satellite, Inc. (DVS), EchoStar Satellite Corporation (EchoStar), DIRECTV, Inc. (DirecTV), and Directsat Corporation filed objections to Advanced's applications; Tempo Satellite and Nevada Direct Broadcasting System (Nevada) filed supporting comments. Advanced filed replies to the objections.[2]

3. Advanced has had over ten years, including one four-year extension, in which to construct and launch its DBS system. It has failed to do so. It has thereby failed to meet the Commission's due diligence rules—imposed a decade ago—to ensure that the public receives prompt DBS service. In the meantime, the channels and orbital positions assigned to Advanced have gone unused. Other DBS licenses have already begun operations.

4. Only by enforcing the progress requirements of the Commission's rules can we ensure that allocated resources will be efficiently and expeditiously put into productive use. In the past, we have given DBS permittees latitude in meeting due diligence deadlines in order to ensure the development of DBS services. As the Commission has previously stated, however, such latitude is not appropriate in an era in which DBS licensees are successfully operating and are competing for subscribers. Accordingly, we deny Advanced's application for an extension of time and declare its construction permit null and void. We dismiss, as moot, the pending assignment and modifications applications.

II. Background

5. In 1984, Advanced applied for authority to construct and launch a DBS system as part of the second processing round of DBS applications. The Commission granted the application subject to the condition that Advanced "proceed with the construction of its system with due diligence as defined in Section 100.19(b) of the Commission's rules." 47 C.F.R. § 100.19(b).[3] The due diligence requirement has two components. First, the DBS permittee must begin or complete contracting for construction of its satellites within one year of the grant of its construction permit. Second, the permittee must begin operation of the satellites within six years of the grant of its construction permit, unless otherwise determined by the Commission. Section 100.19(b) provides that a transfer of control of the permit is not a justification for extension of either of these deadlines. Orbital positions and channels are not assigned to a DBS permittee unless and until it demonstrates that it has fulfilled the first component of the due diligence requirement. *Processing Procedures Regarding the Direct Broadcast Service*, 95 F.C.C. 2d 250, 253 (1983).

6. In October 1986, the Commission found that Advanced had complied with the first component of the due diligence requirement by contracting for the construction of its first two DBS satellites. Advanced was ultimately assigned to the 100° W.L. orbit location (channels 1-23, 25, 27, 29, 31) and 148° W.L. (channels 1-17, 19, 21, 23, 25, 27, 29, 31).[4] In February 1990, Advanced applied for a four-year extension of time, until February 1994, in which to construct and operate its DBS system. The Commission granted this request, extending the deadline until December 7, 1994.[5]

7. In August 1994, Advanced applied for another four-year extension of time, until December 1998, in which to construct and operate its system.[6] In September 1994, Advanced

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[1] Tempo Satellite, Inc. ("Tempo Satellite") is a subsidiary of Tele-Communications, Inc. ("TCI"), a cable operator, authorized to construct, launch, and operate 11 DBS channels at orbital slots 166° W.L. and 119° W.L. *See* Tempo Satellite, Inc., 7 F.C.C. Red 2728 (1992). Tempo DBS, the proposed assignee, is an affiliate of TCI.

[2] Several of the pleadings submitted by the parties were not timely filed or were not authorized under the Commission's rules. *See* 47 C.F.R. § 1.45. Such pleadings shall only be considered as informal requests for Commission action of informal comments. *See* 47 C.F.R. § 1.41. The parties' requests for extension of time are hereby denied.

[3] Satellite Syndicated Systems, Inc., 99 F.C.C. 2d 1369 (1984). Advanced's initial grant authorized it to provide service from two satellites, each to deliver six channels to half of the continental United States. Advanced subsequently applied for, and was granted, authority to increase the number of satellites in its system to five, and was later granted authority to increase the number of channels to 27. *See* Continental Satellite Corporation ("Continental"), 4 F.C.C. Red 6292 (1989).

[4] Tempo Enterprises, Inc. ("Tempo"), 1 F.C.C. Red 20 (1986).

[5] Advanced Communications Corp. ("Advanced"), 6 F.C.C. Red 2269 (1991).

[6] Request for Additional Time to Construct and Launch Direct Broadcast Satellites, DBS-84-01/94-11EXT (August 8, 1994).

filed an application for consent to assign its construction permit to Tempo DBS.[7] In October 1994, Advanced filed an application to modify its construction permit to change the technical design of the Advanced satellites to duplicate the design of satellites then under construction for Tempo Satellite under a separate DBS authorization.[8]

8. Dominion, EchoStar, and Directsat oppose Advanced's extension request. They contend that Advanced has not met the first component of the due diligence requirement because Advanced's contract with Martin Marietta does not meet due diligence requirements, delays in construction were not due to circumstances beyond Advanced's control, and Advanced has "warehoused" its authorized frequencies. They argue that Advanced has no valid construction permit and that Advanced's applications for assignment and modification should be declared moot. Directsat and Echostar maintain that Advanced failed to initiate operation due to business decisions within its control, that Commission precedent precludes grant of an extension of time request based on Advanced's failure to attract investors, and that grant of the extension request would prejudice permittees who have significantly passed Advanced in progress toward initiation of DBS service. Dominion argues that under Commission rules, transfer of control of an authorization does not warrant grant of a request for extension of time.[9]

III. Discussion

Extension request

9. In adopting rules and policies for DBS service, we determined that a due diligence requirement would ensure that permittees would go forward expeditiously.[10] Accordingly, Section 100.19(b) of the rules for DBS service. 47 C.F.R. §100.19(b), states that transfer of control of the construction permit will not justify extension of due diligence deadlines. We later noted that "the rule was intended to ensure the prompt initiation of DBS service for the public, and must be enforced where permittees are allowed to hold spectrum resource for which other applications exist. . . ."[11]

10. During the "pioneering era" of DBS technology in the 1980's, the Commission granted numerous extensions of due diligence milestones. The Commission was reluctant to cancel construction permits where permittees failed to initiate DBS service "in accord with a pre-established timetable set without the benefit of experience."[12] As technology developed, however, the Commission gave permittees notice that they could not expect additional extensions. We said in 1988, "[a]s circumstances have evolved and demand for DBS facilities may be increasing beyond the available supply of orbit/channel resource[s], there does now appear [to be] a need for stricter enforcement of the construction progress requirements of the DBS rules."[13]

11. In ruling on requests for extensions of time, the Commission has stated that "[t]he totality of circumstances—those efforts made and those not made, the difficulties encountered and those overcome, the rights of all parties, and the ultimate goal of service to the public—must be considered."[14] In granting Advanced's 1990 extension, the Commission relied on the substantial developments in DBS satellite technology, the Commission's development of its policy regarding channel and orbital assignments, and the Challenger and Ariane launch vehicle failures of the late 1980's.[15] The Commission warned, however, that "continued reliance on experimentation, technological developments and changed plans will not necessarily justify an extension of a DBS authorization." It further warned that it would "closely scrutinize all requests for extension of time within which permittees must initiate DBS service."[16]

12. Advanced asserts that a second extension is justified under the Commission's rules (and is consistent with similar extensions previously granted) because it has made "considerable efforts" to develop DBS service, it has pursued a joint venture agreement, and any delays have been due to circumstances beyond its control. Advanced also implies that the progress Tempo Satellite has made in constructing its satellites should be attributed to Advanced and that these efforts constitute a "proper showing" on which to base an extension.

13. Advanced first argues that an extension is warranted in light of its efforts to reach a joint venture agreement over a nearly three-year period beginning in 1992, even though these negotiations ultimately failed.[17] The Commission has previously found that ongoing negotiations do not justify an extension of due diligence milestones.[8] Failed negotiations surely should fare no better. In denying an extension to another DBS permittee, we held that failure to attract investors, an uncertain business situation, or an unfavorable business climate in general have never been adequate excuses for failure [to] meet a construction timetable in other satellite services.[19]

14. Advanced also asserts that construction was delayed because it needed to modify its system design. In granting Advanced's first extension request, however, the Commission advised Advanced that its decision to modify it technical proposal was a business decision wholly within its control that would not generally excuse its failure to meet the due diligence requirements, To conclude otherwise would allow permittees to "extend indefinitely their nonperformance by repeated modifications of their proposals."[20] DBS technology has evolved to the point where permittees can make design decisions and proceed with construction with relative assurance that their system will be technologically competitive when it is launched. In fact, two permittees have launched DBS systems, which are both already providing service.[21] Advanced has not explained why it did not make similar design decisions for its system, or why such decisions were not wholly within its control. Accordingly, we do not find that continued modifications to Advanced's system warrant an extension of time.

15. Advanced contends that an extension is justified because the company has expended considered funds and "countless hours" to implement its system. Advanced asserts that the Commission has granted extension under similar circumstances, citing *United States Satellite Broadcasting Company, Inc.*[22] In that case, the Video Services Division of the Mass Media Bureau, in considering the "totality of the circumstances," found that the permittee, USSB, (1) has expended $23 million, including a substantial payment towards spacecraft construction; (2) had demonstrated that the remaining financing for the completion and launch of the satellite had been arranged; and (3) had executed launch and various supplier contracts. Advanced, in contrast, has not specified how much money it has spent,[23] has not arranged financing, and has not procured a launch contract. Advanced has failed to show its progress constitutes sufficient justification for a further extension of time. To the contrary, it appears that Advanced wants to abandon its business to Tempo DBS.

16. Advanced further states that it should be granted an extension because it has "remained in due diligence" since we found it had met the first component of the due diligence requirement by executing a construction contract. The facts belie this conclusory assertion. The due diligence requirement consists of two components. The fact that Advanced continues to have a binding construction contract, or that it has made all payments required by this contract does not excuse its failure to meet the second part of its due diligence requirement: operation of its direct broadcast satellite system.[24] Meeting the first due diligence requirement does not justify failing to fulfill the second.

17. Advanced also asserts that the Commission's formulation of its channel assignment

[7] Request for Consent to Assign DBS Authorizations, DBS-94-15ACP (September 28, 1994).

[8] Application for Modification of Construction Permit, DBS-94-16MP (October 14, 1994). In November 1994, Advanced filed an amendment to this modification request. Amendment of Application for Modification of Construction Permit, DBS-94-16MP (November 16, 1994).

[9] 47 C.F.R. §100.19(b) states that "[t]ransfer of control of the construction permit shall not be considered to justify extension of the[ ] deadline[ ]."

[10] Inquiry into the development of regulatory policy in regard to Direct Broadcast Satellites for the period following the 1983 Regional Administrative Radio Conference, 90 F.C.C. 2d 676 (1982).

[11] CBS, Inc., 99 F.C.C. 2d 565, 572 (1984).

[12] United States Satellite Broadcasting Company, Inc. ("USSB I"). 3 F.C.C. Rcd 6858, 6860 (1988).

[13] *Id.* at 6861.

[14] *Id.*

[15] *Id.* at 6860.

[16] *Id.*

[17] In progress reports to the Commission, Advanced said, in April 1992, that it expected negotiations to be completed in "the next month or two." In August 1992, Advanced reported it has signed a letter of intent that called for execution of an agreement within sixty days. In October 1992, Advanced explained that negotiations were continuing, and in April 1993, stated it expected to reach an agreement within the next month. In May 1993, it reported it was still in "complex negotiations," and in October 1993, it claimed that negotiations were continuing. However, on December 30, 1994, Advanced indicated that negotiations had failed.

[18] USSB I, 3 F.C.C. Rcd at 6859. *See also* Report and Order in CC Docket No. 81-704, 54 R.R. 2d 577, 597 n. 62 (1983).

[19] *id.*

[20] Tempo, 1 F.C.C. Rcd at 20.

[21] *See, e.g.*, Semi—Annual DBS Progress Report filed by Hughes Communications Galaxy, Inc., DBS-84-02/81-07/93-03MP (January 24, 1995).

[22] United States Satellite Broadcasting Company, Inc. ("USSB II"), 7 F.C.C. Rcd 7247, 7250 (1992).

[23] Advanced acknowledges that its expenditures on the construction contract with Martin Marietta Astrospace are less than one percent. Semi-Annual Status Report, DBS 84-01-88-05 MP and 84-01/88-05 Ext. (May 10, 1993). Subsequent reports do not include payment amounts or percentages. *See* Semi-Annual Status Reports, DBS 84-01-88-05 MP and 84-01/88-05 Ext. (October 6, 1993 and April 24, 1994).

[24] USSB II at 7250. To the extent Advanced relies on its contract with Tempo Satellite and TCI (pursuant to Advanced's application to assign its construction permit) in arguing that it is still in due diligence, we point out that this contract underscores Advanced's lack of commitment to establish its direct broadcast satellite system. The assignment application indicates that Tempo Satellite has arranged financing, executed contracts for satellite launch and construction and for DBS receiving equipment, and has spent $246 million on satellite construction. Advanced's sole contribution to Tempo Satellite's system appears to be its construction permit. For these reasons and the reasons stated at paragraph 18, *infra*, we find that Advanced's latest contract does not demonstrate a capability and commitment on its part to operate a DBS system.

policy[25] and the delay in granting previous modification requests constitute circumstances beyond its control and warrants an extension of time. However, the channel assignment policy was clarified in 1989.[26] Advanced's proposed modifications to its orbit locations and channel assignments were granted in 1991.[27] Advanced has not cited any circumstances that impeded its ability to construct its system over the last four years. Advanced has failed to show that delay in meeting the second component of due diligence is due to circumstances beyond its control.

18. Finally, Advanced asserts that an extension of its construction permit would be in the public interest, since it is on the threshold of an advanced DBS system which will benefit the public, and because doing so will promote the efforts of those who have worked to create the DBS industry. To do otherwise, Advanced argues, would discourage innovators in all new technological industries.

19. A further extension would not serve the public interest. Advanced has made little progress in construction, launch, and initiation of a DBS system in the past decade. During the same period, two DBS satellites have been launched and construction of others is underway.[28] There is no benefit to the public in allowing Advanced to continue to waste orbital locations and channels while two permittees have already initiated DBS service.

20. Advanced's current authorization required it to begin operation of a satellite by December 7, 1994.[29] If failed to do so. The "totality of the circumstances" presented by Advanced in its extension request does not justify granting additional time in which to begin operation. Accordingly, we deny Advanced's request for an extension of time to construct, launch, and operate a direct broadcast satellite system. Because Advanced has failed to satisfy this express condition of its construction permit, the permit is null and void by its own terms.

B. Other applications

21. Inasmuch as we have concluded that Advanced's permit is null and void, its pending applications for assignment of that permit to Tempo DBS and related modification application are moot and are accordingly dismissed.[30] To the extent Advanced suggests that construction progress on Tempo Satellite's DBS satellites should be considered favorably in evaluating Advanced's extension request, we disagree.[31] The Commission has based previous extensions of time on a finding that the efforts made by the permittee "reveal[s] no lack of capability or commitment" to establish its DBS system.[32] Tempo Satellite's construction progress is irrelevant in determining whether Advanced should be granted an extension of time in which to construct and operate Advanced's satellites.[33] Moreover, we believe it would contravene the public interest to consider Tempo Satellite's construction-progress in assessing Advanced's extension request. To do so would reward permittees' inaction or failure to comply with implementation milestones. Such warehousing precludes the use of channel and orbital assignments by other service providers, and will ultimately result in delays in service to the public.

22. In its opposition to Advanced's petition for extension of time, DBSC requests that some of Advanced's cancelled channels be assigned to DBSC. DBSC's request was not made within any designated filing period for modification applications, and is hereby rejected. We will soon issue a notice regarding the reallocation of cancelled channels and available orbital positions.

V. Ordering Clauses

23. Accordingly, it is ordered, pursuant to Section 0.261 of the Communications Act of 1934, as amended, 47 U.S.C. §0.261, that the Application File No. DBS-94-11-EXT IS DENIED and the construction permit issued to Advanced Communications Corporation in *Satellite Syndicated Systems*, 99 F.C.C. 2d 1369 (1984) is declared null and void.

24. It is further ordered, that Application File Nos. DBS-94-15ACP and DBS-94-16MP are dismissed as moot.

SCOTT BLAKE HARRIS,
Chief, International Bureau.

[25] Continental, 4 F.C.C. Rcd at 6296-7 (1989).

[26] *Id.* at 6301.

[27] Advanced, 6 F.C.C. Rcd at 2274.

[28] *See* note 21, *supra*.

[29] Advanced, 6 F.C.C. Rcd at 2274.

[30] To the extent the pleadings address Advanced's applications for assignment and for modification of its construction permit, such pleadings are likewise moot and will not be considered.

[31] Under Advanced's proposal to assign its construction permit to Tempo DBS, the satellites deployed under Advanced's permit would be those now under construction for Tempo Satellite, Inc., a DBS permittee. Application for Modification of Construction Permit, DBS-94-16MP (October 14, 1994).

[32] USSB II at 7250.

[33] Advanced refers to the Commission's recent decision in Directsat Corp., 10 F.C.C. Rcd 88 (1995), as support for approval of the assignment of its construction permit to Tempo DBS. In that case, the Commission approved the transfer of control of DBS permittee Directsat Corporation from SSE Telecom, Inc. to Echo/Comms. Unlike the circumstances here, Directsat's "investment in the development of its DBS system has been substantial and the progress set fort in its semi-annual reports has been steady and consistent with the schedule established in its construction contract." *Id.* at par. 4. Consequently, the Commission concluded that the public interest in the expeditious provision of DBS service to the public would be advanced by this sale.

[FCC 82-285]

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, DC 20554

In the Matter of Inquiry into the development of regulatory policy in regard to direct broadcast satellites for the period following the 1983 Regional Administrative Radio Conference; Gen. Docket No. 80-603.

REPORT AND ORDER

Adopted: June 23, 1982; Released: July 14, 1982.

By the Commission: Commissioners Fowler, Chairman; Fogarty and Rivera issuing separate statements; Commissioner Quello concurring and issuing a statement.

I. Introduction

1. On June 1, 1981, the Commission issued a Notice of Proposed Policy Statement and Rulemaking (Notice), 86 FCC 2d 719, to consider proposed policies and rules to govern the authorization of direct broadcast satellite (DBS) service.

* * * * *

However, we believe that the provision of HDTV service should not exclude conventional television service. We note that only one of the DBS applicants, CBS, proposes to broadcast HDTV exclusively. We believe that any transition to HDTV would deprive the public of the use of the band for conventional television transmission. Moreover, HDTV presently requires considerably more bandwidth than conventional television signals, and therefore it reduces the number of channels that can be provided within a given amount of spectrum. Our present proposal would permit the band to be used either/for HDTV or for conventional television signals, as spectrum allocation permits and the market dictates. We believe this approach serves the public interest better than reserving the band exclusively for either service.

Licensing and Procedural Requirements

111. The licensing and procedural policies and requirements we are adopting are, with few exceptions, those that were set forth in the *Notice*. In particular, applicants will be required to conform to the technical guidelines specified in the WARC-77 Final Acts. Furthermore, all interim authorizations will be subject to modification, as the Commission deems necessary, in order to comport with determinations made at RARC-83 and any other policies and rules which the Commission may hereafter conclude are necessary or appropriate in the public interest. Deviations from the guidelines of the WARC-77 or from the outcome of RARC-83 may be permitted with Commission approval provided they do not cause interference to operational or Commission approval provided they do not cause interference to operational or planned systems of other administrations in excess of that specified in the Final Acts of the WARC-77 or RARC-83.

112. Applicants may request specific frequencies and orbital positions. However, frequencies and orbital positions will not be assigned until completion of the 1983 RARC. We note that the number of frequencies, the orbital locations, and the size of the service areas specified in the applications we have received to date have varied considerably. While we intend to take each applicant's request fully into account, the Commission may, in acting on a particular application, restrict the number of channels assigned to any applicant, limit or modify the area to be served, or impose any other conditions it deems necessary.

113. The Commission will continue to accept applications for DBS systems. In addition, the Commission intends in the very near future to establish a second cut-off list for applications.[99] In view of the number of applications that have been accepted to date and the number of potential applications that may be filed, future applicants are requested to indicate whether or not they would be willing to operate their systems for non-eclipse-protected orbital positions.

114. In lieu of stringent financial showings and subsequent Commission analysis, we will require that parties granted authorizations proceed with diligence in constructing interim DBS systems. Interim DBS systems will be required to begin construction or complete contracting for construction of the satellite station within one year of the grant of the construction permit. The satellite station will also be required to be in operation within six years of the construction permit grant, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit will not be considered to justify extension of these deadlines. We believe that a diligence requirement will provide a more orderly processing of applications and assure that those applicants that are granted construction permits go forward expeditiously.

115. Each application for an interim DBS system shall include a showing describing

[99] A number of the interim DBS applications filed in response to the first cut-off date were found unacceptable for filing. Some of these applications were subsequently amended and may now be acceptable for filing.

the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.[100] Each application for an interim DBS system shall be placed on public notice for 45 days, during which time interested parties may file comments and petitions related to the application. A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cut-off date shall be considered to have equal priority with the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular frequencies or orbital positions, the cut-off date shall be considered in establishing the priority of such requests. All frequencies and orbital positions, however, shall generally be considered to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain. Each application for an interim DBS system, after the public comment period and staff review, shall be acted upon by the Commission to determine if authorization of the system is in the public interest.

116. All authorizations for interim DBS systems shall be granted for a period of five years. All licensee shall be subject to the policies set forth in this *Report and Order* and with any policies and rules the Commission may adopt at a later date. It is the intention of the Commission, however, that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime.

VIII. Ordering Clauses

117. Pursuant to Section 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i) and 303, it is ordered, That:

(a) Parts 2 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as set forth in Appendix C, effective thirty days after publication in the Federal Register.

(b) Chapter I of Title 47 of the Code of Federal Regulations is amended to include a new Part 100 as set forth in Appendix D, effective thirty days after publication in the Federal Register.

(c) The Petition for Expedited Relief submitted by the Aerospace and Flight Test Radio Coordinating Committee on August 12, 1981 is granted to the extent indicated above and is otherwise denied.

WILLIAM J. TRICARICO,
Secretary.

Appendices A and B—may be seen in FCC's Dockets Branch.

APPENDIX C

Parts 2, and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

1. Section 2.106 is amended by revising the "Service" column of the frequency bands listed below and by adding new Footnotes NG139 and NG140 in proper numerical order to read as follows:

§2.106 Table of Frequency Allocations

* * * * *

United States		Federal Communications Commission		
Band (GHz)	Allocation	Band (GHz) Service	Class of Station	
5	6	7	8	9

* * * * *

(b) The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the transmitter power.

(c) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

(d) The following minimum spectrum analyzer resolution bandwidth settings will be used: 300 Hz when showing compliance with paragraphs (a)(1)(i) and (a)(2)(i) of this section; and 30 kHz when showing compliance with paragraphs (a)(1)(ii) and (a)(2)(ii) of this section.

§24.134 Co-channel separation criteria.

The minimum co-channel separation distance between base stations in different service areas is 113 kilometers (70 miles). A co-channel separation distance is not required for the base stations of the same licensee or when the affected parties have agreed to other co-channel separation distances.

§24.135 Frequency stability.

(a) The frequency stability of the transmitter shall be maintained within ±0.0001 percent (±1 ppm) of the center frequency over a temperature variation of −30 Celsius to +50 Celsius at normal supply voltage, and over a variation in the primary supply voltage of 85 percent to 115 per cent of the rated supply voltage at a temperature of 20 Celsius.

(b) For battery operated equipment, the equipment tests shall be performed using a new battery without any further requirement to vary supply voltage.

(c) It is acceptable for a transmitter to meet this frequency stability requirement over a narrower temperature range provided the transmitter ceases to function before it exceeds these frequency stability limits.

SUBPART E—BROADBAND PCS

SOURCE: 59 FR 32854, June 24, 1994, unless otherwise noted.

§24.200 Scope.

This subpart sets out the regulations governing the licensing and operations of personal communications services authorized in the 1850–1910 and 1930–1990 MHz bands.

§24.202 Service areas

Broadband PCS service areas are Major Trading Areas (MTAs) and Basic Trading Areas (BTAs) as defined below. MTAs and BTAs are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39 ("BTA/MTA Map"). Rand McNally organizes the 50 states and the District of Columbia into 47 MTAs and 487 BTAs. The BTA/MTA Map is available for public inspection as the Office of Engineering and Technology's Technical Information Center, room 7317, 2025 M Street, NW., Washington, DC.

(a) The MTA service areas are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39, with the following exceptions and additions:

(1) Alaska is separated from the Seattle MTA and is licensed separately.

(2) Guam and the Northern Mariana Islands are licensed as a single MTA-like area.

(3) Puerto Rico and the United States Virgin Islands are licensed as a single MTA-like area.

(4) American Samoa is licensed as a single MTA-like area.

(b) The BTA service areas are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39, with the following additions licensed separately as BTA-like areas: American Samoa; Guam; Northern Mariana Islands; Mayagüez/Aguadilla-Ponce, Puerto Rico; San Juan, Puerto Rico; and the United States Virgin Islands. The Mayagüez/Aguadilla-Ponce BTA-like service area consists of the following municipios: Adjuntas, Aguada, Agudilla, Añasco, Arroyo, Cabo Rojo, Coamo, Guánica, Guayama, Guayanilla, Hormigueros, Isabela, Jayuya, Juana Diaz, Lajas, Las Marías, Mayagüez, Maricao, Maunabo, Moca, Patillas, Peñuelas, Ponce, Quebradillas, Rincón, Sabana Grande, Salinas, San Germán, Santa Isabel, Villalba, and Yauco. The San Juan BTA-like service area consists of all other municipios in Puerto Rico.

§24.203 Construction requirements.

(a) Licensees of 30 MHz blocks must serve with a signal level sufficient to provide adequate service to at least one-third of the population in their licensed area within five years of being licensed and two-thirds of the population in their licensed area within 10 years of being licensed. Licensees may choose to define population using the 1990 census or the 2000 census. Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the license and the licensee will be ineligible to regain it.

(b) Licensees of 10 MHz blocks must serve with a signal level sufficient to provide adequate service to at least one-quarter of the population in their licensed area within five years of being licensed, or make a showing of substantial service in their licensed area within five years of being licensed. Population is defined as the 1990 population census. Licensees may elect to use the 2000 population census to determine the five-year construction requirement. Failure by any licensee to meet these requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

(c) Licensees must file maps and other supporting documents showing compliance with the respective construction requirements within the appropriate five- and ten-year benchmarks of the date of their initial licenses.

§24.204 Cellular eligibility.

(a) *10 MHz Limitation.* Until January 1, 2000, no license(s) for broadband PCS in excess of 10 MHz shall be granted to any party (including all parties under common control) if the grant of such license(s) will result in significant overlap of the PCS licensed service area(s) (MTAs or BTAs) and the cellular geographic service area(s) (CGSA) of licensee(s) in the Domestic Public Cellular Radio Telecommunications Service directly or indirectly owned, operated, or controlled by the same party.

(b) *15 MHz Limitation.* After January 1, 2000, no license(s) for broadband PCS in excess of 15 MHz shall be granted to any party (including all parties under common control) if the grant of such license(s) will result in significant overlap of the PCS licensed service area(s) (MTAs or BTAs) and the cellular geographic service area(s) (CGSA) of licensee(s) in the Domestic Public Cellular Radio Telecommunications Service directly or indirectly owned, operated, or controlled by the same party.

[100] The Commission will carefully review each DBS application for completeness. Accordingly, all applicants should be sure that their applications contain a complete and detailed technical showing and that the service to be provided is adequately described. (*See also Memorandum Opinion and Order*, FCC 81-500, and *Memorandum Opinion and Order*, FCC 82-92.)

(c) *Significant Overlap.* For purposes of paragraphs (a) and (b) of this section, significant overlap of a PCS licensed service area and CGSA(s) occurs when ten or more percent of the population of the PCS service area, as determined by the 1990 census figures for the counties contained therein, is within the CGSA(s).

(d) *Ownership Attribution.* (1) For purposes of paragraphs (a) and (b) of this section, "control" means majority voting equity ownership, any general partnership interest, or any means of actual working control (including negative control) over the operation of the licensee, in whatever manner exercised.

(2) For purposes of applying paragraphs (a) and (b) of this section, and for purposes of §24.229(c) (40 MHz limit in same geographic area), ownership and other interests in broadband PCS licensees or applicants and cellular licensees will be attributed to their holders pursuant to the following criteria:

(i) Partnership and other ownership interests and any stock interest amounting to 5 percent or more of the equity, or outstanding stock, or outstanding voting stock of a broadband PCS licensee or applicant will be attributable.

(ii) Partnership and other ownership interests and any stock interest amounting to 20 percent of more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee will be attributable, except that ownership will not be attributed unless the partnership and other ownership interests and any stock interest amounting to 40 percent or more of the equity, or outstanding stock, or outstanding voting stock.

* * * * *

[FCC 94-144]

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, DC 20554

In the Matter of Amendment of the Commission's rules to establish new personal communications services; Gen Docket No. 90-314; RM-7140, RM-7175, RM-7618.

MEMORANDUM OPINION AND ORDER

Adopted: June 9, 1994.

By the Commission: Commissioners Quello, Barrett, Ness, and Chong issuing separate statements.

Released: June 13, 1994.

* * * * *

V. Construction Requirements

147. In the *Second Report and Order*, we stated our expectations that broadband PCS would be a highly competitive industry and that licensees would have the incentive to construct facilities to meet the demand for service in their licensed areas. We concluded that specific channel loading requirements are unnecessary; however, we required licensees to meet specified construction benchmarks to ensure efficient spectrum utilization and service to the public. Specifically, we required licensees to offer service to one-third of the population in their service area within five years of licensing, two-thirds of the population in their service area within seven years, and 90 percent of the population within ten years. We stated that failure to meet these requirements would result in forfeiture of the license and the licensee would be ineligible to regain it.[227]

* * * * *

PacBell opposes Sprint's suggestion that cellular carriers be permitted to include their existing coverage in meeting PCS coverage requirements.[243]

153. MCI asserts that some relaxation of the construction requirements is necessary if base and mobile power limits are not substantially increased.[244] US West opposes the 90 percent construction requirement, asserting that 90 percent coverage will increase the cost of PCS fourfold compared to a 67 percent population coverage requirement. It states that a stringent construction requirement is not necessary to prevent warehousing of spectrum because the spectrum will be purchased at auction. As part of its filing, US West submits an analysis of nine large western BTAs that indicates that increasing population coverage from 67 to 75 percent results in only a moderate increase in the geographic area that must be served. On the other hand, increasing population from 75 to 90 percent results in a very large increase in the geographic area that must be covered.[245]

154. *Decision.* We believe that PCS will be a highly competitive service and that licensees will have incentives to construct facilities to meet the service demands in their licensed service areas. Further, we believe that our use of competitive bidding for PCS licensing and the restrictions on the amount of spectrum that a licensee may control in a geographic area will limit the likelihood that spectrum will be warehoused. Nevertheless, we continue to believe that minimum construction requirements are necessary to ensure that PCS service is made available to as many communities as possible and that the spectrum is used effectively. We note that the Reconciliation Act amendments require the Commission to impose performance requirements.[246] While we agree with GCI, NYNEX, and others that construction requirements are needed to ensure service in a timely fashion, we also agree that relaxation of the requirements is desirable to ensure an economical deployment of the service to promote opportunities for PCS "niche" services, and to facilitate a competitive market.[247]

155. Accordingly, we are amending the construction requirements as follows. All 30 MHz broadband PCS licensees will be required to construct facilities that provide coverage to one-third of the population of their service area within five years of initial license grant and to two-thirds of the population of their service area within ten years. We will require the 10 MHz licensees to meet a single construction requirement of providing coverage to one-fourth of the population of their service area within five years; or alternatively, they may submit an acceptable showing to the Commission demonstrating that they are providing substantial service. We recognize that these requirements are less than the requirement for narrowband PCS licensees, but we believe this difference is appropriate given the higher expected construction costs involved for broadband PCS.[248] Moreover, since licensees must purchase their licenses, they will have added economic incentives to construct their systems as rapidly as possible and introduce service to a significant percentage of the population. In this regard, we also believe that these relaxed construction requirements may increase the viability and value of some broadband licenses, especially those in less densely populated service areas. Finally, since most areas are already served by cellular and SMR providers, we believe it unnecessary to require PCS licensees to provide identical or similar services to areas where it is uneconomic to do so. With regard to the 10 MHz licensees, we believe that the reduced construction requirement will make these licenses more attractive to applicants intending to provide residential, cutting-edge niche services or services to business and educational campuses where the population may be small except during business or school hours.

156. At the five-year benchmark we will require all licensees, and again at the 10-year benchmark for 30 MHz licensees, to file a map and other supporting documentation showing compliance with the construction requirements. Licensees failing to meet the population coverage requirements described above will be subject to the license forfeiture penalties adopted in the *Second Report and Order*.[249] We recognize that even with these requirements, factors such as incumbent microwave operation or sparse population density in some instances could make compliance difficult. In instances where the circumstances are unique and the public interest would be served, the Commission will consider waiving the requirements on a case-by-case basis.[250] These revised construction requirements will ensure efficient spectrum utilization and promote significant nationwide coverage without imposing substantial cost penalties on licensees that serve less densely populated areas. In this regard, we believe that these changes generally address the concerns of those parties that suggested lowering the construction requirements for designated entities or for BTA service areas.[251]

157. We also recognize the desirability of encouraging more than one provider to serve a diverse geographic area, and note that resale of a licensee's geographic area to other entities, subject to the licensee's control, is not prohibited by our rules. Accordingly, we recognize that licensees may resell spectrum, and believe that this will facilitate the deployment of PCS. Whether or not the licensee enters into resale arrangements, it will be responsible for insuring that the coverage requirement and all the other requirements of our rules are met. The reseller will not be a separate licensee, but rather, will operate subject to the control of the licensee. We believe that resale will encourage service provision, particularly to rural areas, and allow smaller, predominantly rural companies to participate in PCS. We intend to examine in another proceeding whether resale arrangements confer attributable interests on the reseller. *See* Section IV, *supra*.

158. In summary, our relaxed construction requirements will foster provision of PCS services and will promote diversity in their provision. Permitting licensees to resell service subareas, subject to the licensee's control, will permit smaller, rural companies to provide PCS without participating in the competitive bidding process. Finally, we intend to monitor closely the development of

[227] *See Second Report and Order* at ¶¶132-134.

[243] *See* PacBell Comments at 8.

[244] *See* MCI Comments at 17.

[245] *See* US West Reply at 7-9.

[246] *See* 47 U.S.C. §309(i)(4)(B), as amended by the Reconciliation Act.

[247] *See* Comments at 13; NYNEX Comments at 8-9.

[248] The construction requirements for narrowband PCS are set forth in *Memorandum Opinion and Order*, GEN Docket No. 90-314 and ET Docket No. 92-100, 9 FCC Rcd 1309, 1313-1314, ¶¶27-34 (1994), *recon. pending*.

[249] *See Second Report and Order* at ¶¶133-134.

[250] *See WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

[251] We will also allow the licensee to use, if they choose to do so, the 2000 census to determine the 10-year construction requirement, rather than the 1990 census specified in the *Second Report and Order*. This change ensures that licensees will not be required to meet benchmarks based on obsolete data.

PCS in rural and other under-served areas and, if necessary, will readdress these construction requirements to ensure that our goals for wide area service are met.

VI. Technical Standards

A. Roaming and interoperability standards

159. In the *Second Report and Order*, the Commission provided maximum flexibility in technical standards to allow PCS to develop in the most rapid, economically feasible and diverse manner. Specific technical standards were prescribed only to the extent necessary to avoid harmful interference. The Commission recognized that several industry technical and standards groups were addressing matters related to PCS technical standards. It encouraged those groups to consider ways of ensuring that PCS users, service providers, and equipment manufacturers could incorporate roaming, interoperability and other important features in the most efficient and least costly manner, noting that PCS will be more useful to the extent that users are not limited by geography or by their ability to use their equipment with different systems.

160. *Petitioners' Requests.* NCS, Motorola, and TIA request that we reconsider our decision not to adopt PCS interoperability requirements.[252] NCS requests that we adopt standards to ensure interoperability and nationwide roaming.

* * * * *

(a) The MTA service areas are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39, with the following exceptions and additions:

(1) Alaska is separated from the Seattle MTA and is licensed separately.

(2) Guam and the Northern Mariana Islands are licensed as a single MTA-like area.

(3) Puerto Rico and the United States Virgin Islands are licensed as a single MTA-like area.

(4) American Samoa is licensed as a single MTA-like area.

(b) The BTA service areas are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39, with the following additions licensed separately as BTA-like areas: American Samoa; Guam; Northern Mariana Islands; Mayagüez/Aguadilla-Ponce Puerto Rico; San Juan, Puerto Rico; and the United States Virgin Islands. The Mayagüez/Aguadilla-Ponce BTA-like service area consists of the following municipios: Adjuntas, Aguada, Aguadilla, Añasco, Arroyo, Cabo Rojo, Coamo, Guánica, Guayama, Guayanilla, Hormigueros, Isabela, Jayuya, Juana Díaz, Lajas, Las Marías, Maricao, Maunabo, Mayagüez, Moca, Patillas, Peñuelas, Ponce, Quebradillas, Rincón, Sabana Grande, Salinas, San Germán, Santa Isabel, Villalba, and Yauco. The San Juan BTA-like service area consists of all other municipios in Puerto Rico.

§ 24.203 Construction requirements.

(a) Licensees of 30 MHz blocks must serve with a signal level sufficient to provide adequate service to at least one-third of the population in their licensed area within five years of being licensed and two-thirds of the population in their licensed area within 10 years of being licensed. Licensees may choose to define population using the 1990 census or the 2000 census. Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the license and the licensee will be ineligible to regain it.

(b) Licensees of 10 MHz blocks must serve with a signal level sufficient to provide adequate service to at least one-quarter of the population in their licensed area within five years of being licensed, or make a showing of substantial service in their licensed area within five years of being licensed. Population is defined as the 1990 population census. Licensees may elect to use the 2000 population census to determine the five-year construction requirement. Failure by any licensee to meet these requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

(c) Licensees must file maps and other supportive documents showing compliance with the respective construction requirements within the appropriate five- and ten-year benchmarks of the date of their initial licenses.

§ 24.204 Cellular eligibility.

(a) *10 MHz Limitation.* Until January 1, 2000, no license(s) for broadband PCS in excess of 10 MHz shall be granted to any party (including all parties under common control) if the grant of such license(s) will result in significant overlap of the PCS licensed service area(s) (MTAs or BTAs) and the cellular geographic service area(s) (CGSA) of licensee(s) in the Domestic Public Cellular Radio Telecommunications Service directly or indirectly owned, operated, or controlled by the same party.

FEDERAL COMMUNICATIONS COMMISSION

[8 FCC Rcd 3204; 1993 FCC LEXIS 2397]

In the Matter of the Authorization of Cable TV Services, Inc., For Multichannel Multipoint Distribution Service station WHT578 on the F-group channels at Deadhorse, Alaska; File No. 2506–CM–P–83.

Release-number: DA 93–524.

May 14, 1993 Released; Adopted May 5, 1993.

Action: [*1] Order on reconsideration.

Judges: By the Chief, Domestic Facilities Division.

Opinion by: Keegan.

OPINION

1. Introduction. After the cancellation by the Domestic Facilities Division (Division) on delegated authority of its authorization to construct and operate Multichannel Multipoint Distribution Service (MMDS) station WHT578 on the F-group channels at Deadhorse, Alaska, Cable TV Services, Inc. (Cable) requested reinstatement of its authorization.

2. Background. Although acknowledging that it had failed to complete construction by the deadline, Cable states, on reconsideration, that its authorization should be reinstated because it lost its financing and was unable to obtain substitute financing prior to the expiration of its construction period. Approximately six weeks after the construction expiration date, Cable filed an extension application. Cable justifies the late filing of its extension application because it was still searching for financing and it had orally advised Commission staff of its financing problems. Cable also argues that its authorization should be reinstated because, with the exception of video programming currently provided by satellite, no one but Cable would provide multichannel [*2] video programming to the residents of Deadhorse.

3. Discussion. Section 319(b) of the Communications Act of 1934, as amended, "provides that a construction authorization will be automatically forfeited if the station is not ready for operation within the time specified in the construction authorization, or such further time as the Commission may allow, unless prevented by causes not under the control of the grantee." Miami MDS Co. and Boston MDS Co., 7 FCC Rcd 4347, 8347, 4348 (1992). The expiration date of Cable's construction authorization appeared on the face of the authorization. The authorization also contained the following express provision: "This permit shall be automatically forfeited if the facilities authorized herein are not ready for operation within the term of this permit. . . ." At the time, this automatic forfeiture provision was specifically embodied in Section 21.44 of the Commission's Rules. n1 Vidcom Marketing, Inc., 6 FCC Rcd 1945 n.3 (Dom. Fac. Div. 1991).

"Carriers who fail promptly to construct facilities preclude other applicants who are willing, ready, and able to construct from access to limited and valuable spectrum. This has the effect of delaying, [*3] or even denying, service to the public. Revision of Part 21 of the Commission's Rules, 2 FCC Rcd 5713 (1987)." Miami MDS Co. and Boston MDS Co., 7 FCC Rcd 4347, 4349 (1992). Cable's loss of financing and failure to obtain new financing did not toll its construction deadline. Cable's construction authorization was automatically forfeited pursuant to Section 319 of the Communication's Act, 47 C.F.R. Sec. 21.44 and the terms of the authorization. Cable's lack of financing fails to justify reinstatement of its authorization. Cable asserted in its initial application that it was financially qualified under 47 C.F.R. Sec. 21.17. Thus, it is the applicant's independent business judgment that it is financially qualified. Therefore, an independent business judgment to delay construction for financial reasons would not be a cause beyond the applicant's control, justifying an extension of time to construct an MMDS station. See W. Lee Simmons, Inc., 2 FCC Rcd 4290 (1987) (extension applicant's business decision not to construct was within its own control); Joe L. Smith, Jr., Inc., 5 Rad Reg. 2d 582 (1965); accord Radio Longview, Inc., 19 FCC 2d 966, 968–71 (1969); Beta Television Corp., [*4] 27 FCC 2d 761, 763 (Rev. Bd. 1970). Cable was required to file its extension application prior to the expiration of its construction authorization. 47 C.F.R. Secs. 21.11 and 21.44(a). Cable failed to do so. Therefore, its extension application is hereby dismissed as untimely filed.

n1 Section 21.44(a) stated inter alia as follows: "A construction permit shall be automatically forfeited if the station is not ready for operation within the term of the construction permit. . . ."

4. Conclusion and Ordering Clause. Have carefully considered all of the arguments and evidence presented, we find that Cable TV Services, Inc. automatically forfeited its construction authorization for failure to construct prior to the specified expiration date, reinstatement of the authorization is not justified, and its extension application was late filed. Accordingly, IT IS ORDERED that the request for reinstatement filed by Cable TV Services, Inc. regarding the above-referenced MMDS authorization is denied and its extension application is dismissed. This order is issued pursuant to 47 C.F.R. Sec. 0.291, and is effective on its release date. See 47 C.R.R. Secs. 1.4(b), 1.106, and 1.115. [*5]

JAMES R. KEEGAN,
Chief, Domestic Facilities Division.
Common Carrier Bureau.

§ 73.3533 Application for construction permit or modification of construction permit.

(a) Application for construction permit, or modification of a construction permit, for a new facility or change in an existing facility is to be made on the following forms:

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[252] Texas Emergency also requests that we adopt a uniform standard for enhanced emergency 911 services. These matters are addressed in Section VI.E.

(1) FCC Form 301, "Application for Authority to Construct or Make Changes in an Existing Commercial Broadcast Station."

(2) FCC Form 309, "Application for Authority to Construct or Make Changes in an Existing International or Experimental Broadcast Stations."

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 330, "Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign to Transfer Such Station(s)."

(5) FCC Form 340, "Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station."

(6) FCC Form 346, "Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station."

(7) FCC Form 349, "Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station."

(b) The filing of an application for modification of construction permit does not extend the expiration date of the construction permit. Extension of the expiration date must be applied for on FCC Form 307, in accordance with the provisions of § 73.3534.

§ 73.3534 Application for extension of construction permit or for construction permit to replace expired construction permit.

(a) Application for extension of time within which to construct a station shall be filed on FCC Form 307, "Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit." The application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases, an application will be accepted upon a showing satisfactory to the FCC of sufficient reasons for filing within less than 30 days prior to the expiration date.

(b) Applications for extension of time to construct broadcast stations, with the exception of International Broadcast and Instructional TV Fixed stations, will be granted only if one of the following three circumstances have occurred:

(1) Construction is complete and testing is underway looking toward prompt filing of a license application;

(2) Substantial progress has been made *i.e.*, demonstration that equipment is on order or on hand, site acquired, site cleared and construction proceeding toward completion; or

(3) No progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems) but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction.

(c) Applications for extension of time to construct International Broadcast and Instructional TV Fixed stations will be granted upon a specific and detailed showing that the failure to complete was due to cause not under the control of the permittee, or upon a specific and detailed showing of other sufficient to justify an extension.

(d) If an application for extension of time within which to construct a station is approved, such an extension will be limited to a period of no more than 6 months except when an assignment or transfer has been approved that provides for a longer period up to a maximum of 12 months from the date of consummation.

(e) Application for a construction permit to replace an expired construction permit shall be filed on FCC Form 307. Such applications must be filed within 30 days of the expiration date of the authorization sought to be replaced. If approved, such authorization shall specify a period of not more than 6 months within which construction shall be completed and application for license filed.

§ 73.3535 Application to modify authorized but unbuilt facilities, or to assign or transfer control of an unbuilt facility.

(a) If a permittee finds it necessary to file either an application to modify its authorized, but unbuilt facilities, or an assignment/transfer application, such application shall be filed within the first 9 months of the issuance of the original construction permit for radio and other broadcast and auxiliary stations, or within 12 months of the issuance of the original construction permit for television facilities. Before such an application can be granted, the permittee or assignee must certify that it will immediately begin building after the modification is granted or the assignment is consummated.

(b) Modification and assignment applications filed after the time periods stated in paragraph (a) will not be granted absent a showing that one of the following three criteria apply: (1) Construction is complete and testing is underway looking toward prompt filing of a license application; (2) substantial progress has been made *i.e.*, demonstration that equipment is on order or on hand, site acquired, site cleared and construction proceeding toward completion; or (3) no progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems) but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION

[1985 FCC LEXIS 3169]

In the matter of WULT-TV

June 10, 1985 Released; June 4, 1985

Opinion by: [*1] McKinney.

Opinion: New Orleans Channel 20, Inc., Rochester, NY.

Re: BMPCT-840710KH, BAPCT-840727KG, WULT-TV, New Orleans, LA.

GENTLEMEN: This refers to the above-captioned applications for an extension of time within which to construct Station WULT-TV, New Orleans, Louisiana, and for consent to assignment of the construction permit, a petition to deny n1 each of the applications, filed by Marvin Gorman Ministries, Inc. (MGMI), and related pleadings.

n1 Applications for extension of time to construct are not subject to petitions to deny. Therefore, the petition to deny the extension of time application will be treated as an informal objection filed pursuant to Section 73.3587 of the Commission's Rules.

The Commission granted the construction permit for Channel 20 on October 10, 1980, following a settlement agreement among three competing applicants. An application for assignment of the construction permit was granted on January 25, 1982. The assignment was not consummated and on March 15, 1983, a second assignment application was granted, and was consummated on June 28, 1983. On August 9, 1983, the Commission granted the permittee's application for [*2] a six month extension of time to construct. No construction was undertaken following any of the grants. On February 8, 1984, the Commission granted an additional six month extension of time to construct, subject to the condition that, not later than May 9, 1984, you would file a progress report with the Commission. By letter dated May 9, 1994, rather than submitting a progress report, you informed the Commission that because of the drain on your time and resources and lack of success in obtaining a suitable construction site, you had decided to assign the permit to another entity better able to pursue construction of the station. Consequently, you have once again requested an extension of time to construct in order to assign the permit to another entity. It again appears that no construction has been undertaken. You state that the proposed assignee stands ready to pursue construction of the station once the assignment application is approved.

In its objections, MGMI contends that you have had ample time in which to secure a site, have failed to do so, have received two extensions previously for failure to find a site, and that you have made little effort to procure a transmitter [*3] site. Under these circumstances, MGMI argues that you should not be allowed to profit from the sale of the construction permit which would result if the Commission grants the requested extension. MGMI alleges that you have not been diligent in your efforts to secure a transmitter site, and that you assertion that you have, lacks credibility. MGMI points out that several of its officers know of available sites for a transmitter, and that ten other applicants for Channel 49 in New Orleans have specified available sites. MGMI notes that two of the principals of New Orleans Channel 20, Inc. have been holders of the construction permit for Channel 20 since 1980. Therefore, MGMI argues, it is unreasonable to believe that these principals could not have produced a transmitter site within this four year time span. Further, MGMI states that the public interest has been successively undercut by your continuing attempt to hold on to the construction permit. MGMI asserts that your failure to construct over the past four years has removed the channel from the community and prevented any other party from applying to use it.

In opposition, you state that the objections are not based on [*4] the present set of circumstances, but on the previous extension applications and the previous applications for assignment of the construction permit which cannot be revisited. You argue that the public interest would be served by extending the construction permit and allowing the station to go on the air promptly. You assert that the public interest would not be served by opening up the channel for multiple competing applications. You note that LeSea Broadcasting, the proposed assignee, has committed itself to constructing the station, and it hopes to have the station on the air in seven months.

The proposed assignee states that it has: (1) secured a transmitter site and filed an application to modify the Channel 20 construction permit to specify the new site; (2) placed a contingent order for broadcast equipment in the amount of approximately $2.5 million; (3) located a suitable studio site; and (4) reached agreements in principle with individuals who will be the station's operations manager and chief engineer.

Additionally, you maintain that past Commission cases made it clear that an extension of time is appropriate where a permittee that has not constructed a station [*5] proposes to assign the permit to a party that is prepared to proceed with construction. Gross

Broadcasting Co., 41 FCC 2d 729 (1973); New Television Corp., 65 FCC 2d 680 (Rev. Bd. 1977); Hymen Lake, 56 FCC 2d 379 (Rev. Bd. 1975). You state that in the past, where there has been a firm commitment from the proposed assignee to construct and the probability of early inauguration of UHF television, as here, the Commission has consistently found that the public interest would be served by extending the time for construction. You contend that the extension and assignment of the Channel 20 permit would bring new television service to New Orleans at the earliest opportunity. Further, you allege that MGMI has failed to offer any support for its legal position and has provided no basis for overturning long-established Commission policy.

In reply to your opposition, MGMI maintains that you have not submitted any showing of circumstances beyond your control which prevented construction and, therefore, the permit should be forfeited. MGMI alleges that in the 11 months you have controlled the permit, you have made no discernible effort to find a site, order equipment, [*6] or to begin any type of television operation in New Orleans. Yet, MGMI states, you now hope to receive $250,000 for transferring the permit to another party.

Before an extension application can be granted, Section 73.3534(a) of the Commission's Rules requires either a specific and detailed showing that the failure to complete construction within the time provided was due to causes beyond a permittee's control or that there are other matters sufficient to justify the extension. In the past, where an assignee made a firm commitment to construct expeditiously and the Commission was persuaded that the assignment represents the fastest way to have the station activated, the pendency of the assignment application can be considered to be such an "other matter." King Communications, Inc., 47 RR 2d 109, 110 (Rev. Bd., 1980). However, the filing of an assignment application does not automatically entitle the permittee to an extension of time to have the station built. Moreover, subsequent to the King decision, the Commission has clearly stated that it will take a much closer look at extension applications. See, e.g., Revision of Form 301, 50 R.R. 2d 381, 382 (1981); MEKAOY [*7] C. (KTIE), 48 RR 2d 815, 817 (Broadcast Bureau, 1980).

Here, we note that it has been four years since the construction permit was issued for Channel 20. During this time, the Commission has granted two assignment applications and two applications for extension of time to construct. Yet, no construction has commenced and it appears that no equipment has been ordered. In granting the last extension of time to construct, the Commission granted the request subject to the condition that not later than May 9, 1984, a progress report would be filed with the Commission. However, on May 9, 1984, you informed the Commission that you had decided to assign the permit to another entity. Thus, on July 10, 1984, you filed an application for extension of time to construct and on July 27, 1984, an application for assignment of the construction permit.

In this case, the permit was assigned to you on the assumption that you would build promptly. The last extension application was approved on the assumption that its grant would expeditiously result in a new service to the public. These expectations have come to nought.

Accordingly, on the basis of the facts set forth in your application, [*8] the Commission is unable to find that construction of the station was prevented by causes beyond your control and the Commission does not find the existence of other matters which would warrant an extension. The filing of the assignment application, under the circumstances, does not warrant an extension of time. You are advised that your application for an extension of time within which to construct Station WULT, New Orleans, Louisiana, is denied, your construction permit is canceled, your call sign is deleted, and your application for assignment of the construction permit to LeSea Broadcasting, Incorporated, is dismissed, as moot.

Sincerely,

JAMES C. MCKINNEY,
Chief, Mass Media Bureau.

Mr. McCAIN. Mr. President, I would still like to have a rollcall vote on this issue, but I have no further reason to debate the issue. So I would suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. BRYAN. I thank the Chair.

TRANSITIONAL FUNDING FOR UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

Mr. BRYAN. Mr. President, I wanted to alert my colleagues it will be my intention later on today when the floor opens up to offer an amendment with Senator BURNS to provide transitional funding——

The PRESIDING OFFICER. If the Senator would withhold.

We are in a controlled time.

Mr. BRYAN. I think my statement would take perhaps 7 or 8 minutes, if there is a parliamentary concern.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I will yield the Senator from Nevada 10 minutes.

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

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

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. DORGAN. Then I will yield the Senator from Nevada 11 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 11 minutes.

Mr. BRYAN. I thank the Chair and my friend from North Dakota for his courtesy.

As I indicated, Mr. President, it will be my intention to offer, with the distinguished Senator from Montana, Senator BURNS, an amendment later on today to provide transitional funding for the U.S. Travel and Tourism Administration.

This funding would permit an orderly transition into a new public/private-sector entity. This amendment enjoys the support of a number of Senators on both sides of the aisle, including, among many others, Senators MCCONNELL, HOLLINGS, MURKOWSKI, INOUYE, THURMOND, and DASCHLE.

I might also note, Mr. President, that the National Governors' Association at their recent annual meeting endorsed the concept embodied in this proposed amendment.

Mr. President, none of us is unmindful of the fact that the current budget pressures demand some extraordinary responses. So the purpose of this amendment is simply to provide some transitional funding until this public-private partnership can be organized.

As part of this effort, the Congress, the administration, and the travel and tourism organization that are needed best to promote the travel industry are going to need some time to put this into effect. To cut off funding cold turkey, as is contemplated in the present form of this bill, would be the equivalent of unilateral disarmament.

All of our competitors spend considerably more than we do on their national tourism offices. In fact, the United States ranks 23d, spending just $16 million while countries like Greece, Mexico, and Spain, spend more than $100 million each year. In fact, putting this in some context, Mr. President, we rank behind such powerhouses as Tunisia and Malaysia in terms of the amount of money we are spending.

Unfortunately, these spending figures are having a dramatic impact on our share of the world's tourism market. In 1993, the United States enjoyed almost 19 percent of the world's tourism receipts. This has declined to 15.6 percent this year, and is expected to shrink to 13.8 percent by the end of the decade. The chart that I have prepared will indicate that rather dramatic decline. In 1993, 18.7 percent; 1994, 17.9 percent; 1995, estimated this year, 15.6 percent; and by the end of the century, 13.8 percent.

Now, this is more than just a statistical observation. It has real impact. The loss in the U.S. share of the world's tourism market can be translated into a significant impact on our trade deficit and on employment. If we were able to keep our world tourism share from shrinking, we would improve our trade balance—that is a plus, Mr. President—by $28 billion and increase employment by 370,000 people by the year 2000.

Those are significant industries. Very few industries can shape our economy to this extent. Travel and tourism is already the second largest employer in our Nation after health care. It employs either directly or indirectly 13 million Americans.

Now, this indicates the trade surplus balance, something that is always of concern to us. We are running, in terms of our international trading accounts, a deficit.

This clearly indicates that tourism—international tourism; we are not talking about domestic tourism; this is international tourism—can be a substantial, positive, contributing factor. The estimate this year is $18.1 billion, that is, in effect, more people coming to the United States from abroad, spending money in your State, Mr. President, and others who are on the floor and my own as opposed to Americans traveling abroad and spending money in foreign countries—$18.1 billion to the good as we say.

The opportunity we have as a nation is that international travel and tourism is growing rapidly. By the year 2000 more than 661 million people will be traveling throughout the world. That is roughly twice as many people as traveled in 1985. What we need to do is to capture our share of this tourism market. We need to put the muscle of the public and private sector together in a public/private-sector relationship to make sure we advance this market, fully exploit this market to make sure that we get our fair share of the international travel dollar. And to do this we need to develop a new strategy, jointly with the private sector, to energize our international tourism efforts.

The amendment which we will be offering later today would provide $12 million in funding for USTTA, for the transition into this new public/private-sector entity. What this entity will look like is being formulated as we speak. It should be available for scrutiny at the upcoming White House Conference on Travel and Tourism.

Australia and Canada have recently created such public/private-sector partnerships. These new organizations are each spending approximately $100 million this year and have developed creative and aggressive programs in promoting national tourism on behalf of their respective countries.

I do not come here to defend our current tourism effort. It is in need of a major overhaul. But terminating this program cold turkey is not the appropriate step to take. We must make a transition into a new market entity. This transition is important for all of us. It gives us time to begin implementing the recommendations that will emerge from the White House conference on tourism, time to help kick off the 1996 summer Olympics in Atlanta, in time to make a transition into a new public/private-sector partnership.

Later on, Mr. President, I will urge my colleagues to support this amendment, which enjoys wide bipartisan support. And I note the work of my distinguished colleague from Montana, Senator BURNS, who is a prime cosponsor with me.

Mr. President, I do not know if anyone else needs to speak, but I reserve the remainder of the time and yield the floor.

Noting no other Senator on the floor, 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. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2815

Mr. LAUTENBERG. Mr. President, I rise in support of this amendment, which would increase our commitment to addressing the menace of domestic violence.

Mr. President, violence against women is one of this country's most important and pressing problems. Every 5 minutes a women is raped. Every 12 seconds a woman is battered. In fact, these figures reflect only reported crimes—the actual incidence rates probably are even higher.

These numbers are mind-numbing and appalling. Yet they fail to convey the horror and the long-term physical and emotional harms that victims suffer. Sexual assault can have a devastating impact on a woman, especially if she cannot get access to needed counseling and support services. These harms can last a lifetime. It's therefore critical that counseling and other services are available to all victims.

That is one reason why last year I was proud to cosponsor the Violence Against Women Act. This act offers a comprehensive approach to fighting family violence and sexual assault.

Under the act, Federal funds are distributed to the States for victim support services, for training of law enforcement officers, for expansion of law enforcement and prosecution agencies, and for the development of more effective programs to prevent violent crimes against women.

Funds have already been distributed to the States under this act, and it's off to a good, strong start. But it's only a start. The job is far from done.

Unfortunately, in its current form, this bill would take a step backward in the battle against domestic violence. Last year, Congress authorized about $175 million for fiscal year 1996. Yet the bill would cut that level by $75 million.

In my view, that cut would be a big mistake. We simply should not turn our back on the commitment that we made last year to fighting violence against women.

So, Mr. President, I strongly urge my colleagues to support this amendment, which would provide critical additional funds for the Violence Against Women Act. It's time to make the fight against domestic violence a top national priority.

Mr. LEAHY. Mr. President, I thank my colleagues for restoring funding for the Violence Against Women Act programs. When we passed the Violence Against Women Act as part of the Violent Crime Control and Law Enforcement Act of 1994, we responded to the crisis of domestic violence that exists throughout this country, in rural and urban communities, among poor, middle class, and the rich, affecting women and children of all races and religions. Those programs are among the most important parts of the comprehensive legislation we considered and passed last year after 6 long years of debate.

To have gutted these programs through the appropriations process would have been wrong. To have done so when the funding for them was assured through the Violent Crime Reduction Trust Fund would have breached our commitment to the American people. A 99 to 0 vote in favor of restoring this funding sends a powerful message to those who would have cut funding for these important programs.

Law enforcement and community-based programs cannot be kept on a string like a yo-yo if they are to plan and implement programs to begin to deal with domestic violence and its prevention. They need to be able to initiate programs and hire staff and have a sense of stability if these measures are to achieve their fullest potential.

I know, for instance, that, in Vermont, Lori Hayes at the Vermont Center for Crime Victims Services; Judy Rex and the Vermont Network Against Domestic Violence and Sexual Abuse; Karen Bradley from the Vermont Center for Prevention and Treatment of Sexual Abuse; and others, provide tremendous service under difficult conditions. Such dedicated individuals and organizations, working in a most difficult area, on problems that were once thought to be intractable, ought not be promised support and then frustrated just as they are about to expand needed programs and services throughout the State. Vermont was the first State to apply for and the first State to begin receiving its Violence Against Women Act grant. The Governor and his advisers had made plans and promises and announced grantees through the State. That implementation of Violence Against Women Act programs ought to proceed without further delay, distraction or diminution.

What Congress needs to do is to follow through on our commitments, not to breach them and violate our pledge to law enforcement, State and local government, and the American people. Invading trust funds dedicated to Violence Against Women Act programs is simply not justifiable. Neither the elimination of the corporate alternative minimum tax nor capital gains taxes is sufficient reason for this cut.

Funding for important programs implementing the Violence Against Women Act and our rural crime initiatives should not be cut without debate and justification. There has been neither.

Earlier this year I offered a resolution rejecting the ill-advised House action cutting $5 billion from the Violent Crime Reduction Trust Fund. The Senate agreed and proclaimed its intent to preserve the trust fund so that we could fulfill the promise of the Violent Crime Control and Law Enforcement Act and our commitment to do all that we can to reduce violent crime in our local communities. The action we take today takes an important step in that same direction and preserves to our Violence Against Women Act programs funds that are needed for their proper implementation.

Mr. HOLLINGS. Regular order, Mr. President.

VOTE ON AMENDMENT NO. 2815

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now vote on the Biden amendment No. 2815.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN], is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 474 Leg.]

YEAS—99

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

NOT VOTING—1

Glenn

So the amendment (No. 2815) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2816, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the McCain amendment is now in order. There are 4 minutes equally divided.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Colorado, Senator BROWN, for his perfection of this amendment, which has allowed us to agree on this very important savings of between $300 and $700 million for the taxpayers of America. I thank Senator BROWN for that.

I yield what remaining time I have to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I associate myself with the Senator's remarks. I hope the Members of the Senate will vote to approve this amendment. It does deal with $300 to $700 million that ought to inure to the benefit of the taxpayers of this country, and that is why we offered the amendment.

I yield the remainder of my time.

Mr. BYRD. Mr. President, may we have an explanation of the amendment?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. May we have an explanation of the amendment? I understand it is a good amendment, but I would like to know what it is if we are going to be voting on it.

The PRESIDING OFFICER. The Senator will suspend. If those Members having discussions could please retire to the Cloakroom?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, the amendment expresses, legally, that the U.S. Senate is in favor of obtaining the maximum value for a spectrum which is valued between $300 and $700 million. This is done by auction. The perfecting amendment by Senator BROWN is that, in case there is another way to gain more money for the taxpayers, that path should be pursued by the FCC as well.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have no particular reason to enter into any discussion on this amendment. But when we get 4 minutes allotted for explanation of these amendments, that is a very worthwhile injection into the unanimous-consent request. It means something, for the rest of the Members to understand what we are voting on.

I am not on the committee that has jurisdiction of that particular subject. I would just like a little clearer explanation. I expect to vote for the amendment. I hear a lot of good things about it. But I am sure a lot of Members have not heard debate on it. I have not.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the reason my remarks this morning were brief is that we came at 9 o'clock this morning and began a debate on this very amendment per the unanimous-consent request last evening. There was debate on both sides of the amendment beginning at 9 o'clock this morning. My intention was not to take up any more of the Senate's time. It was debated both this morning and partially last night.

I think the amendment is a good agreement. I respect the Senator from West Virginia's interest in making sure everybody understands what we are voting on just prior to the vote, but I think we have had a good debate on this. I hope the Members will support the amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, is there any time left?

The PRESIDING OFFICER. There is 1 minute 19 seconds.

Mr. BYRD. Mr. President, I am one of those Senators who stayed around all afternoon waiting on a vote yesterday. I was told there would be a vote at 9 o'clock last night, so I went home about 6:30 or 7 to get some dinner, to be with my good wife, Lady Byrd, and my little dog, Billy Byrd.

So I came back. Then, after I got back, it was my understanding there was not going to be any vote until this morning. So, as a result of all of that, to make a long story short, I did not get to listen to the debate. I do not know about other Senators, but, with that kind of discussion here, it is pretty hard to keep body and soul together with a good meal once in a while, let alone understand what is in these amendments.

The PRESIDING OFFICER. The question now is on the amendment No. 2816, as modified. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 475 Leg.]

YEAS—98

Abraham	Cohen	Grams
Akaka	Conrad	Grassley
Ashcroft	Coverdell	Gregg
Baucus	Craig	Harkin
Bennett	D'Amato	Hatch
Biden	Daschle	Hatfield
Bingaman	DeWine	Heflin
Bond	Dodd	Helms
Boxer	Dole	Hollings
Bradley	Domenici	Hutchison
Breaux	Dorgan	Inhofe
Brown	Exon	Inouye
Bryan	Faircloth	Jeffords
Bumpers	Feingold	Johnston
Burns	Feinstein	Kassebaum
Byrd	Ford	Kempthorne
Campbell	Frist	Kennedy
Chafee	Gorton	Kerrey
Coats	Graham	Kerry
Cochran	Gramm	Kohl

Kyl	Murray	Shelby
Lautenberg	Nickles	Simon
Leahy	Nunn	Simpson
Levin	Packwood	Smith
Lieberman	Pell	Snowe
Lott	Pressler	Specter
Lugar	Pryor	Stevens
McCain	Reid	Thomas
McConnell	Robb	Thompson
Mikulski	Rockefeller	Thurmond
Moseley-Braun	Roth	Warner
Moynihan	Santorum	Wellstone
Murkowski	Sarbanes	

ANSWERED "PRESENT"—1

Mack

NOT VOTING—1

Glenn

So the amendment (No. 2816), as modified, was agreed to.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2819

Mr. GRAMM. Mr. President, is the pending business the Domenici amendment?

The PRESIDING OFFICER. Under the previous order, that is the pending business.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we have before us an appropriations bill. We have imposed, on top of the House bill, our particular appropriators' likes and dislikes. But the underlying bill that the House sent to us essentially says, "Let's keep the Legal Services Corporation, but let's make sure that those things that the Legal Services Corporation has been doing that many Senators and many people in this country don't think they ought to be doing, that those things be prohibited."

The House did not abolish the program. The House in the appropriations bill funded legal services with these prohibitions attached.

What I am going to do now is to take the amendment that came out of the subcommittee that is on the floor on legal services, and I am going to substitute for it something very much like the House bill. So for those who wonder whether this amendment, the Domenici-Hollings and many others, whether this bill will permit the Legal Services Corporation to do business as usual, I submit to them we are going to let this Legal Services Corporation do what the House said they can do.

And what is that?

First, let me say that this approach to justice came under the regime of Richard Nixon. And what he said then I believe applies today, and maybe more so.

He said:

> [It] gives those in need new reason to believe that they too are part of "the system" . . . [by doing what we have learned] that justice is served far better—

And continuing with his quote—

> and differences are settled more rationally within the system rather than on the streets. Now [he said in the 1970's] is the time to make legal services an integral part of our judicial system.

Now, since that point until now, legal services has had a rocky career. There is no doubt about it. It has been debated on the floor. And it has been perilously close—but for Senator Rudman as a stalwart, perhaps it would have been changed and it would not be around. But essentially what the Senator from New Mexico intends is that this program be around as Richard Nixon intended.

Should not the poor people in the country should be served by lawyers when they themselves have a need for a lawyer. In fact, it was mentioned back in the days when the Legal Services Corporation was established that lawyers would be down there with the poor people taking their case, the idea of storefront justice.

I say to everyone, I do not know what is wrong with the United States of America saying to the needy people of this country that the judicial system is not only for the rich. What is wrong with that? Why should a Republican be ashamed to say that? That is what America is all about.

What we do not want, at least this Senator does not want, is the legal services to be suing the Legislature of the State of New Jersey when they are adopting a new welfare program and saying, "You can't do that." I think they should leave that to somebody else. And this program ought to be for the individual poor people who have a need for a lawyer.

Let me suggest—although it is a criminal case, so it does not necessarily apply to what we are doing, I say to the Senator from South Carolina—but has anybody ever seen a situation, such as the O.J. Simpson trial, where somebody who has plenty of money gets plenty of justice?

But here we have in a poverty neighborhood an American citizen who is being thrown out of their house, and they have a legitimate reason as a tenant to remain there. But if they do not get a lawyer, they are out on the streets.

If that same thing existed and there was a tenant in a million dollar house for the summer and the landlord wants to throw them out, they will get justice, will they not? They will get justice. They will get a lawyer. Why should that poor person not get that?

Frankly, I am one of those who wants to make Government smaller. I want to balance the budget. I do not take a back seat to anybody on this. But what I am trying to do in this amendment is to return the level of funding to legal services to what it was 3 years ago. I am cutting 15 percent, I say to the Senator from Hawaii, Senator INOUYE, 15 percent from this funding. Frankly, there are not a lot of programs getting cut much more than 15 percent. There are some, and some are zero, but for the most part, 7, 8, 9 percent, even in these very difficult times.

I want to read the prohibitions, and might I say, Mr. President, I am fully aware—I am fully aware—that a number of people are going to vote for my amendment and it will be adopted. It will be adopted, you can count on it. There are a number of people who do not like all these prohibitions, but they are going to vote for it. They are going to vote for this amendment because they do not want to see an appropriations subcommittee, which probably had one hearing for 1 hour, 1½ hours, 2 hours, decide in a funding bill to do away with this program and create a new block grant that we do not even understand and, at the same time, provide such a small amount of funding for the next year that there will not be anything being done for the poor people.

We might just as well say for the next year there is nothing going to be done under the funding level here. If anybody wants to challenge me on that, do not look at the budget authority number, look at the outlay. It is a little tiny bit; $53 million in outlays for the whole next year. The House put in $278 million; $53 million versus a House Republican conservative $278 million. I bring it up to $340 million, which is 15 percent less than last year.

Let me read the prohibitions. If there is anyone here who does not think the Domenici-Hollings amendment wants to make this program work for individual American needy people in their personal litigation, let me read the prohibitions.

First, you cannot use any of this money or any money from other sources that is in the Legal Services Corporation to advocate policies relating to redistricting.

No class action lawsuits—no class action lawsuits—can be filed. To revert back to what I just described: Individual legal services for individual Americans in need, for their case and their cause and only that.

You cannot use it for influencing action on any legislative, constitutional amendment, referendum, or similar procedures of Congress, State, or local legislative bodies. The same as the House.

You cannot use it for legal assistance to illegal aliens. Americans, Americans are what we have in mind, American citizens.

Supporting, conducting training programs relating to political activities, abortion litigation, prisoner litigation—same as the House—welfare reform litigation, except to represent individuals on particular matters that do not involve changing existing law.

I can go on with the rest. I put them in the RECORD last night. If anybody has any questions on them, I will be pleased to answer them.

I know sitting on the floor right now are perhaps two Senators who would rather have less of these, and I understand that. But I want to do one thing at a time this year. I do not want to do away with the program. I do not want a block grant program designed in an appropriations subcommittee which I believe essentially is destined to get rid of the system.

I have left one part of this discussion to my good friend Senator HOLLINGS because, obviously, the chairman of the subcommittee, Senator GRAMM from Texas, is going to get up and talk about the offsets. I have not been privy to reading what he might say, nor has he shared it with me, but I can see it coming.

He is going to suggest, for instance, that salaries and expenses for the Federal judiciary, that I took a little bit of money away from—yes, I did. But we have consulted regularly on that and, basically, we are convinced that because we have increased it sufficiently, to take a small amount off, they are going to be all right, as compared to doing away with legal services for the needy and the poor.

He is going to talk, for instance, about U.S. attorneys. Let me just tell you about that one. I know the argument. The argument is going to be: There are a lot of criminals out there who need to be prosecuted. Are we going to take away prosecutions of those people to keep legal services?

Mr. President, I say to my fellow Senators, what actually happened is the subcommittee took the President's budget on new U.S. attorneys, which was more than adequate. All the U.S. attorneys around said, "That's a great number," and the subcommittee increased it, maybe increased all of those kinds of funding, so there would not be anything left for a program like this. Then we come along and say, "Let's bring it down to the President's budget," and we are cutting U.S. attorneys.

Having said that, there are a number of other things. I am going to ask if my good friend, Senator HOLLINGS, who is my cosponsor, who has chaired this subcommittee and is the ranking member, might address the Senate now with reference to his feelings on this amendment. And with particularity, if he can talk a little about the offsets, I would appreciate it.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from New Mexico and former ranking member and the former chairman of our subcommittee.

In short, Senator DOMENICI talks with expert knowledge, intimate knowledge, of this particular appropriations measure.

First, Mr. President, Legal Services is a many splendored thing. I do not say that lightly. Yes, it was an idea that came to fruition, you might say, under President Nixon. But it was long since due, if you please. We had many in the vineyards who had been working over the many years. In the 1920's, Charles Evans Hughes; our former President, Chief Justice William Howard Taft; and Elihu Root supported the formation of a standing committee on legal aid work in the American Bar Association. And Taft wrote, in 1925:

> Something must be devised by which everyone, however lowly and however poor, however unable by his means to employ a lawyer and to pay court costs, shall be furnished the opportunity to set this fixed machinery of justice going.

Then it was some 40 years later, almost 50 years later, that our distinguished former President, Richard Nixon, came in 1970 with the American Bar Association. When I say a "many splendored thing," everybody thinks voluntarism begins in Washington, families begin in Washington, and everything that is done begins in Washington.

The fact of the matter is that society has been very concerned about the poor having their day in court. We, as old-time trial lawyers, know that, yes, with respect to damage suit cases and injury cases whereby you can get a verdict, there is a long since-established system that has worked extremely well—and now the Brits, by the way, are coming to it—whereby we take it on a contingent basis because we know the poor injured do not have the money to investigate, do not have the money to pay hourly payments that they get in Washington.

There are 60,000 lawyers under billable hours running around this town who have never been in a courtroom. On the contrary, the poor can come to a trial attorney. He will take care of the court expenses, the medical expenses of the doctors testifying, the experts drawing plats and what have you. And if he loses his case, the poor do not owe the lawyer anything. That is a contingent fee basis of trial work.

But when it comes to these smaller cases where there is not any contingency to be paid—namely, a domestic case, an unemployment case, a landlord-tenant case—for the poor, in these types of cases, there is no time in it or benefit with it with respect to the practicing bar. And they have been more or less shut out over the many, many years until President Nixon and the Legal Services Corporation under the American Bar Association got started.

Now, what has developed? Mr. President, I think there are over 130,000 lawyers. Imagine that. Do away with this and give it to the Governors with block grants and try to find the lawyers who are going to come in on this particular thing. They will start putting tanks on the lawn again and buying airplanes and everything else of that kind. As the distinguished chairman of my subcommittee knows, you get that fish—what do we call it, the "funk" or the "monk" fish, whatever it was.

I refer, Mr. President, to when we had the stimulus bill and they had asked the poor mayors what they would like to do to stimulate the economy. They came up with cemeteries. They came up with golf courses. They came up with parking garages down there for the youngsters to park at Easter-time on Fort Lauderdale beach. We had to put in all kinds of restrictions there on the local effort and what local people can spend for legal services, or not spend.

What you are doing is really destroying, if you please, one of the finely honed societal developments, led, if you please, by the American Bar, and former Associate Justice Lewis Powell when he was the president of the American Bar Association, and President Richard Nixon.

I remember it well. I had been involved in this since the early days. We have had stormy times. After it got started, everybody was jumping up and down on the Capitol steps, saying "Hey, hey, go away; how many did you kill today?" and all of that. Yes, we were paying them—Legal Services were paying them. I had to treat that with amendments and say, no, let us get back. We are not paying for demonstrating groups to come.

As the distinguished Senator from New Mexico has referred to, and as concerned as the Senator from Texas and the Senator from South Carolina are, the next thing you know a couple years ago, there went Legal Services suing the State of New Jersey.

That is not the intent. There are plenty of moneys for class actions for these other groups. You have to keep it couched and carefully controlled in order to maintain the credibility and the effectiveness of the program.

So I welcome the restrictions that have been put on by Senator GRAMM and others here with respect to class actions and illegals and otherwise. Let us make sure that we maintain the integrity of the program. There were 250,000 cases last year, and, yes, with a $400 million appropriation. The communities come, the local governments and State governments, and the various bar associations, and they pitch in over $255 million—over half again what we appropriate at the Federal level. If you put in a Federal program—if you put in block grants—I can tell you right now they are not going to come with any moneys. You really are messing up a many, many splendored thing.

So the Senator from New Mexico is following right now in the footsteps of

the Senator from New Hampshire, Senator Rudman. I will tell you right now, do not get in Senator Rudman's way if you were going to challenge the Legal Services. He would knock over chairs and tables and come at you. I used to get out of the way. I am glad to get out of the way now under the leadership of Senator DOMENICI for the most worthwhile program that has been developed in a bipartisan fashion and should be maintained as such.

What about these offsets? First you have to understand that the moneys taken from the Department of Justice have to be understood. I think I have the exact figure here. After all of the offsets are taken in the Domenici-Hollings amendment, what happens is we still have increased the Department of Justice a tremendous amount in percentage—some 18-percent increase over this year. In other words, let us not argue. Let us take and try on the offsets from the Department of Justice, because I am a champion of that particular Department, having been the chairman, and ranking member now, and on this subcommittee for over 25 years. The FBI will have an 18.3-percent increase. The FBI, with its attorneys and otherwise, will be left with a $418 million increase in this budget for 1996 over 1995.

So, in no way are we cutting back. It is a tremendous increase. The truth of the matter is, I was actually amazed—and I have sworn I am not going to ever use any charts around here. I am tired of it. If we want to balance the budget, we ought to put a tax on charts used by us politicians on the floor of the Senate and I think we could balance the budget. Every time I look around, somebody is running out with one of these mischievous charts.

It is jogging my memory here. By 1983, after almost 200 years of history, we got to a $3 billion budget in the Department of Justice. Mind you me, having been the chief law enforcement officer, having been a Governor of a State, we have argued, and still argue, that the police powers—those that belong rightfully at the local level—that the primary function of the State government is its police powers to enforce the law.

So we have been very askance about the Federal Government coming in on all of these particular initiatives because we in Washington like to get reelected.

We identify with the hot-button crime issue and we throw money at it. We have had more crime bills come spewing down the road. We have $1 billion backed up there in the Bureau of Prisons. We are building them like gangbusters all over the land, all because crime is a hot-button item.

It took 200 years to get to $3 billion. This budget here for 1996 will carry us to $16.95 billion—17 billion bucks.

Actually, the increase—taking the offsets in our Legal Services amendment—the increase will exceed $3 billion, even accounting for these offsets in the Department of Justice. In other words, in 1 year we are increasing the Justice budget by the amount that the total budget was just a few short years ago.

We think it is needed. As I say, I was on the committee. I did not just do it willy-nilly, but we wanted to respond to immigration, border patrol, the prison system, the Marshals Service, the FBI, Drug Enforcement Administration, and on down the list. We have been working and working and working.

Here we come with an offset respecting the particular crime lab. Now, with respect to that crime lab, I know full well that the Department of Justice is working with the Department of Defense to get that new laboratory. It is a technical support center. That is over $300 million in new initiatives.

Earlier this year, Judge Freeh came up with that particular need after the tragic incident down there in Oklahoma. Just sort of like a pinata, broke it, and all the gifts went in all directions. We just started anywhere that anybody came up from the Justice Department. We voted aye, we said you got that, do not worry about it, and everything else.

Looking at that laboratory which we support out there at Quantico, we know full well that the Justice Department is conferring now with the Department of Defense, and they do not even have the site and the land and everything else.

What we are trying to do is support the requirement as needed, and to back up the money and the particular offset. It is not a question of us not supporting the technical support center, but once we get the site we have to draw the plans and everything else of that kind. What we need to do is go in a deliberate fashion there.

With respect to the topography lab, it is a new one. There is an effort in this Government along that line. You have to speak advisedly because most of this is classified, but I can tell you here and now if you have served on the Intelligence Committee—I served with the Hoover Commission back in the 1950's investigating these type of activities—that they are awfully, awfully expensive. The effort, I think, that we have now in the Government is more than adequate without starting a new one.

I defer to the chairman of our Intelligence Committee, the distinguished Senator from Pennsylvania, Senator SPECTER, and our ranking member, Senator ROBERT KERREY of Nebraska. I am confident that the offsets there are not going to injure in any fashion the efforts of law enforcement or the Department of Justice.

With respect to the working capital fund, what we need to do is get a little bit of discipline there. We have been liberal. In fact, we like it when we handle these appropriations. If we had a working capital fund in everybody's subcommittee, the chairman and the ranking member could allocate around, somewhat like Plato's famous saying that a politician "makes his own little laws and sits attentive to his own applause." All we need to do is not tell people about this working capital fund and we can sit around and divide money up all year long. The offset here is not going to hurt the Department of Justice, in any fashion.

With respect to the conference success, I want to quote to you the inspector general's observations contained in the annual report: "We are concerned that a successful decennial census could be jeopardized if the Bureau attempts to accomplish too much too soon."

Now, we never had any hearings on the census on our side of the Capitol. The distinguished chairman, Mr. ROGERS of Kentucky, over on the House side did have deliberate hearings that went into the census budget in detail, and the amounts offset in the Domenici-Hollings amendment provide $67 billion that we came in on this particular appropriations over the House, which is $60 million above the current year.

In reality, Mr. President, what we are doing is almost like conferees—we can see ahead down the road when we confer with our House friends on a conference of committees to finalize the figure that we are going to reconcile this backward.

What happens is that Senator DOMENICI has very wisely come and said we should do a little of the reconciling at this particular point to save an awfully important entity. We do not want to change this to any kind of block grant. We do not want to be cutting it back.

These lawyers—they are inspired. I commend the law schools of the country over for inspiring these young attorneys coming out to do good, to offer public service—with many of them wanting the experience and saying, "I will give a little bit of time now to the public. I will learn and be able to better represent, and I will be doing some good for the communities in which I live." So they come in there.

I think the average fee of any legal service lawyer—they are earning around $30,000 to $33,000 a year. No, that does not take these Ivy League boys who come and go into downtown Washington and downtown New York who start out at $80,000 a year and everything else. That is not the case. We are not enriching any lawyer. We are enriching society.

This amendment is well conceived. The offsets, I can say, will never cause injury. On the contrary, what is still left is over and above the House side. Even though our budget, our 602(b) allocation was $1 billion below the

House, we still come in $750 million above the House with these particular offsets. We are in good, strong shape. I think the Senator from Texas would want to join us in this amendment.

Mrs. KASSEBAUM. Mr. President, I want to take just a few minutes as the chairman of the Labor and Human Resources Committee, the authorizing committee for the Legal Services Corporation, to express strong support for the Domenici-Hollings amendment.

I want to say why I do so. We have had an extensive hearing in the Labor and Human Resources Committee. We heard from witnesses on both sides of the issue. I have introduced legislation in the Senate as a companion measure to the McCollum-Stenholm bill that is under consideration in the House. We will soon be marking up this legislation in the Labor Committee.

As Senator DOMENICI pointed out quite correctly, the language in the Domenici-Hollings amendment is agreed to by some and not by others. It is language that returns the Legal Services Corporation to its original mission. It is language that reforms the program in a way that restores it to what it was supposed to be when the legislation was passed and became law.

The most important part of this amendment is that it restores funding for the Legal Services Corporation. That point has already been well made by Senator DOMENICI and Senator HOLLINGS. As Senator DOMENICI also noted, this amendment has important reforms and tight restrictions on permissible activities. I would just like to reiterate those, if I may, very briefly. In terms of operational reforms:

First, a competitive bidding system will be required for awarding LSC grants based on quality and cost effectiveness of service; second, the governing board of LSC grantees will establish priorities for the types of cases to be handled. third, the LSC grantees will be required to keep time sheets identifying the client and matter under consideration; fourth, LSC grantees will be restricted in their use of non-LSC funds. and fifth, finally, there are new safeguards requiring the identification by name of plaintiffs and statement of facts underlying the case before initiating litigation or settlement negotiations.

On the restrictions side, Legal Services grantees: May not lobby for passage or defeat of legislation, may not represent illegal aliens, may not participate in training programs and political activities, may not take redistricting cases, may not participate in abortion litigation, may not participate in class actions, may not challenge welfare reform, may not defend tenants evicted from public house projects because of drug dealing, may not take fee-generating cases, and may not solicit clients.

These are all very important restrictions. Some, as Senator DOMENICI pointed out, were far too restrictive for some of our colleagues. Nevertheless, I believe these restrictions provide the necessary guidance to take Legal Services back to its primary mission, which is providing assistance to those who need legal representation and cannot afford it.

It is very important that low-income individuals have the same access as anyone else to the legal system. But it seems to me, over the years, the Legal Services Corporation has gone far beyond its initial mandate when the law was passed under President Nixon's leadership.

So, for all of those reasons, I strongly support and have high regard for the legislation that has been put forward as an amendment by Senator DOMENICI and Senator HOLLINGS.

I yield the floor.

Mr. DOMENICI. Will the Senator yield for a question?

Mrs. KASSEBAUM. I will be happy to yield to the Senator from New Mexico.

Mr. DOMENICI. It is correct, is it not, that the competitive bidding of grants is in this amendment? You stated it as being part of your new reauthorizing, but you have noted it is in this amendment also, is that not correct?

Mrs. KASSEBAUM. That is right, the competitive bidding is based on quality and cost effectiveness.

Mr. DOMENICI. That is correct.

Mrs. KASSEBAUM. Yes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, there are an awful lot of points to make in opposition to this amendment. Let me begin by saying it is very interesting that those who came here today to defend the Legal Services Corporation refuse to defend it. The best they can do in the way of defense is to give us a list of outrageous abuses that they propose that we try to stop. That is a very weak defense indeed.

But I do not want to begin by talking about legal services, and going through the list of numerous organizations who support the committee's position and strongly oppose the Domenici position to bring back a Federal Legal Services Corporation. There are really several issues in debate here, and the one I want to begin with is about the choices that are made to allow Senator DOMENICI to fund the Legal Services Corporation at $340 million.

Our dear colleague from South Carolina glosses over those decisions by simply saying that we are providing a lot of money to fight violent crime and drugs, and so taking some of that money away from that battle in order to fund legal services is probably a good thing. This is one of those occasions where I wish we could sit around the kitchen table of every working family in America and discuss this issue. If we could, this amendment, and probably those who advocate it, would be thrown out of the kitchen. But let me go through the programs that are cut by the Domenici amendment, and their ramifications.

Because our colleagues are so desirous of preserving the Legal Services Corporation as a Federal entity, many of them, who have stood on the floor of the Senate and argued for block granting decisionmaking back to the States when it served their purpose, now oppose letting States run a program which is a renegade program, which has abuses that probably equal or exceed that of any other similar Government program funded in the modern era by our Government. But let me start by going through what is being cut, what is being denied to the American people to provide $340 million to legal services. And then I will try to talk about why Legal Services does not deserve the $340 million.

First of all, the Domenici amendment cuts the general legal activities of the Justice Department by $25,131,000. In listening to Senator HOLLINGS, you get the idea we are just throwing so much money at the Justice Department they do not know what to do with it, they have all the prosecutors they need to prosecute every drug dealer and every violent criminal in America. The only problem with that argument is the American people know that does not reflect reality.

In fact, our bill, which Senator DOMENICI cuts from, already provides $10 million below the level requested by President Clinton in his proposed appropriation for the Justice Department. So, before we would cut the $25 million from the legal activities section of the Justice Department, as Senator DOMENICI proposes, we already, because of lack of funds, had cut it by $10 million.

Where is this money coming from? Since the average person in America does not understand what the general legal activities of the Justice Department does, here is what it does.

It prosecutes organized criminals, it prosecutes major drug traffickers, it prosecutes child pornographers, it prosecutes major fraud against the taxpayer, it prosecutes terrorism and espionage cases. These cuts will mean that we will have 200 fewer prosecutors in America next year, if this amendment passes, who will be prosecuting organized crime, major drug traffickers, child pornographers, major fraud against the taxpayer, and terrorism and espionage cases.

I remind my colleagues, we are already providing $10 million less than what the President has requested. But the Domenici amendment would further cut the level of funding for those prosecutors to prosecute organized crime, major drug traffickers, child pornographers, and fraud against the

taxpayer, terrorism and espionage by another $25 million.

Legislating is about choosing. And what the Domenici amendment says is a federally run Legal Services Corporation, a program that is so filled with outrageous actions that even in this amendment Senator DOMENICI seeks to curb their abuses—the Domenici amendment says that funding that Federal program is more important than providing prosecutors to prosecute organized crime and the other crimes that I have outlined.

The second cut made by the Domenici amendment, in order to fund legal services, is cutting $11 million from the U.S. attorneys office.

I remind my colleagues, and the American people who might be watching this debate, that our U.S. attorneys are our first line of defense. They are the people who try cases in Federal court. They are the people who prosecute major drug dealers. The amendment that is offered by Senator DOMENICI, to preserve the Federal Legal Services Corporation, will terminate at least 55 assistant U.S. attorneys who otherwise would have been employed in prosecuting violent criminals and drug felons, pornographers, and terrorists.

I believe that legislating means making choices. I ask my colleagues, Is preserving the Federal Legal Services Corporation rather than letting the States run it through a block grant program worth taking 55 assistant U.S. attorneys out of prosecution in America? My answer is "no."

We had a discussion about construction for the FBI. As I read the amendment, what is being cut here is not crime labs, though I strongly support them, what is being cut is the very heart of new facilities construction at the FBI Academy. The Domenici amendment, in the name of preserving a federally run Legal Services Corporation, a corporation which as of today has filed a lawsuit against every State in the Union that is trying to implement welfare reform by requiring welfare recipients to work, which is funding drug dealers who are trying to stay in public housing units so that they can more efficiently market drugs, in seeking the preservation of this Federal program, the Domenici amendment would require cutting the FBI Academy and its construction at Quantico by some $49 million.

I have a letter from the head of the FBI. Unfortunately, as Senator HOLLINGS noted, it is a classified letter. But it is certainly not classified material that the head of the FBI has said that our facilities are becoming antiquated; that as we have cut the President's request for the FBI in recent years, we have not kept up our infrastructure and that we are not going to be able to maintain our training if we do not build new facilities. I remind my colleagues that by a vote of 91 to 8, we passed the Comprehensive Terrorism Prevention Act, which authorized the expenditure of these moneys. I remind my colleagues that the FBI Academy does not just train FBI agents and Federal law enforcement officials, but in fact, last year, it trained 1,225 State and local law enforcement officials.

Obviously, the question that we have to ask is this: Is preserving the Federal Legal Services Corporation rather than block granting it to the States—as we are block granting aid to families with dependent children, as we are block granting Medicaid—is preserving this program as a Federal program run out of Washington, DC, worth denying the facilities we need in Quantico to train FBI agents and to train 1,225 State and local law enforcement officials?

Mr. President, my answer to that question is clearly no. Anyone who has found themselves in the jurisdiction of a Federal court knows that we have a real problem in the Federal court system because it is very difficult to get a case to trial.

In terms of getting civil justice, we are now talking about years of waiting to get a case before the court. In terms of criminal justice, in bringing violent criminals to justice, we are talking about a long wait because we do not have enough courts, we do not have enough judges, and we do not have enough prosecutors.

The Domenici amendment, in order to preserve a federally run Legal Services Corporation—which is opposed by every organization in America from the Farm Bureau Federation to Citizens Against Government Waste—would cut $25 million from our Federal courts. That $25 million, for example, could fund 400 probation officers to supervise convicted criminals in America.

I ask my colleagues, is it worth denying 400 probation officers supervising criminals in order to fund the Federal Legal Services Corporation? My answer is no. Let me remind my colleagues that the funds that would be cut include funds that provide mandatory drug testing for all convicts who are released to assure that while they are on parole and on the streets, they remain drug free. Is a cut in funding for this program worth making to preserve a federally funded Legal Services Corporation? My answer is no.

Mr. President, there are a lot of other programs that have been cut here. Strong cases can be made for them. I want to make one more case. It is not a case that is going to sway anybody because if you are not swayed by these other cuts, then you are not going to be swayed by this. If you have long ago decided that this agency we call Legal Services, which has such a poor record that not even those who would fund it can defend it, then no amount of prosecutors, no amount of training police officers, no amount of drug testing for convicted felons who are walking the streets on probation, no amount of supervision is going to change your position.

But I do want to mention one other offset which very few people find moving, but I think it is important; that is, substantial cuts in census are included in this offset. Most people do not understand the census. It is obvious that Alan Greenspan understands the census because Alan Greenspan, in testimony before the Banking Committee, asked that we fully fund data gathering. The apportionment of population in terms of measuring the number of people in America to decide how many Congressman each State has depends on the census.

The allocation of funding for programs, from the FBI to the new Medicaid Program to virtually every other program undertaken by the Federal Government, depends on the census. We are getting ready to have the 2,000 census, the millennium census. It is the only millennium census that we are ever guaranteed to take in the United States of America. I hope it will be the first of many. But this is a critically important census.

If we take the recommendations of Senator DOMENICI and we cut funding for this census, we are going to have to make the funding up in future years as we get closer to the year 2000. If we make this cut now, the 2000 census will be more inefficient. It is going to cost more money. And I do not believe that this is an exchange that should be made.

Let me talk about the amendment itself, and then turn to the Legal Services Corporation.

It is interesting to me that this amendment has a great big budget gimmick in it. And the great big budget gimmick in it is that it has a delayed obligation. For those who do not understand what that means, let me try to explain. One of the things some people often do in Congress when they want to spend money but do not want people to know that they are spending money is to use a delayed obligation, which means they provide money but do not let the money kick in at the beginning of the fiscal year. In this case, the money would kick in a month from the end of the fiscal year, on September 1, so that there is a huge surge of $115 million that would become available on that date, 30 days before next year's budget would have to be written.

Now, what is the purpose of this budget gimmick? The purpose of this budget gimmick is not only to commit a huge surge of contracts for legal services a month before the new budget, but it also makes it difficult next year for us not to fund those programs because they will already be underway, and so when the chairman of this subcommittee next year writes a budget, that chairman will be looking at $115

million of programs that will kick in just 30 days before the end of the fiscal year.

What is the purpose of this gimmick which we have denounced over and over and over again? I have heard many Members of the Senate stand up and denounce these delayed obligations as basically perverting the budget process itself.

What is the purpose of this? The purpose of this is basically to try to get the level of spending in this program up at the end of the year so that next year it will be harder to achieve the savings to which we have already committed in trying to achieve our balanced budget.

Let me talk about legal services, and I want to begin by asking unanimous consent that letters from the Citizens Against Government Waste in opposition to any attempt to restore or increase funds to the Legal Services Corporation, the Christian Coalition, the American Farm Bureau, the Family Research Council, the Traditional Values Coalition, the Coalition for America, the Eagle Forum, that these letters strongly opposing the Domenici amendment and supporting the action of the committee be printed in the RECORD.

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

LETTERS IN OPPOSITION TO THE LEGAL SERVICES CORPORATION

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, September 20, 1995.

DEAR SENATOR: The Council for Citizens Against Government Waste (CCAGW) and our 600,000 members support H.R. 2076, the Commerce, Justice, State, and the Judiciary Appropriations for FY 1996. CCAGW commends Subcommittee Chairman Phil Gramm and Appropriations Chairman Mark Hatfield for sending to the floor a bill which spends $4.6 billion less than the budget request and $1 billion less than the House version of H.R. 2076.

The $26.5 billion spending bill prioritizes the budgets for each agency under its jurisdiction. For example, the Justice Department receives $15 billion for FY 1996, almost $3 billion more than in FY 1995, to fight our nation's crime problem. But with a nearly $5 trillion national debt, there is always more to cut from spending bills.

CCAGW supports the following amendments:

The McCain amendment to mandate the Federal Communications Commission to auction the one remaining block of Direct Broadcast System spectrum. If this spectrum is auctioned, communication industry experts believe it will sell for between $300 to $700 million. It is in the best interest of the American people that the spectrum be sold at public auction.

The Grams amendment to eliminate the East-West Center and the North/South Center, saving taxpayers $11 million next year.

CCAGW opposes the following amendments:

Any attempt to restore or increase funds to the Federal Maritime Administration.

The Inouye amendment to restore funds to the Federal Maritime Administration.

The Bumpers amendment to restore funds for the Small Business Administration.

The Bumpers amendment to restore funds for the Death Penalty Resource Centers.

CCAGW urges you to support these amendments and H.R. 2076. It prioritizes cuts while ensuring that state and local law enforcement agencies are properly funded. CCAGW will consider these votes for inclusion in our 1995 Congressional Ratings.

Sincerely,

THOMAS A. SCHATZ,
President.
JOE WINKELMANN,
Chief Lobbyist.

CHRISTIAN COALITION,
Washington, DC, September 14, 1995.

Re Key Vote Notice: Eliminate Legal Services Corporation—Support Block Grants for LSC.

DEAR SENATOR: The Senate will soon consider the FY 1996 Appropriations for Commerce, Justice, State and Judiciary. On behalf of the 1.7 million members and supporters of the Christian Coalition, I urge you to vote against any amendments that would weaken the committee-approved provision regarding the block grant for Legal Services Corporation (LSC).

LSC is a failed agency. Elimination of the Corporation and instead providing legal services to the poor through block grants to the States, as the Appropriations Committee approved, is the minimum that Congress can do to begin to put an end to the well known abuses of the Corporation. The block grant alternative provides a better delivery system for legal services to the poor and breaks up the monopoly currently enjoyed by the Corporation.

Christian Coalition opposes any amendments that would restore the Corporation, increase funding or in any way water down the restrictions currently provided for in the bill. Before the 1996 election, Christian Coalition will distribute 50–60 million voter guides and congressional scorecards. Weakening amendments regarding LSC will be key votes.

Thank you for your consideration of our views.

Sincerely,

BRIAN C. LOPINA,
Director, Governmental Affairs Office.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, September 18, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR ABRAHAM: In a very short time, the Senate will consider H.R. 2076, the Commerce, Justice, State Appropriations bills, as amended by the Senate Commerce, Justice, State Appropriations Subcommittee. The portions of this bill which pertain to delivery of legal services for the indigent will create an entirely new program for this purpose. This program is designed to function, much like public defender programs which provide legal representation for indigent criminal defendants. We believe this program will meet the goal of ensuring civil legal assistance for the poor without the many problems which have plagued the Legal Services Corporation since its inception in 1974. With specific respect to the delivery of legal aid to the indigent, we urge you to support H.R. 2076 as reported by the Appropriations Committee.

The operative provisions of H.R. 2076 with respect to legal services were modeled on a bill introduced by Rep. George Gekas (R–PA) and recently reported to the House by the Judiciary Committee. This legislation was carefully crafted to ensure that the federal program would finance representation for causes of action for which there is no other provision for payment of attorney's fees, or where it is highly unlikely that the "target" would have resources with which to pay attorney's fees. Thus, the bill did permit grantee attorneys to pursue "deadbeat dad" cases, but not employment law cases (because most employment discrimination and other types of employment laws provide for the recovery of attorney's fees for a successful plaintiff). We urge you to oppose any effort to add to the bill provisions allowing causes related to employment law, constitutional challenges, and consumer fraud.

We believe the Gekas legal services bill, as included in H.R. 2076, will create a federal program that will provide basic legal services for indigent people.

DEAN KLECKNER,
President.

FAMILY RESEARCH COUNCIL,
September 14, 1995.

DEAR SENATOR: On behalf of the more than 250,000 families which the Family Research Council represents, I would like to urge you to expedite the intent of the House-passed budget resolution by declining to reauthorize the Legal Services Corporation (LSC). Reform of the Corporation is not an acceptable option due to the fact that it has not been successful within the last fifteen years, particularly since liberal activists who favor a militant agenda have been charged with the oversight of the program. Past experiences have shown that merely adding restrictions to the program is a futile gesture.

The LSC was created to perform legal services for the poor and the underprivileged, yet the liberal agenda of its proponents has overtaken for its original mission. The antifamily litigation that the LSC supports is appalling. We have found cases where LSC has litigated with a pro-abortion agenda, they have been active in blocking attempts to reform welfare, aiding the homosexual agenda, supporting the notion that children have rights independent of their parents, and representing convicted criminals in civil cases.

The Legal Services Act, as amended in 1977 and in subsequent appropriations acts, prohibit LSC from being involved in abortion related cases. Nonetheless, LSC has remained firmly committed to abortion on demand and has worked around the law in an attempt to secure unlimited taxpayer-funded abortions. LSC has worked against waiting periods, physicians' consent, parental consent, parental notification and spousal notification. This blatant disregard for the congressional intent is another facet in the argument to not reappropriate.

Attempts to reform LSC have failed and it should be abolished. During consideration of the Commerce-Justice-State Appropriations bill, the Appropriations Committee passed a compromise proposal that provides $210 million for state level legal assistance in FY 1996. While we believe that these funds would be better dedicated to deficit reduction, we can accept the Committee's action. I strongly urge you to oppose any effort that may be made to undermine the Committee's proposal through the amendment process, including efforts to restore funding for the fatally flawed Legal Services Corporation.

Sincerely,

GARY L. BAUER,
President.

CHRISTIAN COALITION ET AL.,
September 14, 1995.

U.S. Senate,
Washington, DC.

DEAR SENATOR: The Senate will soon be voting on the Commerce, Justice, State and Judiciary Appropriations bill. The subcommittee bill includes a proposal to provide legal services to the poor through a state administered grant structure, rather than through the Legal Services Corporation.

On behalf of the millions of members of our collective organizations, we strongly urge you to vote in favor of the state grant proposal. Here are several strong reasons to support a state grant rather than the Legal Services Corporation:

There is accountability. Attorneys are required to keep time records. These records are subject to audit. Currently, Legal Services Corporation grantees are accountable to no one—no time records, no audits. That leads to mischief.

Attorneys will receive funds *after* they perform legal services, not before. Currently, Legal Services Corporation grantees receive a pot of money up front, and spend it as they see fit without accountability. That leads to mischief.

The state grant proposal breaks up the Legal Services monopoly. It enables attorneys and law firms all across America to openly compete for legal services contracts. If ever there was a case for open competition and against a monopoly, this is it. The Legal Services Corporation has no credibility when it comes to being wise stewards of the taxpayer's money.

The state grant proposal restricts the legal causes of action for which taxpayer funds can be used to a specified list of noncontroversial legal needs such as bankruptcy actions and cases of spousal abuse. There would be no more taxpayer funded lawsuits related to abortion, labor strikes, etc.

Restrictions to prohibit mischief are included. There would be no more taxpayer-funded lobbying, grass roots organizing, class action lawsuits, etc.

We strongly urge you to vote against any amendments to strip out the bill's state grant proposal for legal services. Thank you for your consideration.

Sincerely,

CHRISTIAN COALITION,
FAMILY RESEARCH COUNCIL,
TRADITIONAL VALUES COALITION,
EAGLE FORUM,
CONCERNED WOMEN FOR AMERICA,
AMERICAN FAMILY ASSOCIATION,
LIFE ADVOCACY ALLIANCE.

COALITIONS FOR AMERICA,
Washington, DC, June 28, 1995.

Hon. ROBERT DOLE,
U.S. Senate,
Office of the Majority Leader,
Washington, DC.

Hon. NEWT GINGRICH,
House of Representatives,
Office of the Speaker,
Washington, DC.

DEAR BOB AND NEWT: In the budget-cutting atmosphere on Capitol Hill these days, it is important not to overlook the Legal Services Corporation. Here the need is not merely to cut some of its programs, reduce its budget or to try yet again to reform it, but rather to eliminate it entirely. This year, President Clinton has proposed $415 million for the Legal Services Corporation budget. That amount, however significant, pales in comparison to the trouble and expense this agency causes.

The agency charged with providing legal services for those who could not afford to pay for them instead became a hotbed of judges and legal activities who used their authority to interpret the law to fit their personal ideology. The Legal Services Corporation has an agenda that includes providing benefits for illegal aliens, alcohol and drug addicts, and criminals. It accomplishes this task by suing any and all levels of government to prevent them from putting the brakes on any kind of welfare spending, and indeed to increase welfare benefits whenever and wherever it can do so.

Here are some examples of the Legal Services Corporation at work:

In 1992, Southern Minnesota Regional Legal Services won disability benefits for a 40-year old heroin addict by making the case that his addiction kept him from being able to work.

In North Carolina, an LSC grantee stopped the eviction from a public housing unit of a tenant who had shot and killed a child in the complex.

The LSC has blocked eviction of drug dealers from public housing units on technicalities such as the charges being "too vague."

In Virginia, a public housing tenant who had acted in a violent and dangerous manner won her case with aid from LSC because some minor mistakes were made in the attempted eviction.

In addition, the LSC has blocked efforts by states to establish paternity for child support payments, opposed Medicaid program cuts, and demanded that criminals in mental health facilities be granted the right to vote.

In short, the Legal Services Corporation has sought to subvert every federal, state or local effort to penalize, restrict, reform or otherwise hold accountable an individual for his or her behavior. Measured by the exact nature of its "legal services," it has been estimated that the true cost of the Legal Services Corporation since its founding has been some two trillion dollars, with no end in sight.

We understand that in normal Congressional politics it is easier to reduce an agency's funding than to eliminate entirely both the funding and the agency. In this case, however, no other solution will do. The Legal Services Corporation is wholly bad, and if now, in the time of a Republican majority in both Houses of Congress, it is merely reduced, it will certainly spring back to life later with greater vigor. It must be killed, dead.

We stand ready and willing to work with the leadership of both Houses in pursuing this objective, but we will accept no lesser goal nor outcome. Quite simply, if the Legal Services Corporation is not eliminated in this year's budget—funded at zero—we cannot be credible in arguing to our members and supporters that the Republican Party means that it says about creating change in Washington.

Sincerely,

PAUL WEYRICH,
National Chairman.

COALITIONS FOR AMERICA MEMBERS

Morton C. Blackwell, VA GOP National Committee.

Andrea Sheldon, Traditional Values Coalition.

——— ———, National Center for Policy Analysis.

Amy Moritz, National Center for Public Policy Research.

Mike Korbuy, United Seniors Association.

Penny Young, Concerned Women for America,

Ronald W. Pearson, Conservative Victory Fund.

Brian W. Jones, Center for New Black Leadership.

Joan L. Hutu, American National Council for Immigration Reform.

Brian Lopina, Christian Coalition.

D. Scott Peterson, Conservative Victory Committee.

——— ———, Association of Concerned Taxpayers.

Martin Hoyt, American Association of Christian Science.

Major F. Andy Messing, Jr., USAR (ret.), National Defense Council Foundation.

Martin Mawyer, Christian Action Network.

Peter T. Flaherty, Conservative Campaign Fund.

Kenneth F. Boehm, National Legal and Policy Center.

——— ———, The Conservative Council.

Karen Kerrigan, President, Small Business Survival committee.

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

James Wootton, Safe Streets Coalition.

——— ———, Eagle Forum.

James L. Martin, 60 Plus Association.

Grover G. Norquist, President, Americans for Tax Reform.

Michael Farris, President, Home School Legal Defense Association.

Kevin L. Kearns, President, United States Business and Industrial Council.

Michael E. Dunker, Family taxpayer's Network.

Grant Danes, Assistant Director, Christian Network Association, Inc.

Mr. GRAMM. Mr. President, I think it would be useful for the American people to get some idea what the Legal Services Corporation is doing. The Heritage Foundation has put together a list of lawsuits that describe the horror stories that have come into existence as a result of the Legal Services Corporation and its actions. Let me just read the first one, but I am going to ask that all of these be put in the RECORD. The first one is a Georgia Legal Services lawsuit June 15, 1995. Here is a short summary.

The Legal Services Corporation defended a Miss Whitehead from eviction after crack cocaine was found in her apartment, arguing that she had not violated her lease because she was not present at the time the search warrant was executed.

I have page after page after page of these horror stories, and let me turn to the last page. Here is a lawsuit—I will just pick the second one on the page. The Legal Services Corporation sued to obtain unemployment benefits for a teacher fired for drug possession, arguing that the teacher had not lost his job through misconduct.

I am perfectly aware—and I do not want anybody to be confused—that Senator DOMENICI has nothing like the restrictions on legal services that I would impose in the committee bill, but he cannot stand here and defend the Legal Services Corporation, and instead he has proposed limiting actions they can take.

I should like to remind my colleagues that this is the same Legal Services Corporation that President Reagan was not able to rein in as a Federal program. I am hopeful that if the amendment is successful, which I hope it will not be, we can at least enforce some of these restrictions.

I also can go through other examples of Legal Services misconduct. Let me just pick one here on agriculture because the American Farm Bureau very strongly opposes this amendment. This is a lawsuit filed by the Legal Services Corporation on June 23, 1995. All these examples are from this year or last year. You do not have to go back 20 years to find horror stories.

The Legal Services Corporation sued a tomato farmer, the neighbor who rented the labor camp to the farmer, their crew leaders, and the tomato packing company when a farm worker got injured while reaching under a moving truck at a labor camp.

Every day in America the Legal Services Corporation is hassling American agriculture.

Mr. President, I ask unanimous consent that this very short, concise list of abuses, most of which occurred in 1994 and 1995, be printed in the RECORD.

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

LSC LITIGATION HORROR STORIES

LSC grantee and source	Description
DEFENDING CRIMINAL ACTIVITY	
Legal Services Corporation litigation has prevented public housing authorities from evicting drug dealers in Georgia, New York, Florida, and Connecticut. The LSC has also defended tenants who engage in the malicious destruction of property in public housing projects. Finally, one LSC grantee even contested the eviction of a tenant whose son had shot and killed a child living in a neighboring apartment in the complex. Query: How does this sort of litigation improve the lives of poor people?	
Georgia Legal Services: Macon Housing Authority v. Tabitha Whitehead: Testimony by John Hiscox before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Defended against eviction of Tabitha Whitehead after crack cocaine was found in her apartment, arguing that she had not violated her lease because she was not present at the time the search warrant was executed.
LSC grantee:.	
Testimony by Michael Policy Pileggi before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Public Housing Authority (PHA) prevailed in evicting Victoria W. following the confiscation of 66 vials of crack cocaine in her unit. To avoid eviction, legal services filed a chapter 7 bankruptcy petition on her behalf that led to an automatic stay.
Wexford Ridge Associates v. Bankston (1993): "The Real Cost...", by Phillips and Ferrara.	Defended against an eviction for drug dealing, arguing that a notice stating the tenant was "dealing cocaine out of your unit" was too vague.
Housing Authority of Norwalk v. Harris, Conn. Super. No. SPNO 9009–10295 (1993).	Defended against the eviction of a man whose daughter was selling drugs on the property, claiming that he was not aware of the activity.
Charlotte Housing Authority v. Patterson (1994): "The Real Cost . . .", by Phillips and Ferrara.	Defended against eviction even though the tenant's son had shot and killed a child who had been living in another apartment in the complex.
Moore v. Housing Authority of New Haven Connecticut Conn. Super. Ct. (1993): "The Real Cost...", by Phillips and Ferrara.	Successfully argued that the local Public Housing Authority (PHA) must repair apartment damage even though it was caused by the tenant or her guests.
Georgia Legal Services:	
Macon Housing Authority v Tina Burke: Testimony by John Hiscox before House Jud. Subcommittee on Commercial and Adm Law (June 15, 1995).	Defended against eviction of Tina Burke after drug dealing was observed in her apartment, arguing that she did not violate her lease because she was not in possession of crack cocaine or cash at the time of the arrest.

LSC LITIGATION HORROR STORIES—Continued

LSC grantee and source	Description
Macon Housing Authority v. Patricia Osborne: Testimony by John Hiscox before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Defended Patricia Osborne from being evicted after undercover officers purchased crack cocaine outside her back door.
Macon Housing Authority v. Enga Scott: Testimony by John Hiscox before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Fought the eviction of Enga Scott and her son Shon after Shon pled guilty to possession of cocaine with intent to distribute.
Neighborhood Legal Services: Testimony by Harriet Henson before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Has repeatedly defended tenants in Pittsburgh from eviction for reasons including tearing up the property, violating the lease (having dogs), and dealing drugs in their apartments.
Legal Services of Greater Miami: Furr v. Simmons (1993): "The Real Cost...", by Phillips and Ferrara.	Argued that a landlord of a government-subsidized housing facility in Florida could not evict a tenant whose daughter was dealing drugs on the premises because he had prior knowledge of the drug activity and had failed to take action to stop it.
LSC grantee: Buffalo Municipal Housing Authority v. Jones (1993): "The Real Cost...", by Phillips and Ferrara.	Successfully argued that a public housing tenant in New York who had engaged in criminal or drug activity could not be evicted without 30 days prior notice.
Connecticut Legal Services: Edgecomb v Housing Authority, U.S. Dist. Ct. for the District of Conn. (1994): "The Real Cost...", by Phillips and Ferrara.	Stopped termination of a tentant's housing subsidy for drug related criminal activity because the tentant had not been allowed to confront and cross-examine witnesses. Legal service lawyers were awarded $20,000 for this case.
LSC grantee: Allen v. Great Atlantic Management Co. (1993): "The Real Cost...", by Phillips and Ferrara.	Defended a tenant against eviction who had engaged in violent and destructive conduct on the property.
FAMILY CASES	
Legal Services Corporation attorneys have provided legal assistance to the poor in some very curious ways. LSC grantees have filed suits arguing that unemancipated minors have a right to their own public housing units, that children should be able to terminate their parents' rights over them, and that homosexuals should be able to adopt children.	
Lehigh Valley Legal Services: Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995). The Morning Call (March 2, 1995).	Represented a 16-year-old juvenile delinquent in his quest to retain parental rights to the child he fathered by raping a 13-year-old girl. The father had a history of other criminal offenses and has repeatedly failed to comply with his probation.
Legal Service of Greater Miami: Cox v. Florida 656 So.2d. 902 (1995).	Represented two homosexuals in their fight to overturn a Florida law that prohibits homosexuals from adopting a child.
Idaho Legal Services: Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Sued on behalf of the Ogala Sioux Tribe for custody of a 4-year-old boy who has lived with his adoptive family since he was born. The tribe claimed rights because the boy is half-Sioux. The boy's family had to sell their home to raise money for the case.
Legal Services of Greater Miami: K v. K (1992): "The Real Cost of the Legal Services Corporation," by Howard Phillips (Conservative Caucus) and Peter Ferrara (National Center for Policy Analysis), June 14, 1995.	Argued that children should be able to sue to terminate their parents rights over them.
Central Pennsylvania Legal Services: Rodriques v. Reading Housing Authority 8 F.3d. 961 (1993): "The Real Cost . . .", by Phillips and Ferrara.	Sued to force the Reading (PA) Housing Authority to accept as tenants minors who had not been emancipated from their parents.
Legal Services Organization of Indiana: Indiana Dept. of Public Welfare v. Hupp 605 N.E.2d 768 (1993).	Sued the state to stop termination of AFDC benefits to a parent whose children had been removed from her home by the state because she had failed to exercise responsibility for the day-to-day care and control of the children.
CHILD SUPPORT	
Legal Services Corporation grantees have successfully blunted efforts by North Dakota and Michigan to require welfare mothers to identify the deadbeat dads of their children to welfare officials.	
Legal Assistance of North Dakota: S. v. North Dakota Department of Human Services 499 N.W. 2d. 891 (1993).	Successfully argued against states requiring mothers receiving welfare subsidies to identify the fathers so the state can pursue him for child support.
Oakland Livingston Legal Aid in Michigan: In Re Schirrmacher (1993): "The Real Cost . . .", by Phillips and Ferrara.	Successfully argued against states requiring mothers receiving welfare subsidies to identify the fathers so the state can pursue him for child support.

LSC LITIGATION HORROR STORIES—Continued

LSC grantee and source	Description
HOUSING	
Legal Services Corporation grantees have sued state and local governments to demand expensive new housing "rights." These rights include more government subsidized housing, higher rental allowances, and payment of child care, furniture storage and transportation expenses. LSC grantees have also attempted to silence ordinary citizens who oppose the placement of housing for drug addicts and the mentally ill in their neighborhoods.	
LSC grantee:	
Herrara v. City of Oxnard (1994): "The Real Cost . . .," by Phillips and Ferrara.	Sued City of Oxnard (CA) to demand more government subsidized housing.
Lubold v. Snider (1993): "The Real . . .," by Phillips and Ferrara.	Suit against Pennsylvania arguing a "right to shelter" provided by the government.
Legal Aid Society of NYC: McCain v. Dinkins 84 NY 2d. 216 (1994).	Suit against New York City arguing a "right to shelter" provided by the government.
Coalition to End Homelessness w/ Amy Eppler-Epstein, Esq.: Hilton v. City of New Haven 233 Conn. 701 (1995).	Suit against New Haven (CT) arguing a "right to shelter" provided by the government.
LSC grantee: Jiggetts v. Perales 202 A.D. 2d. 341 (1992).	Sued New York City to establish higher rental allowances.
Cambridge and Somerville Legal Services: Aguirre v. Gallant (1993): "The Real Cost . . .," by Phillips and Ferrara.	Sued to stop reductions in monthly rental allowances in Massachusetts.
Western Massachusetts Legal Services: Berrios v. Gallant (1991): "The Real Cost . . .," by Phillips and Ferrara.	Demanded under an emergency housing assistance program in Massachusetts for furniture storage, moving expenses, child care, transportation, and more.
National Center for Youth Law: Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Argued that citizens could not oppose the establishment of housing in their neighborhood for recovering drug addicts and the mentally ill.
LSC grantee: Testimony by Michael Pileggi before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Claimed that PHA failed to timely transfer Christine L. from a five-bedroom unit to a six-bedroom unit even though PHA has a limited number of six-bedroom units and, in fact, was able to transfer her within seven months of her initial request.
Community Legal Services Inc., of Philadelphia, PA: Gwendolyn Smith v. Philadelphia Housing Authority U.S. Dist. Ct. for the Eastern Dist. of PA. (1995): Testimony of Mike Pileggi before House Judiciary Subcomm. on Commercial and Adm. Law (June 15, 1995).	Sued Philadelphia Housing Authority on behalf of Gwendolyn Smith, claiming PHA failed to perform over 20 repairs in her unit. An investigation showed that much of the damage was caused by the tenant (fire damage, holes punched in walls and doors).
Community Legal Services: Lupina Rainey v. Philadelphia Housing Authority U.S. Dist. Ct. for the Eastern Dist. of PA. (1993): Testimony of Mike Pileggi before House Judiciary Subcomm. on Commercial and Adm. Law (June 15, 1995).	Represented Lupina R. in a civil rights lawsuit against PHA even though they suspected her for engaging in criminal conduct including dealing drugs, extorting money, loan sharking, and filing bogus bankruptcies on behalf of PHA tenants.
LSC grantee: Testimony of Mike Pileggi before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995).	Filed suit against Philadelphia Housing Authority on behalf of Krissy J., claiming that a $50 check owed to her was not timely processed. The case was settled immediately, yet PHA had to pay over $500 in attorney's fees to legal services.
CRIMINAL RIGHTS	
Legal Services Corporation grantees have pursued a number of novel theories all designed to broaden the rights of convicted criminals. In one instance, an LSC grantee challenged Washington state's reform of its parole laws that would have ensured longer sentences for convicted criminals.	
LSC grantee:	
Decker v. Wood (1992): "The Real Cost...", by Phillips and Ferrara.	Sued to demand that criminals in a mental health facility be allowed to vote.
Thorton v. Sullivan U.S. Dist. Ct. for the District of Alabama: Testimony by Dean Kleckner before Senate Committee on Labor and Human Resources (June 23, 1995).	Sued to obtain Social Security disability benefits for a thief who was injured while committing the crime.
Evergreen Legal Services: Powell v. Du Charme (1993): "The Real Cost...", by Phillips and Ferrara.	Sued to prevent changes in the Washington parole laws from being applied to those currently in prison. The reformed laws would have ensured longer sentences for convicted criminals.
National Legal Aid and Defender Association: Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995), The New York Times (Feb. 8, 1995).	NLADA was the only group to oppose a bill (passed the House by a vote of 432 to 0) requiring criminals to pay compensation to their victims. NLADA represents legal services lawyers and receives substantial funding from LSC grantees.

LSC LITIGATION HORROR STORIES—Continued

LSC grantee and source	Description
Georgia Legal Services: Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995), Los Angeles Times (Nov. 12, 1994).	Filed petitions to get the release of David Naggel from a maximum security mental hospital. Nagel was imprisoned for murdering both of his grandparents when they refused to give him the keys to their car.
Greater Orlando Area Legal Services: Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995), The Orlando Sentinel (Sept. 30, 1994).	Sued Orange County on behalf of 18 former inmates to eliminate segregation of inmates based on whether or not they have been exposed to the AIDS virus. Infected inmates were returned to the general inmate population without notification to other inmates.
Legal Assistance Foundation of Chicago: Duran v. Elrod 760 F. 2d. 756 (1985).	In pioneering "inmates rights," this case set a legal precedent that has resulted in cable television and expensive weights rooms in prisons.

ALIENS

Legal Services Corporation grantees have filed lawsuits arguing that aliens, both legal and illegal, are eligible for welfare benefits, Medicaid, Social Security disability benefits and food stamps. In one lawsuit, an LSC attorney argued that an alien who was deported twice for criminal activity was entitled to Social Security retirement benefits.

LSC grantee and source	Description
LSC grantee: Graham v. Richardson 403 U.S. 365 (1991).	Argued that states may not deny welfare benefits to aliens.
Gulfcoast Legal Services: Smart v. Shalala 9 F.2d. 921 (1993).	Sued to obtain Social Security retirement benefits for an illegal alien who had been deported twice for criminal activity.
Pine Tree Legal Assistance of Maine: In Re Doe (1992): "The Real Cost...", by Phillips and Ferrara.	Sued to obtain Social Security disability benefits for an alien seeking political asylum.
Western Reserve Legal Services in Ohio: Joudah v. Ohio Department of Human Services 94 Ohio App. 3d. 614 (1994).	Sued to obtain AFDC, Medicaid, and food stamp benefits for an alien family seeking political asylum.
Legal Aid Society of San Mateo County: Gillen v. Belshe (U.S. Ct. App. for the First Circuit): Testimony by Dean Kleckner before Senate Committee on Labor and Human Resources, (June 23, 1995).	Filed suit to force California to provide health services, welfare, and food stamps while deportation proceedings are pending.
California Rural Legal Services: Naranjo-Aguilera v. INS 30 F.3d. 1106 (1994).	Sued to prevent enforcement of INS regulations that would deny aliens the right to participation in an agriculture program if they have been convicted of a felony or two misdemeanors.
California Rural Legal Assistance: Catholic Social Services v. Reno: Testimony by Dean Kleckner before Senate Committee on Labor and Human Resources (June 23, 1995).	Sued to challenge regulations governing the twelve month amnesty program enacted by Congress that requires illegal aliens to demonstrate that they lived continuously in the U.S. from Jan. '82 until Nov. '86 and that they are financially responsible.
California Rural Legal Assistance: Zambrano v. INS 972 F.2d. 1122 (1992).	Sued to challenge regulations governing the twelve month amnesty program enacted by Congress that requires illegal aliens to demonstrate that they lived continuously in the U.S. from Jan. '82 until Nov. '86 and that they are financially responsible.

WELFARE

Legal Services Corporation grantees have won hundreds of billions of dollars in expanded rights to welfare benefits. In recent years, the LSC has sought to obstruct or stop welfare reform in nearly every state in which it has been attempted, including New Jersey, Michigan, Ohio, Minnesota, New York and California. What follows are but a few examples of litigation inspired by LSC grantees in this area:

LSC grantee and source	Description
Legal Services of New Jersey: C.K. v. Shalala (1994).	Sued the state and federal government when they adopted a welfare experiment to eliminate routine increases in welfare subsidies to recipients having children.
Michigan Legal Services: Babbitt v. Michigan Department of Social Services (1991): "The Real Cost...", by Phillips and Ferrara.	Sued the state when AFDC benefits were reduced in 1992 under an appropriations bill requiring statewide across-the-board budget cuts.
Legal Aid Society of Cincinnati& Legal Aid Society of Dayton: Daugherty v. Wallace 87 Ohio App. 3d. 228 (1993).	Sued Ohio to stop reductions in the state's General Assistance benefits. They argued there is a right to welfare under the state's Constitution.
National Center for Youth Law: Angela R. v. Clinton 999 F.2d. 320 (1993).	Sued Arkansas to force the state to expand its child welfare system.
Kansas Legal Services: Allen v. Sullivan (1991): "The Real Cost...", by Phillips and Ferrara.	Won full SSI benefits for a claimant on the grounds that the room and board his mother provide could not count as income because it would have to be repaid.

LSC LITIGATION HORROR STORIES—Continued

LSC grantee and source	Description
LSC grantee:	
In Re Leistner (1994): "The Real Cost...", by Phillips and Ferrara.	Won public assistance for a minor even though the parents' home was available and won the claim that applicants were not required to pursue potential alternative resources as a condition of eligibility for food stamps.
Bland v. New Jersey Department of Human Services (1993): "The Real Cost...", by Phillips and Ferrara.	Won continued AFDC benefits for a recipient who became a VISTA volunteer rather than get a job. The stipend she received from VISTA was excluded from her income in calculating AFDC eligibility.
National Peurto Rican Coalition v. Alexander (1992): "The Real Cost...", by Phillips and Ferrara.	Demanded expansion of the Department of Education's vocational education program regardless of the availability of Federal funds.
Western Massachusetts Legal Services:	
Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995), USA Today (Jan. 10, 1995).	Filed suit on behalf of Arthur Cooney to get him back on welfare after he spend the $75,000 he won in a lottery. Most of his winning went to drugs and gambling.
Testimony by Kenneth Boehm before House Jud. Subcommittee on Commercial and Adm. Law (June 15, 1995), Readers Digest (July 1994).	Published a brochure detailing how to take advantage of a welfare rule allowing recipient to collect cash windfalls without losing public assistance for more than a month.
Southern Minnesota Regional Legal Services: Mitchell v. Stetfen (1992): "The Real Cost...", by Phillips and Ferrara.	Successfully struck down 6-month residency requirement for General Assistance benefits in Minnesota.
Monroe County Legal Assistance Corp.: Aumick v. Bane (1993): "The Real Cost...", by Phillips and Ferrara.	Brought suit against residency requirement for receiving New York General Assistance benefits.
Legal Aid Society of San Mateo County: Green v. Anderson (1993): "The Real Cost...", by Phillips and Ferrara.	Sued to strike down a one-year residency requirement for full AFDC benefits.

MEDICAID

Legal Services Corporation grantees have sought, and often won, expensive expansions of the Medicaid programs in states such as California, Vermont, Pennsylvania, Missouri, New York, and Maine.

LSC grantee and source	Description
LSC grantee: Clark v. Cage (1993): "The Real Cost . . .", by Phillips and Ferrara.	Successful suit against California demanding increased benefits under the state's Medicaid program. The LSC grantee won $1.2 million in legal fees.
Vermont Legal Aid: Garrett v. Dean (1993): "The Real Cost . . .", by Phillips and Ferrara.	Sued to stop a 2% cut in Vermont's Medicaid program.
LSC grantee: Felix v. Casey (1993): "The Real Cost . . .", by Phillips and Ferrara.	Sued Pennsylvania to challenge limits on cold medications and dental services under state Medicaid program.
Legal Services of Eastern Missouri: Nemnich v. Strangler (1992): "The Real Cost . . .", by Phillips and Ferrara.	Brought suit against Missouri challenging limits on the services provided under state Medicaid program.
LSC grantee:	
Sweeney v. Bane (1992): "The Real Cost . . .", by Phillips and Ferrara.	Sued to stop New York from requiring co-payments for its Medicaid program.
Fulkerson v. Commissioners (1992): "The Real Cost . . .", by Phillips and Ferrara.	Sued to stop the adoption of a system of co-payments for the Maine Medicaid program.
National Center for Youth Law: Barajas v. Coye (1992): "The Real Cost . . .", by Phillips and Ferrara.	Sued California to extend its Medicaid program to cover preventive dental services for children.

FARMING

Legal Services Corporation grantees have initiated many frivolous lawsuits against farmers, ten of which are listed here:

LSC grantee and source	Description
Farmworkers Legal Services of North Carolina: Testimony by C. Stan Eury before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Filed numerous frivolous class action lawsuits intended to strongly discourage the use of the H2A temporary agricultural worker program to supplement the labor force when there is an insufficient supply of U.S. workers.
LSC grantees: Testimony by Harry Bell before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Multiple lawsuits filed by LSC-funded attorneys in Florida have prompted the sugar cane growers to mechanize rather than continue their efforts to maintain a H2A temporary guest-worker program.
Friends of Farmworkers, Inc.: Testimony by Dean Kleckner before Senate Committee on Labor and Human Resources, (June 23, 1995).	After losing most of a lawsuit against Phil Roth, a fruit grower in Pennsylvania, FOF demanded $65,000 in attorney's fees from Mr. Roth, an amount more than 100 times greater than the disputed wages found to be due to the workers involved in the case.

LSC LITIGATION HORROR STORIES—Continued

LSC grantee and source	Description
Advocates for Basic Legal Equality: Testimony by Dean Kleckner before Senate Committee on Labor and Human Resources, (June 23, 1995).	Sued tomato farmer, the neighbor who rented the labor camp to the farmer, their crew leaders, and the tomato packing company when a farmworker got injured while reaching under a moving truck at the labor camp.
Michigan Migrant Legal Action Program: Testimony by Robert DeBruyn before Senate Committee on Labor and Human Resources, (June 23, 1995).	Sued DeBruyn Produce on behalf of three farm workers in an effort to use a very minor housing dispute to bring employer provided housing under landlord tenant law.
Texas Rural Legal Aid: Testimony by Robert DeBruyn before Senate Committee on Labor and Human Resources, (June 23, 1995).	Sued DeBruyn Produce on behalf of 27 plaintiffs, claiming that they were owed a full crop year's wages. In fact, none of the plaintiffs appeared in the company's employee, tax, or workers' compensation record. They never worked for the company.
Advocates for Basic Legal Equality: Testimony by Harry Bell before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Initiated litigation to undermine a cooperative dispute resolution agreement between pickle growers and a farmworkers' union (Farm Labor Organizing Committee).
LSC grantee: Testimony by Harry Bell before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	An LSC attorney sued a grower in South Carolina for improper payment of a farmworker even though there was documented evidence that the worker was in jail in North Carolina at the time of the alleged violations.
Farmworkers Legal Services of North Carolina: Testimony by C. Stan Eury before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Litigated against the North Carolina Employment Security Commission, resulting in the destruction of a successful interstate clearance system used as a means to recruit farmworkers that provided continuity of employment to the workers.
California Rural Legal Assistance: Testimony by Dan Gerawan before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Charged Gerawan Farming with numerous violations relating to damaged housing. During the trial it was proven that the damage was not intentional, but that CRLA had actively promoted the intentional damage and even prohibited repairs from being done.

DISABILITY PROGRAMS

Legal Services Corporation grantees have aggressively sought Social Security disability benefits for alcoholics and heroin addicts. LSC attorneys have also sought disability benefits for novel categories of disability such as "antisocial personality disorder" and "attention deficit disorder." In one instance, LSC attorneys argued an employer could not require an alcoholic worker to attend AA meetings on the theory that alcoholism is a disability protected under the ADA.

LSC grantee and source	Description
Legal Assistance Foundation of Chicago: Jones v. Shalala (1993): "The Real...", By Phillips and Ferrara.	Sued to obtain SSI disability benefits for 44-year-old due to alcohol and opinoid dependence and antisocial personality disorder.
Legal Aid Society of Metropolitan Denver: Trujillo v. Sullivan (1992): "The Real Cost...", By Phillips and Ferrara.	Obtained Social Security disability benefits for an alcoholic with back pain.
Southern Minnesota Regional Legal Service: In Re X (1992): "The real Cost...", by Phillips and Ferrars.	Won disability benefits for a heroin addict, claiming he was incapable of working.
Alaska Legal Services: S v. Sullivan (1992): "The Real Cost...", by Phillips and Ferrara.	Won Social Security disability for an alcoholic who was not able to work because he could not stop drinking.
Merrimack Valley Legal Services: Smith v. Sullivan (1993): "The Real cost...", by Phillips and Ferrara.	Won SSI benefits for a drug addict suffering from migraines and arthritis.
New Orleans Legal Assistance Corporation: Schultz v. Nelson (1993): "The Real Cost...", by Phillips and Ferrara.	Won benefits for a 56-year-old woman who claimed to have tendonitis that prevented her from engaging in productive work.
Central California Legal Services: Testimony by Harry Bell before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Sued an employer contending, a warehouse worker with a history of alcohol abuse could not be required to attend Alcoholic Anonymous meetings as a condition of employment arguing that alcoholism is a disability under the Americans with Disabilities Act.
Legal Aid Society of San Diego: Testimony by Harry Bell before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Asserted that Attention Deficit Disorder is a disability within the meaning of the Americans with Disabilities Act. The client was a welfare recipient who was studying for a degree in criminal justice as part of a state-sponsored training program.

LSC LITIGATION HORROR STORIES—Continued

LSC grantee and source	Description
OTHER	
Legal Services Corporation grantees routinely bring other cases with no logical connection to serving the needs of the poor. These include cases to secure unemployment benefits for a teacher who was fired for drug use, challenging the use of literacy tests as a criteria for high school graduation and challenging a public health law designed to prevent individuals from intentionally spreading infectious diseases.	
Tampa Bay Legal Services: Meyerson, A., "Nixon's Ghost", Policy Review, Summer 1995.	Challenged the establishment of a functional literacy test as a criterion for high school graduation in Florida. The test measures this ability to fill out basic job application, do basic comparison shopping, and balance a check book.
Vermont Legal Aid: Rodriguez v. Vermont Department of Employment (1992): "The Real Cost...", by Phillips and Ferara.	Sued to obtain unemployment benefits for a teacher fired for drug possession, arguing that the teacher had not lost his job through misconduct.
Legal Aid Society of Orange County: Tobe v. City of Santa Ana (1993): "The Real Cost...", by Phillips and Ferrara.	Sued claiming that the city's prohibition on camping out, using sleeping bags, and storing personal property, in the city streets was unconstitutional.
Evergreen Legal Services:	
Roulette v. City of Seattle (1993): "The Real Cost...", by Phillips and Ferrara.	Sued claiming the city's prohibitions on sitting or lying on sidewalks in commercial areas and aggressive begging were unconstitutional.
Ledesma v. Seattle School District (1991): "The Real Cost...", by Phillips and Ferrara.	Sued to demand bilingual education in Seattle schools.
Georgia Legal Services Martin v. Ledbetter: Testimony by Dean Kleckner before Senate Committee on Labor and Human Resources, (June 23, 1995.	Challenged Georgia state law permitting involuntary hospitalization of individuals with infectious diseases who represent a danger to public health.
California Rural Legal Aid: Testimony by Harry Bell before Subcommittee on Commercial and Administrative Law, (June 15, 1995).	Sued to kill the Targeted Industries Partnership Program, joint federal-state project to direct labor law enforcement resources at problem employers, with the resultant spectacle of one taxpayer-funded entity suing another.

Mr. GRAMM. Mr. President, I also have another letter by a former Legal Service Corporation president, Terry Wear, explaining why in his experienced opinion the Legal Services Corporation cannot be reformed and should either be turned over to the States or be eliminated entirely. Frankly, he recommends that it be eliminated. I ask unanimous consent that this comprehensive letter be printed in the RECORD.

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

LAW OFFICES OF TERRANCE J. WEAR,
Washington, DC, September 20, 1995.

Senator PHIL GRAMM,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMM: My purpose in writing is to outline some of the problems that I encountered during my tenure as President of the Legal Services Corporation during portions of the Reagan and Bush Administrations, and to comment on S. 1221, the Senate companion bill (introduced by Senators Kassebaum and Jeffords) to HR 1806, the McCollum-Stenholm legal services bill.

By way of background, the federally funded component of the legal services program is one of Lyndon Johnson's poverty programs, having originated in the Office of Economic Opportunity in the Johnson Administration's Department of Health, Education & Welfare. The program was taken out of HEW in 1974, and set up in a free standing non-profit corporation similar in structure to that of the Corporation for Public Broadcasting.

The Legal Services Corporation (LSC) now disburses approximately $400 million annually in taxpayer funds, in the form of grants to local legal services providers, which in turn use these funds to hire full-time lawyers, who in turn provide civil legal services to eligible poor persons. Over the last fifteen years, the existing grantees have been able to insulate themselves from competition for these grants, and the same grantees now receive the monies year after year.

The President nominates candidates to the Corporation's 11-member Board of Directors, and these nominees are subject to Senate confirmation. Other than that, the President (and the Executive Branch) has no control over the actions of the corporation, its Board of Directors, or its approximately 320 grantee legal services providers.

Some believe that the LSC, and the federal component of the legal services program, was structured this way purposely; so no one (other than the local legal services grantees) could control which cases they handle. The grantee providers pick and choose the specific cases they handle, in order to "raise the consciousness" of the persons being sued, as well as the communities in which these persons reside. They sue to "strike a blow" for a favorite cause, or to create legal precedents that they believe are "favorable" to poor persons as a class, rather than to the individual poor client whose name appears on the court pleadings. Cases are pursued for purposes of setting these kinds of legal precedents, even when such action is not in the best interest of the client being represented. (See e.g., "War on the Poor," National Review, May 15, 1995; pp. 32–44.)

Often, these programs refuse to serve poor persons with "run of the mill" or "mundane" legal problems; preferring to concentrate on the "sexy," "snazzy," or "high profile" cases that promote their view of "how society should be." Let me cite just one example: A legal services program in Washington state refused to help a poor single mother (and her three children) with a landlord-tenant problem (and the woman lost her rental unit as a result), because the program was "too busy" with other matters.

The "other matters" that the program chose to handle at the time this woman was seeking legal assistance included:

Helping an alcoholic father, who claimed he was unable to work because of his "disability," avoid paying child support for his children;

Preventing a public housing authority from evicting two tenants who had not disclosed their prior criminal histories in their rental applications, as they were required to do; and

Obtaining a nationwide permanent injunction blocking federal reductions in the cash and medical welfare benefits given to newly arrived refugees.

These examples clearly demonstrate the desire of many legal services programs to handle the "high profile" cases, in which they can "strike a blow" for a particular cause, at the expense of individual poor persons with "mundane" legal problems.

The "housing authority" example deserves further examination: Oftentimes, legal services programs try to block the eviction of known drug dealers from public housing units; effectively allowing these people to ply their trade from these housing units, and effectively putting the other tenants (and their children) into a drug war "free fire zone." Under the existing legal services system, there is nothing anyone can do to prevent these government-funded lawyers from doing these things, regardless of the suffering they inflict on the innocent families who live in these housing units.

There are dozens of other examples of legal services lawyers inducing or aiding and abetting conduct that is self-destructive. Space does not permit me to mention them all, but some of the most egregious examples include:

Several legal services programs routinely advise poor parents to get a divorce, and poor non-abused teenagers to set up households of their own, all for purposes of maximizing the total amount of welfare payments that the group can obtain.

Other legal services programs work to obtain federal disability payments (amounting to hundreds of dollars per month) for alcoholics and drug addicts, who then use these funds to "feed" their self-destructive habits.

A legal services program obtained government disability payments for a convicted burglar; using as the basis for his claim the injuries the burglar sustained during the course of committing his crime.

Another legal services program helped a convicted rapist get custody of the child he sired as a result of the rape, even though a psychologist testified that the rapist was likely to harm the child.

Lastly, a legal services program employee being paid by the U.S. taxpayers used his position to organize civil unrest in New York's Attica Prison, in order to use this unrest to "commemorate" the anniversary of the 1971 Attica Prison riots, in which 43 inmates and guards were killed.

Based upon my experiences with the federal legal services program, I do not believe the current program is salvageable; consequently, it should be ended now. Some Members of Congress, such as Congressman McCollum, have suggested that the corporation and the current program should be continued, with restrictions placed on what the legal services lawyers could do, the kinds of cases they could handle, etc. This approach does not take into account the history of the program, and the past failed attempts to do the very same thing. Let me mention some examples:

When the federal legal services program was set up under the corporation in 1974, restrictions were written into the statute saying that legal services lawyers could not engage in political activities; or handle abortion cases, desegregation cases, etc. During the Reagan and Bush Administrations, similar attempts were made to limit the kinds of activities and cases that could be handled by legal services personnel. These restrictions were implemented through Appropriations Acts "riders" that were added to the bills that funded the program.

Many of these restrictions were effectively circumvented by the legal services lawyers; or were openly violated in the case of the handling of abortion cases. The plain facts are that the legal services activities are not interested in having their activities restricted in any way; and will not abide by the McCollum restrictions:

For example, certain legal services grantees handled several abortion cases during my tenure as LSC President, and refused to stop when I ordered them to do so. These programs then used the money, which I had given them to help poor people, to pay for a law suit to block imposition of the discipline I imposed on them. They successfully stalled my attempts to curtail their activities, even through they were clearly in violation of the federal Legal Services Corporation Act. These law suits dragged on for several years,

and were subsequently settled by one of my successors, on condition that no disciplinary action be taken against these programs.

In 1980, after completion of the national census, the legal services programs spent over 28,000 hours and over $600,000 in federal funds on Congressional redistricting activity. Their purpose was to redistrict "in" those Members or candidates who were sympathetic to the political and social goals of these activists, and redistrict "out" those who were not. During the 1980s, many legal services programs tried to carry out this same sort of activity at the State and local levels.

In 1989, I caused the corporation to enact a regulation prohibiting the involvement of the legal services programs in redistricting, as it was clearly "political activity" which was forbidden under the Legal Services Corporation Act. I was then promptly sued by three of the legal services programs that I was funding. These programs used the money, which I had given them to help poor people, to pay for a law suit to keep me from enforcing this regulation; and successfully tied up its enforcement for more than three years.

The Congress should not be fooled by the McCollum attempt to reform the existing legal services program. There is no reason to believe a new set of restrictions of the kind proposed by Congressman McCollum (and Senators Kassebaum & Jeffords) will be any more effective than the earlier sets of restrictions were. These activist lawyers will simply exploit the "loop holes" in the McCollum restrictions, ignore them, or file law suits to challenge those they do not like; and the restrictions will be suspended for 4 or 5 years, while these cases work their way through the courts. The activists will use the courts to effectively gut any attempt to regulate their behavior, and will "wait the Congress out" until it gives up and goes on to other things.

This conclusion is particularly noteworthy, in light of the announced intent, on the part of the legal services lawyers, to make "the road to welfare reform a legal obstacle course" for the Congress. In the April 1995 issue of the American Bar Association (ABA) Journal (pp. 82–88), the activists threw down the gauntlet to this Congress, by outlining just how they intend to sue the legal system, and the federal dollars they are given, to attack any effort to reform the current welfare system.

I'm also heartened to note, however, that ending the current legal services program will not end legal services for the poor:

The Gekas legal services bill (H.R. 2277), as introduced, provides for a transitional system of block grants to the States, which will be used to fund legal services for poor persons. I'm aware that you have incorporated this bill into the Senate version of the State, Commerce, Justice Appropriations bill, and that the Gekas bill will become law if this appropriations bill is enacted.

Among other things, the grants authorized in the Gekas bill will be awarded competitively; and, while existing grantees will be eligible to compete for these grants, the grant awarding process will not be "stacked" in their favor.

I believe viable grant candidates, who have no "social" agenda but who are genuinely interested in helping individual poor persons with their legal problems, will compete for these grants; will win large numbers of them, and will do a good job for their poor clients.

The Gekas bill will also pay grantees after they have finished their work; rather than giving the grantees money up front, as the McCollum bill would do. Under the Gekas approach, if a grantee does things that are prohibited, the grantee will not be paid for them, and its grant will be terminated. This should be a particularly effective way to ensure that taxpayers' funds are used only for the kinds of activities permitted in the Gekas block grant program.

Even the liberal Washington Post agrees that downsizing of the federal legal services program is inevitable, and that the block grant approach in the Gekas bill will allow more of the ordinary problems of poor people to be handled, leaving the "high profile" cases for interest groups like the ACLU. (See, Washington Post Editorial, September 18, 1995.)

Many of the current legal services programs receive substantial funding from IOLTA (Interest on Lawyers' Trust Accounts), private charities and endowment funds, the United Way, and State and local governments. I'm advised that, in 1993, non-LSC funding for legal services amounted to $246 million; as compared with $357 million in funding from the federal government. Consequently, the two-year phase out of the federal legal services program, as provided for in the House Budget Resolution and in the Gekas legal services bill, will not end legal services for the poor.

There also are approximately 900 legal aid programs that are not affiliated with the federal legal services program; these programs will help "take up any slack" that may result from the termination of the federal portion of the legal services program.

There also are other substantial private pro bono efforts that are underway to aid poor persons. For example—

The American Bar Association has suggested to its 375,000 members that they donate 50 hours per year of free legal services to low-income people.

The New York City bar association recently raised $3 million for its own legal services program, which provides free legal services for indigent families, and others.

The Iowa State Bar Association has adopted a resolution urging its members to donate "a reasonable amount of time, but in no event less than 20 hours per year" to pro bono legal activities.

These kinds of activities are underway in many states; and will cushion the termination of federal funding for legal services. Also, virtually all the states have formal or informal systems under which lawyers in private practice provide pro bono legal services to poor persons.

Whenever the Congress or the States attempt to revise any "poverty" program; the proponents of the program rail about "mean-spirited attacks on the poor." These attacks are usually the "knee-jerk" responses of people and institutions with special interests to protect. In this situation, it is not the poor who are complaining, but rather the lawyers who benefit from the program. In fact, this program has become a general welfare program for lawyers, rather than one primarily benefiting poor people; and it is the lawyers who are lobbying for its retention.

The "knee-jerk" responses about "mean-spirited attacks on the poor" are usually overstated; cases in point are the attacks that were levied on the welfare reform programs instituted in the States of Michigan and Wisconsin. When these reforms were proposed, there was a great "hue & cry" about hurting the poor, but this has proven not to be the case at all. I believe this earlier pattern is being repeated here, and that the Legal Services Corporation and its 320 grantees will not be missed when they are gone.

It is interesting to note that there have been no "poor persons" who have come forward to testify in any of the Congressional hearings held on the legal services program. I believe this is true, at least in part, because poor people do not rank legal services as a high priority in their lives, and do not believe the current program has been all that helpful to them.

In fact, the lawyer-activists who have used the funds in this program to promote their view of "how society should be;" do so without regard to the effects of their actions on the poor, i.e., the poor persons who must live next to the drug dealer whom legal services has kept from being evicted. These poor people have to live with the consequences of the "social experiments" of these activists; and, I suspect, are getting tired of them.

If someone must "take the blame" for the demise of the Legal Services Corporation and the federal funding for its grantees, it rightly must be the legal services activists who have abused the program through their irresponsible behavior, and their past refusal to accept common sense reform. The facts speak for themselves; they clearly demonstrate that the Legal Services Corporation and its grantees, at a minimum, use federal monies for a lot of "stupid" things. The current program is not susceptible to reform because of the attitudes and behavior of the activists who receive these federal funds; serves no useful purpose, and should be terminated.

I hope these thoughts are helpful to you. I stand ready to meet with you at any time if I can be of service to you as you consider this important issue.

Sincerely,

TERRANCE J. WEAR.

Mr. GRAMM. Mr. President, I am sure there will be others who want to debate this amendment, and so let me summarize my arguments and then yield the floor so that we can continue the debate.

Legislating is about choosing. Legislating is about deciding what is worth doing and what is not worth doing. Although it sometimes appears that the same laws of economics do not apply to the Federal Government that apply to families and businesses. Every day families have to say no. Seldom does Government say no. One of the reasons that families have to say no so often is because Government cannot; $1 out of every $4 earned by the average American family with two children now goes to Washington so that Government can say yes so often.

However, even in the Federal Government, we have to make choices. The Domenici amendment asks us to choose. It asks us to choose between funding legal services and providing funds for the prosecution of organized crime, drug trafficking, child pornography, fraud against the Government, terrorism, and espionage. It asks us to choose between funding the Legal Services Corporation over funding 55 U.S. attorneys and 55 support personnel that in each of the judicial districts in America could use to make our streets safer, that could be prosecuting people who have preyed on innocent men and

women, who could be prosecuting people who are selling drugs at the door of every junior high school in America.

The Domenici amendment asks us to choose. It asks us to choose a federally funded Legal Services Corporation over funding for an FBI Academy at Quantico, VA, which is critically important to maintaining our ability to train 1,225 State and local police officers every year.

Let me remind my colleagues that the highlight of a law enforcement career in America is coming to the FBI Academy. My proposal would allow each and every one of these 1,225 people, who are chosen because they are the finest America has in law enforcement, to come to the FBI Academy, to be trained so they can go back and train other State and local law enforcement officials, in things that are critical—when to use deadly force and when not to, how to exercise judgment, how to carry out their function. They need this sort of training so that when some brutal predator criminal kills one of our neighbors, we are able to apprehend them, convict them, and hopefully, if they are richly deserving, put them to death.

And, Mr. President, this is not a priority that just I as a Member of the Senate have set; 91 Members of the U.S. Senate, including the authors of this amendment which would cut this program, voted for the Comprehensive Terrorism Prevention Act of 1995, which authorized us to begin to upgrade the infrastructure of the FBI Academy.

I do not believe that reasonable working Americans would choose to spend $49 million on the Legal Services Corporation over spending that money to upgrade the FBI Academy, thereby allowing us to train more and better law enforcement officials for America.

I do not believe, Mr. President, that the average working American family would support taking $25 million away from our Federal courts, money that could be spent on 400 probation officers to supervise convicted felons who are walking the streets, in order to fund a Federal legal services program.

We all heard of this case—one of the cases, in fact, that President Clinton ran a TV ad on—about a brutal murder that occurred. What he did not tell us was that this brutal murderer had been convicted of a violent crime, was in prison, had been released, and was being supervised by a parole officer. He had to meet with the parole officer once a year—once a year he had to show up for a meeting. And he went out and killed somebody. And the President tells us as a result of that we ought to ban guns.

But the point is, we do not have so many probation officers that we can simply afford a cut that would lead to 400 fewer.

This is a critically important area, and I urge my colleagues in their zeal to preserve the Legal Services Corporation as a Federal program to ask themselves, not would you want it if it were free, but are you willing to cut funding for the Federal judiciary by $25 million knowing that with $25 million we could fund 400 more probation officers, that we could have funding that is needed for such programs as mandatory drug testing of criminals that are on release walking the streets of America? Those are the choices that we have to make and these are the questions we must ask.

Now, I have not gone into great lengths in talking about the Legal Services Corporation. Many of the areas that they are engaged in are those in which the public perceives to be an abuse of power, whether you are talking about suing every State in the Union that has tried to reform welfare—the provisions in our bill, in allocating a block grant to the States to provide legal services, have very, very stringent limits that say, if you take any of this money for legal services, you cannot use it, nor any other money in this bill, to try to block welfare reform in America.

The Domenici language is not as strong as our language in terms of limiting the action or the use of legal services funding. It is a step in the right direction, but why not give this program back to the States? What is it about this program, other than the political base that it enjoys, that is so different from aid to families with dependent children? Can we trust the States with seeing that poor people are fed cannot we trust the States to see that legal services are provided?

What is it about this program that makes it so different than Medicaid? I assume that those who support this amendment, at least some of them, will support block granting Medicaid. We called for it in our budget and I assume we have the votes to do it. That has to do with people's health, with their access to medical care. How is it that we can trust the States to run Medicaid but yet we cannot trust them to administer funds for legal services?

Well, let me say this, Mr. President. I believe the Legal Services Corporation is a renegade agency which has spent a tremendous amount of resources promoting a political agenda. I think the superstructure of the agency which will be preserved by the Domenici amendment is engaged in an activity which is the right of every free citizen. Every free citizen has a right to advocate their views, no matter how extreme someone else may feel they are. And I defend that right. But they do not have the right to do it with taxpayers' money.

If they object to reforming welfare, let them run for the legislature and explain to people that they do not want welfare recipients to have to work. But they should not be able to take taxpayer money to file those lawsuits.

If they believe that the Government ought to be involved in elections, or they believe the Government ought to be involved in other areas, let them get out and engage in the public policy debate, but not with the taxpayers' money.

I do not believe that we are going to be able to solve these problems if we keep this infrastructure in place. I think that the only thing that is going to change the focus of the Legal Services Corporation to the legal needs of poor people is to eliminate the Federal superstructure, a superstructure and bureaucracy which has proven beyond a shadow of a doubt that it has a social and political agenda. I oppose its agenda. It has a right to an agenda, but not at the taxpayers' expense.

I believe we can meet the legitimate legal needs of the poor by setting up a block grant which was supported by the subcommittee and by the full committee. That block grant will give the money back to States and, within the guidelines which will say that no entity taking this money can file lawsuits to block welfare reform, keep drug dealers in public housing, or any of all the other things that this agency is famous, or infamous for. It would be administered by the States, with greater supervision and control, where people in an area who are outraged about an action cannot just write their two Senators and their one Congressman, but actually get the legislature and the Governor to make a change.

Is that not logical reform? Is that not what the Contract With America was about? Is that not what the party I represent stands for? I think it is.

I think this is a clear-cut choice. And I want our colleagues to look very closely at these offsets and understand the damage we are doing to law enforcement, to our anticrime and antiviolence efforts by providing this funding level to the Legal Services Corporation. The $340 million that would be provided under the Domenici amendment is taken away from programs that, not only in my opinion, but I would assert in the opinion of virtually any reasonable working American, are of much greater importance.

I hope my colleagues will reject this amendment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to the Senator from Massachusetts, let me just respond to three or four of the Senator's points.

First of all, Mr. President, so everybody will understand, I will try to address a couple issues of the Senator from Texas with reference to what we are cutting.

It is interesting, when this side of the aisle, including my wonderful friend

from Texas, when you are not really cutting something, but merely reducing its growth, you like very much to tell everybody, "We're not really cutting, we're just reducing the growth." In discussing my chosen offsets for this amendment, he chooses to ignore that. So let me give you a couple of examples. I think you ought to know that if these examples strike home—and every one of the Senator's examples is festered with the same problem, every one of them has the same problem in terms of how they are attempting to mislead us.

First, let us talk a minute about the U.S. attorneys. The amendment that we have funds the U.S. attorneys at $28 million above the U.S. House of Representatives. Frankly, I do not believe the U.S. House of Representatives would be cutting U.S. attorneys knowing the subcommittees over there and what their desires are about crimefighting.

The U.S. attorneys, under this proposal, will increase $87 million. No cut. U.S. attorneys in America will have a 10-percent increase. So whatever the good Senator from Texas said, we are providing $87 million in new money for U.S. attorneys; not a cut, an increase.

Frankly, if you want to increase something in a committee so that you can say you are the greatest crimefighter in the world and one up everybody, then go ask the Justice Department, "Well, if you don't get that, how many are you going to lose?" that is, in essence, every argument the Senator has made.

The truth of the matter is, there will be many, hundreds of new U.S. attorneys, even after we provide legal services for the poor.

Let me talk about the FBI. The discussion here sounds like this 1,225 people from the hinterland that we train we are not going to be able to train because of the Domenici amendment. Absolutely untrue. They will all be trained, there is no question about it. So you can strike all that talk. They will all receive education and training.

This proposal that is funded in the bill is the following: $52 million for some additions to their training center at Quantico. They do not have a site yet, they do not have a plan yet, and the estimates are they will spend $5 million of the $52 million at the most this year. All of it will be spent next year and the year after.

What is wrong with saying since you cannot spend it, since you do not have a plan, is there anything wrong with saying, let us provide legal services for the poor, if that is what it takes? Frankly, I do not believe, if the Director of the FBI was sitting across the table and told about this, that he would stand up and say, "I insist on $52 million that I don't need, that won't be spent until next year and because I want it so much, I would like no poor people to have any legal services in America." Does anybody believe that?

Let me go on to just a couple more.

General legal activities. My good friend from Texas has made an argument about all these professionals they are going to lose. Under the committee bill general legal activities is slated to increase by $13.4 million.

I could go on with each one of them. I have tried my very best to be as honest as I can about U.S. attorneys. They are going up dramatically, not coming down. FBI construction; the now named candidates from around the country will be trained. We are just not going to put money in for a building they do not have a plan or site for. We can do it next year if we find, indeed, they are prepared to allocate the funding.

My last point has to do with my good friend from Texas talking about a budget gimmick. Frankly, Mr. President, I say to my fellow Senators, I do not let too many gimmicks get through, but they get through. Every appropriations bill has some kind of forward funding in it. In fact, I suggest, and if my good friend from Texas would like me to pull the bill, I will, but I suggest it is way back in my recollection that the last time he was ranking member for the HUD and NASA bill, that there was over $1 billion forward funded in order for them to get a bill through.

Check the number. Maybe it is $850 million, but it is close to a billion. And it was praised on the floor by my good friend from Texas.

But mine is not the gimmick he describes. As a matter of fact, we phased our funding because we want to encourage the Legal Services Corporation to implement a competitive bidding system for grants in a timely manner. The first $225 million will be released in order for the Corporation to continue service. The additional money at the end is going to be used as incentive money to implement competition and to supplement earlier funding for legal services.

Last but not least, Mr. President, I looked at all these letters my good friend from Texas has submitted for the RECORD in opposition to my amendment. I have copies of them now. I am about as close to the Farm Bureau as anybody in this Senate. Frankly, if the Farm Bureau knew that the Domenici prohibitions, which are similar to the House, were going to be adopted as part of the law, they would not write this letter. And that is what it is going to be, because both bills prohibit the kind of actions that the farming community, and many others, are arguing about, complaining about the abuses, which I acknowledge. They would say, "Great, if you want to have legal services with these prohibitions, we are not against helping the poor."

There is not a single one of these organizations who wants to go on record saying, "We don't want any legal services for the poor of the United States." They do not want the abuses.

Why are we apt to stop the abuses this time when we never have before? I will say it plain and simple. I do not intend to in any way antagonize my Democratic friends, but the fact of the matter is, we never had a Republican House, that is why we never got the prohibitions.

They are in the House bill. They put the prohibitions in. We are going to put them in. There will not be a Commerce, Justice bill without the prohibitions in, and there will be no funding for legal services without the prohibitions. When you put all the prohibitions in, when you understand the nature of the reductions we had to make, I am sure many who listened to the Senator from Texas will take another look. They will clearly decide that even the average working man that my friend from Texas uses so wonderfully in talking about not wanting to pay taxes and they are the ones that are working and that they ought to get out and pull the wagon, that if you put an average working man or woman in a room and you say, "If these abuses are not there and it is just providing an attorney for a poor person whose opponent has an attorney and they are desperately in need, average working man and woman in America, would you like to say to those people, you get nothing, you go defend yourself, do away with legal services?" Well, I will take that issue to the average working men and women in this country, and I believe by an overwhelming majority they are decent people and understand if you are in litigation, you have to have some help. If you are a poor person and getting sued, you are involved in a landlord-tenant dispute, any of the thousands they handle—let me tell you, they are handling, on an individual basis, huge numbers—thousands—if somebody knows, maybe they can insert it into the RECORD. They have nothing to do with class actions.

My closing remark is if you are worried about the abuses, about class action, about suits against legislators or Governors, or welfare, those are gone in the Domenici amendment, finished, they are not around anymore.

I yield the floor.

Mr. GRAMM. Mr. President, let me respond to the points Senator DOMENICI has made. First of all, the committee bill does not eliminate legal services. It eliminates the Federal entity, the Federal bureaucracy, but gives funds to the States with stricter prohibitions than the Domenici amendment, so that the funds can be used through State-run programs, without this overarching Federal bureaucracy and its political agenda, so that the funds available can truly go to help poor people with real legal needs.

So the suggestion that the alternative is the Domenici way or no way,

simply does not bear up under scrutiny.

Now, with regard to the gimmick used when we are talking about funding, the question is not do we have more prosecutors than we had last year after the Domenici cuts are made. The question is, Do we have more prosecutors than we need? The point is, for example, in the general legal activities of the Justice Department, we have provided $10 million less than Bill Clinton says we need to prosecute organized crime and major drug traffickers and child pornography and major fraud against the taxpayer and terrorism and espionage. We have provided $10 million less than the President says we need. The Domenici amendment would take away $25 million more, eliminating 200 prosecutors from the Justice Department. Now, those are 200 additional prosecutors who would have been there were we not maintaining the Federal Legal Services Corporation.

That is the choice. Do you want them there or not? Senator DOMENICI says, well, look, they were not there last year, were you not happy without them? No. The American people want more prosecutors. The American people want to go after organized crime and drug traffickers and child pornographers and fraud against the taxpayers and terrorism and espionage. So the question is: Do you want 200 more prosecutors doing these things, or do you want a Federal Legal Services Corporation? That is the question.

Senator DOMENICI says, well, you will end up with more U.S. attorneys under the bill even with his cut. That is true, but it is not very relevant. The point is, the American people want to grab criminals by the throat and not let them go in order to get a better grip. The American people, I believe, given a choice of spending $11 million so they can have 55 more assistant U.S. attorneys and 55 more support personnel to go after people selling drugs at every junior high school in America, I think given that option, they would choose to have them there.

In terms of the FBI Academy, the argument made is that they do not need new facilities. Well, everybody associated with the FBI says they do. They say that the infrastructure is becoming antiquated.

Mr. DOMENICI. If the Senator will yield, I did not say they did not need it.

Mr. GRAMM. I believe the Senator said they just will not be able to build a new facility as soon.

Mr. DOMENICI. I said they cannot build it because they do not have a location or a plan, and they cannot spend the money.

Mr. GRAMM. All I know is that the head of the FBI asked me both in testimony and in a letter, to provide the funds because he said it was needed. I think the Senator is talking about the technical support center. I am talking about the FBI Academy. As I read the amendment, it is cutting the academy and not the technical support center.

In any case, our infrastructure and our effort to fight violent crime and drugs is getting old. When we had testimony before the subcommittee, the head of the FBI said that one of his top priorities was to try to upgrade the training facilities, which is desperately needed. I think that is a priority item.

Look, it is a matter of choice. You may want a Federal Legal Services Corporation more than you want to modernize the training of the FBI Academy. That is a perfectly legitimate choice. But it is a choice, this is not a free amendment. This amendment will mean fewer prosecutors and fewer convictions. It will mean facilities that will not be modernized as rapidly. It will mean a lower quality of training. It will mean fewer people will get trained. That is the choice that you are making and it is not a choice that can be wished away.

Now, you can say, well, we still would be doing more than we were doing last year. But the point is, we will not be doing as much as we are capable of doing.

In terms of the Farm Bureau, I would be happy to call in the Farm Bureau and ask Senator DOMENICI, if they do not support his position, if they would rather do it my way, if he would pull his amendment down. My feeling is that they would rather eliminate this Federal superstructure, which basically has, since the beginning of the Legal Services Corporation, pursued a political agenda, a political agenda that we are trying to deal with right here in this very amendment. This amendment is not as strong in dealing with this agenda as we are in the committee bill, which is why I want to preserve the committee bill.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I rise to speak on behalf of the poorest of the poor of this land. Mr. President, I rise to speak on behalf of the first Americans of this land, the native American, the Indian.

In 1788, our forefathers, the elected representatives of the first nine States of this Union, gathered to ratify and adopt the Constitution of the United States. This noble document has served us for over 200 years. In the first article of this great document is a provision that recognizes the important role and the specific role played by the Federal Government of this United States to carry out obligations that we solemnly promised by treaty and by law. It also recognizes the sovereignty of these people. These were proud people. They numbered at that time in excess of 50 million in North America. Today, I am sorry to say they number less than 3 million. At the moment of the signing of the Constitution, these great people exercised dominion over 550 million acres of land, and we recognized and honored that at that moment.

Today, the descendents of these Indians exercise dominion over 50 million acres of land. Because these Indians, who exercise dominion over all these lands—including the land on which we are standing at this moment—we the people of the United States, because of their granting of title to these lands to us, promised by treaty that as long as the sun rises in the east and sets in the west, we will make certain that their lives will never be placed in jeopardy, that we will provide them with shelter, health, and education.

I am sorry to say we have not lived up to these obligations. In fact, our predecessors, the U.S. Senators of the older days, were faced with the ratification of 800 treaties. Of the 800 treaties, our predecessors felt that 430 were not worthy of our consideration. These treaties were signed by the President of the United States, or a proper representative, and signed by the chiefs and great leaders of Indian lands.

We said, "You give us this land, and we will provide you with help." Mr. President, 430 are still in the files. The reasons are very simple. After these treaties were ratified and signed by the President and sent to the Senate, they found gold or they found oil or people wanted to settle on their lands. I am happy to say we did ratify some—370 of them.

History shows that we proceeded to violate provisions in every single one of them. The reasons are easy. Whenever this Nation was confronted with a choice of priorities—what is more important, U.S. attorneys or the plight of the Indians—the Indians always came out at the end. It never failed.

That is the history of the United States. So today, instead of owning this land, they have dominion over 50 million acres. Last August, a few weeks ago, it was announced by the Labor Department that the unemployment rate of this land was 5.6 percent; in Indian country, the average is over 40 percent. In some of the reservations, it gets closer to 90 percent. It is a sorry sight, but 13 percent of the families of this land live in poverty below the poverty line; in Indian country, it is 51 percent, half of the families. In most instances, the only legal assistance available in Indian country is through this program, the legal services program.

I am not speaking of $340 million. I am not speaking of offsets. I am speaking of $10 million. The Domenici amendment includes $10 million, a program that has paid for the services of 150 lawyers to deal with the problems of Indians throughout this land. There

are 33 legal service programs and they service 2 million Indians living on reservations.

Without these resources, Mr. President, these tribes and these Indians would have no access to legal assistance. I do not think any of my colleagues would think for a moment that law firms would open up their branches in a Hopi mesa or in some Pueblo Tribe. I cannot think of any law firm opening up their practices in Navajo land. There they are almost always located far away from the urban centers of this country.

Lawyers do not find it profitable to go to Indian country; 80 percent are unemployed, 50 percent of the families are below the poverty line—they cannot pay any lawyers's fee. They have to depend upon legal assistance and legal services program.

Mr. President, I rise to support the Domenici amendment because it has the sensitivity to recognize our obligations. It is a small amount, $10 million. I am sorry to say the committee bill does not involve $10 million. I believe a clarification of this point is necessary.

The distinguished Senator from Texas noted that this amendment, the committee amendment, was adopted by the subcommittee and adopted by the full committee. Technically, that is correct.

In the subcommittee, we were all told, "Let's not take up matters of controversy." That is a practice of the Appropriations Committee. "Let's not waste our time. Let's not take up matters of controversy. Let's wait until we get to the floor."

The same thing happens in the full committee. Otherwise, we would still be in that room, S–126, debating this measure.

Mr. President, I have no idea, because the votes were not taken, but I have a feeling that if votes had been taken in the full committee, the Domenici amendment would have been adopted.

Mr. President, I hope my colleagues will not place too much weight upon the statement that this was adopted by the subcommittee and adopted by the full committee. This is where the controversy is debated. This is where the major decisions of the Appropriations Committee are determined.

Mr. President, I speak and I rise to support the Domenici amendment. It fulfills our obligations as those who followed our forefathers. I think it is about time we maintain and keep our promises.

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

Mr. MCCAIN. First of all, I want to thank the Senator from Hawaii for his very powerful statement about conditions in Indian country. It has been my great honor and privilege to work with him for many, many years on Native American issues. I know of no greater advocate for Native Americans than my dear friend from Hawaii.

However, he and I have a very different view of the impact of the legislation as proposed. I will ask my friend from Texas in a minute to respond to a couple of questions.

The fact is, in this present legislation, we have for the first time carried out the intent of the government-to-government relationship and respectful tribal sovereignty which we have sought for years.

This legislation, as crafted by the Senator from Texas, provides for direct block grants to tribal governments for legal services on the same terms as State governments.

To me, that is a major and important step forward. The present legislation also calls for the State or tribal governments with significant numbers of Indian households below the poverty line to receive 140 percent of what they would otherwise receive. I have not seen that before. Now, the Domenici amendment, as I understand it, strikes that provision of the bill. It strikes section 120 of the bill as reported.

If the Domenici amendment is adopted, then we will lose that government-to-government relationship. We will lose the 140 percent of what they would otherwise receive. Frankly, I do not understand why all of us would not be supporting provisions that provide direct block grants to the tribal governments—which is entirely in keeping with what I have been trying to do for the last 13 years, that is, respect tribal sovereignty—and provide the funds directly to those tribes.

If the manager of the bill, my friend from Texas, would respond, is it not true that in this legislation, in his proposed legislation, the States or tribal governments with significant numbers of Indian households below the poverty line would receive 140 percent of what they would otherwise receive? Is that a correct statement on my part, I ask the Senator from Texas?

Mr. GRAMM. That is a correct statement. States that have substantial Indian population will receive 140 percent of what would be their normal allocation. This was the amendment offered in committee by Senator STEVENS, aimed specifically at dealing with this problem.

Mr. MCCAIN. Is it not true that this is the first time that we have made this kind of special consideration for Native Americans, that would give them as much as 140 percent of what they otherwise would receive? Is that a correct statement?

Mr. GRAMM. That is correct. As far as I am aware, this is the first time a special provision has ever been made for Native Americans.

Mr. MCCAIN. Is it also not true the tribes are block granted these funds outside of any involvement on the part of the State, which is in keeping with the government-to-government relationship that we are trying to achieve?

Mr. GRAMM. It is true. In fact, the money goes directly to the tribe, bypassing the State.

Mr. MCCAIN. The Domenici amendment, as I understand it, strikes the provision in section 120 of the bill we were just talking about; is that correct also?

Mr. GRAMM. That is correct.

Mr. MCCAIN. I have to say, in all due respect to my friend from Hawaii, my dear, dear friend from Hawaii, and my friend from New Mexico, why we would want to destroy what is clearly a very important step forward in this process, it is something, frankly, I cannot support. I hope Senator DOMENICI will modify his amendment, would seek to modify his amendment to give 140 percent of present funding to areas where Indian households, significant numbers of Indian households below the poverty line, would receive those extra benefits; that he would modify his amendment that would provide for direct block granting.

It is not so important to me, very frankly, how much money there is, which is obviously one aspect that is important. But, for us to filter these moneys through the States, simply does not work on any program.

I urge my colleagues, who are interested in how this legislation treats native Americans, to reject the Domenici amendment.

I yield the floor.

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

Mr. INOUYE. Mr. President, if I may briefly comment on the statement just made, the committee amendment contributes funds to States on the basis of the census. Yes, it does say Indians should get 140 percent more than other Americans. Under the present program, the program that is now in effect at this moment, Indians receive about five times what we in Washington, or New York, or Chicago receive. For obvious reasons, Mr. President: 51 percent live in poverty; 80 percent are unemployed. It should be five times. If we adopted the committee amendment, it will not be five times; it will be less than two times. In fact, the present scheme is not sufficient but it is much, much better than what the committee amendment proposes.

So I hope my colleagues will support the Domenici amendment.

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

Mr. COHEN. Mr. President, I rise in support of the Domenici amendment. I would like to address a comment made by the Senator from Texas. I think he is exactly right. This is a matter about choices. We are called upon to make choices each and every day in this Chamber.

When it comes to priorities, for example, the Senator from Texas cited requests from the FBI Director or from the Clinton White House. If we look at the defense bill, the Clinton White House did not request money for the B-2 bomber. The Secretary of the Air Force did not request money for the B-2 bomber. Somehow, $500 million is added for the B-2 bomber program, just another downpayment on a $30 billion project. That is a choice that has been made. It does not apply to this particular bill, but we make choices.

Would I rather see $500 million applied to other programs? Low-income heating assistance? Assistance for the poor? Feeding programs for children? I would put my priority over there. But soon we will be presented with a measure that will add another $500 million to keep a program alive, a program the Pentagon is not even requesting.

So, we are faced with choices. I took the floor the other day in opposition to the space station—a $100 billion program. I think we can find better ways of spending $100 billion—such as satisfying our research and development needs in medicine—than to put it in a space station which is going to cost us more and more as our European partners decline to make their contributions.

As the Senator from Texas has articulated the issue, he said, basically, if you are for more prisons and prosecutors and taking drug addicts and pushers and terrorists off the streets, then you will support him. But if you are in favor of protecting the poor or providing legal services to the poor, if you want to have that kind of a dichotomy, that kind of a balance, then you will support Senator DOMENICI.

Really, it is a nice positioning on the part of the Senator from Texas. But it seems to me that we have an obligation to provide poor people in this country with an opportunity to get to the courthouse. It is something that every one of us enjoys. We can afford it. But in this bill, we are saying, "Poor, no longer will you have a Legal Services Corporation. We do not like this structure. It has a left-wing agenda. We do not want any left-wing agenda." But I submit, if we genuinely aspire to have a system of "Equal Justice Under Law," as it is written on the front of the Supreme Court, then our neediest citizens must have access to that system.

The facts simply do not support the contention that legal services organizations are promoting a left-wing agenda. About one-third of the cases involve family violence. We have a serious problem in this country dealing with family violence. People are being abused. There are 52,000 clients seeking protection from abusive spouses, who are represented by attorneys funded through the Legal Services Corporation. There are 240,000 poor senior citizens who are represented by legal services attorneys. Tens of thousands are represented in landlord-tenant disputes. Tens of thousands were assisted in applications for public benefits. But our answer is, "We do not want this structure anymore. We do not want a Federal hand in this anymore. We want to turn this all back to the States."

By the way, you do not just turn a Federal program back to the States at no cost. Under the block grant proposal, 50 separate States, with their own bureaucracies, will have to administer the funds. And unless the Domenici amendment is passed, none of the funds can go to a legal services organization; they can only go to individual lawyers. If you take away the Federal structure and you prohibit money from going to established organizations within the State, the funds must go to individual attorneys. Then, eventually, you will find very little representation for the poor.

"Let the private lawyers take care of this," you say—pro bono work. I used to do a lot of it myself. I used to think I had an extension of the Pine Tree Legal Assistance operation in my law firm because there were a lot of poor people who came to the door who simply could not afford to pay the legal fees, and I represented them.

But we are deluding ourselves if we think we are going to see an expansion of these points of light, that many thousands and tens of thousands of law firms are going to undertake representation for all of the needs of the poor or take on and fight the landlord-tenant disputes. How many poor people have complaints against the landlords—slum lords, in many cases—of uninhabitable, rat-infested, asbestos-ridden residences. We say, "Well, tough luck. You are poor. You do not get representation."

The law firms are not going to give you their youngest attorneys. They are on corporate mergers now. That is a higher priority at the law firm. They say, "We have big mergers taking place. We do not have time to allow you to engage in bringing a lawsuit to protect people from uninhabitable conditions."

Mr. President, I am not entirely satisfied with the Domenici amendment, as it places unprecedented restrictions on legal services organizations such as Maine's Pine Tree Legal Assistance. Unlike previous LSC legislation, this bill not only places restrictions on Federal funds, it also restricts how organizations such as Pine Tree may spend money received from State grants, State bar associations, and private donations. This is a Federal mandate. We are telling States like Maine that they cannot give grants to legal services organizations to represent immigrants or pursue class action lawsuits.

There are times, in my own State, when State legislators ask legal services attorneys for advice about how they should shape laws and regulations to help out people in need. We cannot do that under the Domenici approach. These attorneys cannot be called to testify before legislative hearings. They cannot file class action suits. So basically it is pretty restrictive. The amendment does not go as far as I would like to see it go.

Let me provide one example. A number of years ago there was a lapse in a Federal program that provided assistance for displaced workers. The Maine Legislature requested advice from Pine Tree Legal Assistance to determine how the law could be changed to ensure that these workers could qualify for State unemployment benefits. But under the amendment, Pine Tree would have to remain silent; its expertise would be wasted.

I am going to support the Domenici amendment, however, because I believe we have an obligation to see to it that poor people in this country have access and keys to the courthouse. There is a major trial taking place right now which thankfully is coming to a close. Not many people in this country can afford that kind of representation. That is in a criminal case. I am talking about the civil actions now. Not very many people in this country, especially those at the very lowest of the economic strata, can call up an attorney and say, "Would you represent me against this claim? Would you represent me against my husband or against my wife? I am being abused. I need help." "Sorry. We do not have any money to help you."

Mr. President, I hope my colleagues will support the Domenici amendment.

Mr. FEINGOLD. Mr. President, I rise today in support of the amendment offered by the Senators from New Mexico and South Carolina. This amendment will allow continuation of legal services to low-income individuals.

The credibility of the American legal system demands that all Americans, regardless of their economic station in life, have access to the courts. To put the promise of justice beyond the reach of a group of people because they cannot afford proper representation defies the notion of equal justice for all.

Since its inception in 1974, the Legal Services Corporation has worked to provide equal access to the justice system to a group of Americans which is sadly growing larger in number and increasingly disenfranchised from our democratic way of life.

An editorial in the Milwaukee Journal Sentinel recently noted that the Legal Services Corporation helps people in very basic, and important ways. They help:

> . . . the child who needs health care, the elderly couple negotiating their way through Medicare, the battered woman who needs help getting a divorce and child custody, the victims of consumer fraud.

I think we would all agree that these are all laudable goals. And yet, if you look at the language contained in H.R. 2067, you will see that the battered woman who needs help getting a divorce and child custody is foreclosed from utilizing Legal Services for that purpose. What could be so controversial about helping a battered woman and her children out of a violent and abusive situation? Nothing. And yet, the language contained in the bill currently being considered, prohibits the use of funds to obtain a divorce.

However, Mr. President, this very troubling provision is but one example of the shortsightedness of eliminating the Legal Services Corporation. Although it is not without its detractors, the Legal Services Corporation provides basic legal services to the poor of this Nation in an efficient, cost-effective manner.

As has been noted many times, only 3 percent of the total Legal Services appropriation is used for administrative purposes. The remainder is sent out to the various legal service organizations throughout this Nation. Ninety-seven percent of the Legal Services Corporation's funding goes directly to local programs to address priorities established at the local level.

Throughout this Congress we have heard time and time again that decentralization is the key to many of our problems—let the people in the communities make the decisions. Legal Services does that now and this bill eliminates it.

Ninety-seven percent of the Corporation's funds are distributed directly to organizations like Legal Action of Wisconsin, Western Wisconsin Legal Services, Wisconsin Judicare, and Legal Services of Northeastern Wisconsin. All of these local organizations know and understand the needs of the poor throughout the State of Wisconsin and are dedicated to addressing them. Under the present system, they make the decisions, they set the priorities.

Not only does the language in the bill eliminate the decentralized system that exists today, it replaces it with a more onerous and traditional inside the beltway style bureaucracy. Under the proposed language, the Department of Justice would become the primary grant administrator to the States. The money no longer goes directly to the providers, it goes to the States. The States in turn establish their own administrative structure to oversee and administer the money to the local organizations, which ultimately provide legal services for the poor. These additional layers of bureaucracy will increase administrative costs and result in less money being available to help the poor.

If the goal of this body is to slow delivery of legal services to the poor and to create more bureaucracy, then we should support the proposed block grant. However, if the goal is, as it should be, to maintain a workable delivery system of legal services to the poor in this Nation, then the efficiency, flexibility and the decentralization of the current Corporation is the obvious choice.

Mr. President, we often hear about the need for private enterprise to pick up where Government leaves off. The citizens of Wisconsin are very fortunate to have a private bar dedicated to ensuring legal representation to all people. I know that other Senators can say the same of their home States.

But we delude ourselves if we think these dedicated private attorneys alone can meet the enormous needs of the poor. I have been contacted by many organizations from Wisconsin, all concerned about, and working to help, the poor in our State. Each of these groups, be it the Wisconsin State Bar, the Association for Women Lawyers, the Milwaukee Bar Association or any of the others that contact me, knows that the elimination of the Legal Services Corporation will seriously hamper the ability of this Nation's poor to obtain legal representation.

If we follow the committee language, and effectively exclude millions of poor Americans from one of this Nation's most important institutions—the justice system—we risk creating a society where justice exists only for those above the poverty line. Such a result is unacceptable.

I appreciate that no one approves of every case that legal services undertakes, but the proposed amendment seeks to address some of the concerns that people have raised regarding the scope of Legal Services activities. Some may think the restrictions in the amendment go too far, others, not far enough. However, we must not lose sight of the fact that our goal should be to maintain a system of legal representation for the poor that allows them to avail themselves of the protections of the American justice systems.

Protections that many of us, the more fortunate in our society, may take for granted. However, imagine the importance we all would place in these protections should they disappear or be placed just beyond our grasp. And yet, the language in this bill potentially subjects millions of poor people in this Nation to just such a reality.

The amendment offered by the Senators from New Mexico and South Carolina acknowledges the essential fact that we must preserve the access of the poor in this Nation to the judiciary. This amendment allows this Nation to move ahead toward equal justice for all, rather than retreat from this noble goal. Accordingly, I urge my colleagues to support this amendment.

I ask unanimous consent that an article in the July 19 edition of the Milwaukee Journal Sentinel entitled "Legal Services for Poor Need Protection" be printed in the RECORD.

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

[From the Milwaukee Journal Sentinel, July 19, 1995]

LEGAL SERVICES FOR POOR NEED PROTECTION

The Legal Services Corp., which gives the poor access to lawyers, has been fighting for its survival this year as never before. The agency still stands. But in House action so far, its funding has been lopped by a third and major restrictions have been placed on its activities.

A weakened agency still does not satisfy the extreme right, which has put, you might say, a contract out on the organization. Some congressmen are expected to try to make good on that contract in House action this week.

House members most certainly must rebuff this attempt to kill Legal Services, the major source of funds for Legal Action of Wisconsin. America will have no hope of being a fair society if the poor lack reasonable access to lawyers; justice simply won't be served.

We are not talking big bucks here, at least not by federal standards. The proposed budget for next year stands at $278 million, down from the current $415 million. Legal Action's share currently is $2.4 million.

Like its counterparts across the country, Legal Action of Wisconsin represents poor people in myriad civil cases—the child who needs health care, the elderly couple negotiating their way through Medicare, the battered woman who needs help getting a divorce and child custody, the victim of consumer fraud.

The firm doesn't handle frivolous cases. Most are settled without even going to court. And for want of staff Legal Action serves only a small share of those who need its help.

Though only a tiny fraction of Legal Action's work, class action lawsuits draw the most attention because of their wide impact. Far-right critics act as if federally financed law firms think up exotic challenges to the status quo just to promote a far-left agenda. But these legal challenges flow out of the real needs of poor people.

For instance, mothers complained to Legal Action that because they couldn't afford child care, they were having a tough time getting training or education to get off welfare. Legal Action successfully sued the state, forcing it to satisfy its obligation to the federal government to pay for child care for 4,000 parents.

Unwisely, restrictions in the current House bill would prevent such lawsuits in the future. Class action suits against government and welfare mitigation would both be banned.

The most immediate threat, however, is a move to kill Legal Services altogether. Fairness demands that the House turn it back.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, thank you.

Mr. President, I want to commend the Senator from Texas for his leadership and what he has done to make the changes in the Legal Services Corporation.

Mr. President, House and Senate conferees are expected to begin meeting

soon to consider welfare reform legislation. I sincerely hope that the conference report contains illegitimacy provisions like a family cap and a restriction on cash benefits to unwed minor mothers.

But no matter how strong the welfare conference report turns out to be, it will not succeed in ending welfare dependency unless we also reform the Legal Services Corporation, the agency which has for years furnished the rope to hang welfare reform efforts in the States.

For example, the State of New Jersey was granted a waiver in 1992 by the U.S. Department of Health and Human Services to institute a family cap provision denying an increase in welfare benefits for women who have more children while already receiving welfare.

The Legal Services Corporation sued the New Jersey Department of Human Services to challenge the family cap. Rightly, the U.S. District Court decided that it is perfectly legitimate for the State of New Jersey to implement a family cap.

But they had to defend it against the Legal Services Corporation.

Welfare reform is not the only arena where Legal Services attorneys have defied common sense and hurt the very people whose interests they claim to represent and have sued the people who are paying them.

In my own State of North Carolina, in a pattern that is repeated all over the country, Legal Services attorneys have caused growers who employ seasonal workers to lose millions of dollars defending themselves against frivolous nonexistent lawsuits. They have extorted money from growers by threatening them with lawsuits unless they settle up—to the tune of $500 per nonexistent violation, per worker.

As the Senator from Maine talked about some of the people not having the money to sue and the need for legal services, what we are talking about here are small people trying to make a living defending themselves against legal services, and they do not have the money to hire the lawyers either.

Even for a small family farmer with 10 acres or less of crop acreage, this can add up to tens of thousands of dollars. For a small farmer, that can add up to bankruptcy. And a bankrupt farmer can not hire seasonal laborers or anybody else.

In recent years, North Carolina produce farmers have been a target of Legal Services attempt to destroy the Department of Labor's H2A Program, which brings in temporary foreign workers to harvest crops for farmers who cannot find enough domestic workers.

But Legal Services have harassed these people to the extent that the program is no longer functioning. This program is designed to help farmers and workers. But they have been harassed by the Legal Services so often that they have simply stopped using it or the farmers have been put out of business.

Legal Services is nothing more than an entitlement program for activist lawyers. We simply subsidize them and pay them.

My colleague and friend from Texas, Senator GRAMM, has a reasonable and innovative block grant solution which I strongly support. I personally would feel better to end the disastrous program of Legal Services altogether. But we cannot do that.

Therefore, I oppose adamantly the amendment by the Senator from New Mexico, and I urge my colleagues to do the same and to support the Senator from Texas. He is doing what needs to be done.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I agree with my colleague from Maine, Senator COHEN.

Mr. President, what is at issue here, when all is said and done, is whether or not we as a nation are going to support the idea that each and every person, regardless of their income, is going to receive equal protection under the law. That is really what having a Legal Services Corporation is all about. Ensuring that people are treated equally under the law. Not just the wealthy but, everyone.

Mr. President, this is in the very best of the tradition of our country. Speaking for Minnesotans, this is the Minnesota ethic. Minnesotans believe in equal protection under the law. Minnesotans believe that regardless of a person's station in life he or she should be entitled to representation in our court system.

Mr. President, I will reluctantly support the Domenici amendment. To do otherwise is to have a proposal that will essentially eliminate what I would call the heart and soul and integrity of the Legal Services in the United States of America. In that sense, I believe Senator DOMENICI has made an enormous contribution. But I have some serious misgivings about the Domenici amendment albeit, I admire what the Senator from New Mexico is trying to accomplish. I believe he has made a real contribution toward fairness in our country through his amendment. But by the same token, this is a very steep price we will pay for rescuing Legal Services. There is a price for agreeing to the restrictions in the Domenici amendment.

Mr. President, we had this debate before in this Chamber last Congress. A debate that I was very active in. It was a debate with my colleague from Texas, as a matter of fact.

When you have a restriction that says you are going to have a prohibition on welfare reform litigation, then I would ask the following question: Has this just become a kind of mean season on the poor of this country?

Mr. President, we are talking about children. The most vulnerable members of our society. Not too long ago we made a profound mistake in agreeing to the so-called welfare reform measure that passed this body. At that time, I think Senator MOYNIHAN said it better than anyone. He essentially said that for the first time in over a half a century, we as the U.S. Senate, will say there will be no floor beneath which children could fall.

Mr. President, you and I have had a debate on this issue. It has been an honest difference of opinion. But if we are going to say that, and we are also going to say there is no kind of national community commitment, no sort of obligation, responsibility or standard in relation to nutrition, in relation to making sure that every child at least has an adequate diet, that in and of itself I think is a turning back of the clock, away from the very best of this country, because I think it will be more children are going to go hungry and more children are going to be impoverished.

Now what we have is a restriction that says in addition to no national standard, no floor, there will be restrictions on Legal Services lawyers who rightfully want to challenge any of the laws or practices that are called welfare reform.

How can we argue that Legal Services lawyers will not be able to issue any challenges when we do not know exactly what is going to happen back in the States and back at the county level.

There are all kinds of examples. Suppose, for example—I had an amendment which dealt with the whole issue of domestic violence—you have a woman who has been battered. Imagine what it would be like if you had been battered steadily for 2 years. You have two small children, and you are told you go into a work program or you lose your assistance. Suppose she could not because she had not healed; she is not ready to work physically or mentally. Under these draconian restrictions a woman would not be able to receive Legal Services representation to challenge this particular restriction. Where is the fairness in that? Is this just? I submit to my esteemed colleagues, that this is not justice and it is not fair.

Mr. President, this strikes me as just being a mean season on the poor. Senator DOMENICI has made a real contribution because he is attempting to make sure we do not pass any extreme proposals, which is I believe the

Gramm proposal is about. But these restrictions trouble me, and these restrictions should not be the price people pay to receive the most basic legal representation to protect their rights.

I hope that when it comes to authorization we will have a debate, and we will be able to come up with constrictive solutions to some of these problems.

Mr. President, what happens if a mother is told she has to work but because of a prior work experience she has a bad back? People quite often think it is an excuse—she has a herniated disk, and she cannot do the kind of physical work she used to do. She says I can no longer perform this type of work, or there is no one to take care of my small children, and she might be cut off. She has no legal representation?

What happens if we go back to what used to be the man-in-the-house rule, and it is decided at the county level that a woman who is single now, has been through a divorce, and a male friend visits her one day, and somebody is there from the welfare department who determines she should be cut off because there is a man in her house that can support her. Will she have legal representation to challenge this kind of determination? No.

I do not know how we can have this kind of restriction when we do not even know how it is going to be at the State and local level. What if it is repressive? What if it is harsh? What if it is degrading? What if it violates the Constitution of the United States of America? Are we saying a whole group of citizens, which, by the way, are women and children, are not going to have legal representation?

Mr. President, the Gramm proposal goes beyond the goodness of America. The Gramm proposal to essentially gut legal services goes beyond the goodness of Minnesota. I believe the Gramm proposal will be voted down. I think the Domenici amendment will pass, and it should because the whole idea of equal protection under the law is an idea that fires the imagination of Americans. This about basic fairness and justice.

What I worry about as I look at these restrictions, whether it be welfare or whether it be a broad definition of lobbying, or whether it be advocacy or no class action lawsuits, is that I believe we are heading in the wrong direction because ultimately what this debate is about—is about power and powerlessness in America. And if you are going to say that, yes, there will be funding for Legal Services but we will so severely restrict what you can do that those who are powerless do not have the ability to challenge some of the powerful institutions in America, then we just deepen all of the inequalities.

Hospitals are supposed to take care of sick people. Welfare agencies are supposed to be concerned about the welfare of the people they serve. Schools are supposed to educate children, all children. Housing agencies are supposed to be concerned about housing, housing for all people. It is written somewhere that just because you are poor, you do not get adequate representation.

Are we now saying that a whole group of citizens in America, disproportionately women, disproportionately children, are no longer going to have access to lawyers who can challenge some of those discriminatory policies?

I will tell you what this is going to do, Mr. President. It is going to breed contempt for our legal system among the very citizens we do not want to see have that contempt.

We have young people who are growing up in communities across our country, in more brutal circumstances and conditions than any of us want to admit. I think the Senator from Hawaii, [Mr. INOUYE], has probably been the champion for people in Indian country. He knows their condition better than maybe any other Senators here.

If we have young people growing up in more brutal circumstances than any of us want to face up to, and we are now going to severely restrict what Legal Services lawyers can do, we are just going to breed contempt on the part of those young people in this system. They are going to see no way that they can seek redress of grievances through our system; they are going to see a legal system they are not going to believe in; they are going to see a political system they are not going to believe in; they are going to see a nation that they believe betrays the very idea of equal justice under the law. Where do you think that is going to take us?

When young people growing up in poverty, growing up in impoverished communities, growing up under brutal circumstances do not see any way through the legal system that they can seek redress of grievances, do not see a system through which there is an opportunity for them working within our system in a nonviolent way to improve their lives, it creates an enormous vacuum.

I will tell you what fills that vacuum. I have been to a lot of these communities. What fills that vacuum is the politics of despair, the politics of cynicism, and all too often the politics of hatred.

Mr. President, the Gramm approach is to extreme; it goes too far. What the Senator from Texas has done is to belie the best of America. Senator DOMENICI is right with his amendment. But as to the restrictions in the Domenici amendment, I hope later on as we move forward on legal services, we will be able to have a good discussion and we will be able to make the kinds of changes that will provide poor people in America with strong legal representation.

Just because you are poor does not mean you should not be able to challenge those who have the power in America. Just because you are poor or just because you are living in a poor community or just because you are a whole community that is denied a voice or just because you are a whole community that does not have the power, does not mean you should not be entitled to some legal services lawyers that can work with you. It should not mean you cannot be entitled to challenge the policies and practices that discriminate against your families, that hold your families down, that lead to inadequate housing, that lead to your children not having an adequate education, that lead to health care institutions that sometimes do not take care of you.

You should be able to challenge those policies and practices. You should be able to challenge those institutions. That is the best of America. That is equal justice under the law. With these restrictions, that is not going to happen. So, Mr. President, to conclude, I will not cosponsor the Domenici amendment because of the restrictions, but I certainly will vote for it.

I think the Senator from New Mexico, my friend, is making a real contribution: A little more fairness, a little more justice, a little more compassion, a little bit more of what is right in America.

My God, Mr. President is this the mean season on the poor? I hope when it comes to authorization, we will be able to look at these restrictions and we will be able to make the kinds of changes that will lead to legal services, and will provide people in this country, poor people, whether they live in urban America or rural America or suburban America, with equal protection under the law. That is what this amendment is all about.

I yield the floor.

Mr. STEVENS. Mr. President, I support the Domenici-Hollings amendment restoring funding for the Legal Services Corporation. This amendment will ensure that poor people in underserved areas continue to get legal advice. The Domenici-Hollings amendment contains important restrictions on the use of funds by the Legal Services Corporation. These restrictions, which were also supported by the House, are necessary to ensure that abuses that have occurred in the past do not continue. The funding that is provided under this amendment can not be used for things like class actions, lobbying, or representing illegal aliens. These restrictions are to ensure that funding is used to provide the traditional legal services that are most needed by poor people.

I want to thank the Senator from New Mexico and his staff for accommodating the special needs of Native Americans and those in areas like Alaska where travel to remote villages increases costs. Last year the Alaska Legal Services Corporation successfully completed 4,629 cases. In most cases the people who the Corporation represented had nowhere else to turn for legal advice because they could not afford to hire an attorney.

The poor people in my State—and across America—need the help of the Legal Services Corporation. I urge my colleagues to support this amendment.

Mr. DOLE. Mr. President, there are few examples that better illustrate the case of good intentions gone awry than the Legal Services Corporation.

Created in 1974 to relieve the burden of an expensive legal system for poor Americans, the Legal Services Corporation has become in many instances the instrument for bullying ordinary Americans to satisfy a liberal agenda that has been repeatedly rejected by the voters.

Mr. President, I wish to make clear at the outset that I support efforts to help low-income Americans by ensuring that they are not shut off from legal redress, especially where important constitutional rights are concerned. And I also have no doubt that the existing legal services framework has produced good programs and employs good people who are devoted to providing the very best representation to those who otherwise could not afford it.

But as the Washington Post noted on September 18, 1995, the model of providing legal services to the poor has become twisted into something "more ambitious: a powerful network of poverty lawyers funded by Washington and backed up by university-based centers of expertise, that would help not just individual clients but 'the poor' as a whole."

There are two points to be made about this outcome: First, despite many dedicated lawyers who have undoubtedly helped poor clients through Legal Services grants, the inevitable result of this shift in focus has been to hurt those whom the Corporation was created to help. The impoverished individual who has run-of-the-mill, but important, legal needs is shunted aside by Legal Services lawyers in search of sexy issues and deep pockets. And in some cases the agenda of helping the poor as a class has perpetuated and deepened the worst aspects of a welfare state that has utterly failed poor Americans.

Second, this twisting of the original purpose of the Legal Services Corporation is antidemocratic. In most cases, what passes as a class action lawsuit—whether it addresses welfare benefits, or employer-employee relations—is nothing more than a policy dispute that should be, and often has been, the subject of the legislative process. To subvert the legal system in order to overturn legislative judgments is fundamentally at odds with our system of government.

How did this happen? A lack of accountability. The very structure of the Legal Services Corporation has produced this result. Although the Corporation has an 11-member board, the reality is that money flows to over 300 local nonprofit groups with attorneys accountable to no one. This is not an accident. With the best of intentions, the idea was that the Corporation should be insulated from political pressures. But this laudable goal was taken too far. Laws addressing the misappropriation of Federal funds, for example, are not even applicable to the Corporation under the terms of the act creating it.

Thus, this is not a case of passing more laws and creating an increasingly complex regime to govern the operation of the Legal Services Corporation. The problem cannot be papered over. The problem flows from the present structure of how we provide legal services to the poor.

The time has come to end this abuse of the legal process and return to the original purpose—providing the means to help the poorest among us to cope with their genuine and individual legal needs.

I am committed to providing some mechanism that provides legal assistance to the impoverished among us. But in this, as in so many other areas, it is time to return power and responsibility back to where it belongs—the States. Supporters of the present Legal Services framework will undoubtedly claim that the poor will suffer. I believe that is wrong. The legislation before us provides a responsible response to the legitimate legal needs of the poor—a block grant program that can be run by those closest to the needs of their citizens and implemented with the appropriate safeguards that have heretofore eluded the Federal Government.

Mr. President, I urge my colleagues to support repeal of the Legal Services Corporation Act.

Mr. GRAHAM. Mr. President, as we enter into the debate as to whether we should convert yet another Federal program into a block grant, it would behoove us to consider fully the wise comments of our former colleague, Gov. Lawton Chiles. I ask unanimous consent that the following letter from Governor Chiles, which questions the wisdom of transforming the Legal Services Corporation into a block grant, be printed in the CONGRESSIONAL RECORD.

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

OFFICE OF THE GOVERNOR,
Tallahassee, FL, September 14, 1995.

Hon. BOB GRAHAM,
U.S. Congress, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I am writing to inform you of my position on the Legal Aid Block Grant Act of 1995 contained in the State, Justice, Commerce Appropriations bill (HR 2076) which would provide that funds in FY 1996 for the legal services organizations be routed through the governor's office of distribution.

First, I urge you to consider the efficiency of the current system. Only 3% of the funds which are allocated are spent on overhead, and the remainder reaches the direct delivery system in the states. This efficiency would be difficult to duplicate at the state level, especially as we will have to invent a delivery system at a time of fiscal change.

Second, after a review of this matter and its implications for State government responsibility, I have determined that the burden to Florida is great and that there is no increased benefit to the state in channeling such funds through this office.

In summary, I am asking you to vote against a block grant proposal for legal services. As usual, I appreciate your efforts to achieve fiscal responsibility while providing for the needs of our less fortunate citizens.

With kind regards, I am

Sincerely,

LAWTON CHILES.

Mr. BIDEN. Mr. President, I stand here to pledge my support for the amendment offered by my colleague, Senator DOMENICI, which preserves the Legal Services Corporation.

This organization has been both efficient and effective in providing legal services to the poor, so that those who are most vulnerable in our society have access to the courts, not just those who can afford it.

Contrary to the rhetoric of some of my colleagues who oppose the Domenici amendment, the vast majority of cases handled by the Legal Services Corporation are not controversial—they are individual cases arising out of everyday unfortunate problems—losing a job, suffering a serious illness, facing the breakdown of family relations, or simply dealing with Government redtape.

As someone who has long sought to do what I could do to prevent and to fight against family violence, I am most grateful for the help that the Legal Services Corporation provides to victims of family violence.

In fact, representation of victims of family violence is the single largest category of cases handled by local legal services programs—accounting for one out of every three cases processed last year.

In 1994 alone—the year we passed the Violence Against Women Act—local legal services programs handled more than 50,000 cases in which women sought legal protection from abusive husbands, and over 9,000 cases involving neglected and abused children.

This amendment places a number of prohibitions on the Legal Services Corporation, but keeps this much-needed

organization intact, enabling it to continue to provide traditional legal services to those who desperately need them.

I hope all of my colleagues will join me in supporting Senator DOMENICI's amendment.

Mr. BINGAMAN. Mr. President, I speak on behalf of the Legal Services Corporation.

In my home State of New Mexico, the Legal Services Corporation has a proven track record. Without this program, there are few alternatives if any for the poor to have access to the legal system. Many of the people who benefit from Legal Services were once considered part of the middle class. However, as a result of unemployment, illness, divorce, or aging, these people are now left without the means to afford a private attorney. Some of the people who are helped by this program are: The senior citizen living on Social Security in rural New Mexico who is a victim of a consumer fraud scam; the disabled veteran who has had VA health benefits denied; the woman who has children and is trying to escape from an abusive relationship.

There are many reasons to vote against the block grant approach adopted by the Appropriations Committee. By eliminating the Legal Services Corporation, a new bureaucracy is created because States now have to set up administrative structures to fund and oversee legal services programs. This new bureaucracy with higher administrative costs will soak up much needed resources. Further, the block grant proposal limits legal representation to the most basic needs. For example:

A person may still be represented in an eviction case; there will still be services available to probate a will; in cases of child abuse; in seeking a protective order; file a petition for bankruptcy; a quiet title action.

However, the question becomes: Are these the only legal services that the poor seek? Obviously, the answer is no. Other possibilities have been prohibited by the block grant and that is the heart of the problem with this appropriations bill. Here are some types of things that will not be permitted under the block grant: assistance in a divorce (applies to abusive situations); abortion; applying for veterans benefits; obtaining home ownership; credit access; Indian/tribal law issues; paternity; adoption; rights of the physically disabled; and consumer-related law (elderly scams).

There are many reasons to support the Legal Services Corporation, but the primary one remains the reason this program was created in the first place—it is the most cost-efficient way to allow the poor to have access to our legal system. If the goal of a block grant is to allow local control and flexibility, then the Legal Services Corporation is already accomplishing this objective.

Mr. President, this particular system is not broken. The Legal Services Corporation uses only 3 percent of its budget towards administrative expenses. The decisionmaking is divided among those with knowledge in poverty law. Currently, the mid-level bureaucracy is eliminated because grants do not have to be approved by State or local governments.

In essence, this appropriations bill is placing the burden on the shoulders of those who are not represented in this debate, the poor, and I urge my colleagues to restore the Legal Service Corporation.

Mr. ROTH. Mr. President I would like to inquire of the Senator from New Mexico as to the intent of his amendment with regard to the International Trade Commission.

Mr. DOMENICI. As my colleagues know, I intended this amendment to be the first amendment before the Senate.

I intended for some weeks to offer an amendment to retain the Legal Services Corporation and to provide it with adequate funding to continue providing legal assistance to those who could otherwise not afford it.

That amendment was drafted to the bill reported by the Appropriations Committee.

Last night the distinguished full committee chairman filed a reallocation of funding to the subcommittee, and the Senate adopted an amendment to restore some $400 million to various programs in the bill including $4 million for the ITC.

This amendment made significant changes to the bill as reported, and thus affected the amendment that I am offering with other Senators.

I would like to clarify that the intention of the Domenici amendment is to take a reduction in the International Trade Commission [ITC] by $4 million from the level approved in the managers amendment rather than from the level of funding reported in the original bill.

It is not my intention to reduce the ITC by 30 percent as some may assume from a literal reading of the amendment.

I understand the concerns of some of my colleagues over the use of the ITC funding as an offset. As a conferee on the bill, I will work with Chairman HATFIELD to sustain a level of funding that will be adequate to support the work of the International Trade Commission.

Mr. ROTH. I appreciate the clarification from my distinguished colleague from New Mexico. I am greatly concerned about the impact of the proposed appropriations reductions on the ITC. I hope the conferees will provide the maximum level of funding possible for the ITC in the final bill.

Mr. LAUTENBERG. Mr. President, I rise in support of this amendment to increase funding for legal services, and to retain the Legal Services Corporation.

Mr. President, the debate over this bill, when you get right down to it, is a debate about priorities.

And in my view, little is more important than ensuring that all Americans have access to justice.

After all, the principle of "Equal Justice Under Law" is at the heart of our democratic system. Every American is supposed to have the same legal rights. No matter their race. No matter their religion. No matter whether they are rich or poor.

Today's Legal Services Corporation helps make this principle a reality.

It protects victims of domestic violence.

It defends senior citizens and veterans against bureaucrats who arbitrarily deny them benefits.

It forces landlords to follow the law in eviction procedures.

It stops nursing homes from dumping patients who have become expensive or difficult to serve.

It helps the mentally ill and disabled get the benefits to which they are entitled.

And it helps ensure that Constitutional rights are real for all Americans, whether or not they can afford their own lawyer.

Mr. President, the need for legal services among low-income people is intense. Over 50 million Americans are living near the poverty level, and potentially eligible for legal services. One of every four children under six lives in poverty.

For people like these, Mr. President, legal services can mean access to critical support from an absent parent. It can mean a decent home to live in. Access to health care. Access to education. Or escape from a violent home.

Despite these critical needs, Mr. President, 70 percent of our country's least fortunate lack access to any legal services. One reason is that the number of legal services attorneys has been cut by one-third since 1981.

A recent survey found that, on average, legal services programs turned away 43 percent of eligible individuals because they lacked sufficient resources. For some programs, the rate was as high as 60 percent.

Mr. President, given these shortfalls, we ought to be increasing funding for legal services, not cutting it. Yet the bill approved by the Appropriations Committee would cut funding from legal services from $400 million to $210 million. That, in my view, would be an outrage.

This amendment would increase that level to $340 million. That does not go far enough, and would leave the Legal Services Corporation with a significant cut. Still, it is a big improvement. And, from all indications, it is the best we can do for now.

I also want to express my concern about the restrictions on legal service lawyers that are included in this amendment. For example, the amendment would prohibit LSC lawyers from pursuing class action suits. I think that is a mistake. If a group of poor people are harmed by wrongful conduct, why should each person have to pursue a remedy individually? That only increases litigation, increases costs, and makes it more difficult for poor people to get justice. I do not think it makes sense.

But having said that, Mr. President, I realize that many of my colleagues feel strongly about this and other restrictions. And it appears that at least many of these restrictions are necessary to ensure that the program as a whole is supported and funded.

So, in conclusion, I want to commend Senator DOMENICI for taking the lead in this area, and I would urge my colleagues to support the amendment. The Legal Services Corporation deserves our support. Because each and every American deserves access to justice.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested.

The clerk will call the roll.

The bill 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, I have had an opportunity now to review some of the restrictions on the Federal Legal Services Corporation and its national bureaucracy that would be imposed under the Domenici amendment.

As I said earlier, I believe these provisions are far less restrictive than those that are in the bill, but there are several that I want to comment on and, I think, in commenting really make the point that as long as you have this national superstructure, you are not going to curb these abuses.

One of the restrictions in the Domenici amendment is to limit the ability of the Legal Services Corporation to file lawsuits that have to do with redistricting; that is, lawsuits that have to do with deciding where lines are drawn in terms of State legislatures and in terms of congressional redistricting.

The only problem with this restriction is it is already the law of the land. We currently have a ban on the ability of Legal Services Corporation to engage in lawsuits that relate to representation and to redistricting in legislatures and in Congress. But a perfect example of how this fails is that this restriction was in place in 1990 when the Texas Rural Legal Aid, which is funded by the Legal Services Corporation, challenged a redistricting plan in Texas in that year, in what the Bush administration saw as a violation of the congressional prohibition on lawsuits involving redistricting.

When the Bush-appointed Legal Services Board attempted to discipline the Texas Rural Legal Aid by reducing their funds, the Texas Rural Legal Aid sued the Legal Services Corporation. As a result, funds continued to be provided to the Texas Rural Legal Aid for the remainder of the Bush administration, when the new Clinton board was seated, they settled the case out of court.

So here is a perfect case in point where there has been a violation of a restriction on legal services funding. They clearly violated the rules in 1990, and when the Legal Services Board, appointed by President Bush, tried to step in and penalize them for violating the rules they went to court and continued to receive funds. Then the Clinton Legal Services Board settled the case out of court.

That is a perfect example of where we already have the restriction and, yet, with a Federal bureaucratic overlay on this program, we are unable to enforce the intent of Congress.

A second provision I look at is a prohibition against legislative lobbying, but there is a major loophole in the Domenici amendment on this issue as well. The major loophole is subsection 14(b) where funds are allowed to be used to lobby for more money and for fewer restrictions. I am not sure what else they would lobby for, but I think that is exactly what most people have in mind when you say that you are limiting their ability to lobby. If they can lobby to get more money and to get fewer restrictions, then they are clearly free to lobby.

The Domenici amendment has a requirement that there be timekeeping, that there be separate accounting, that there be monitoring, that there be no attorney-client waiver. And yet, routinely, these provisions are circumvented from monitoring on the grounds of the attorney-client privilege. I think it is a legitimate concern of whether we are going to be able overcome the assertion of that privilege when the Legal Services Corporation does not want to abide by the rules and when its client does not want to abide by the rules. I would like to have some assurances that, in fact, the rule is going to be abided by.

Another major problem has to do with public housing. In the list of abusive cases by Legal Services Corporation, probably no list is longer of those that I had included in the RECORD than the list of cases that involves public housing.

The Domenici amendment would prohibit legal services from defending a tenant who was charged with drug violations. But I want to remind my colleagues that often the tenant who has the contract with the public housing project is not the person who is charged. Often, they are simply abetting the crime by allowing a friend or children to use their unit of public housing for that purpose.

As I read the amendment, if they are charged with shooting and killing someone, there is no provision prohibiting a legal services defense. We deal only with drugs, not with guns, and not with violence. But I think, again, when you start looking at each one of these things, you find how very difficult it is to enforce these provisions, so long as there is a governing entity that basically wants the Legal Services Corporation to do these things.

I think these are very real concerns, and I think that these are concerns that need to be dealt with.

Finally, I just want to make note, I did not mention it before, and not that I expect that anybody is going to be greatly moved by it, but when we adopted a budget in the Senate and in the House we called for Legal Services Corporation funding at $278 million. The Domenici amendment would raise that funding level to $340 million. While it is not technically a violation of our budget, it is interesting to note that we are being called upon here to cut Federal prosecutors, to reduce Federal courts, to reduce funding for U.S. attorneys, to reduce FBI funding for construction at the FBI Academy in order to fund a level for the Legal Services Corporation which is above the level which was called for in the budget that was adopted in the U.S. Senate.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask the Senator from Texas a question, just from the standpoint of those who have other amendments and those who are calling and asking me as to where we are. I think we have had a good debate. I compliment him on the quality of his debate, and I wonder if there is any thought that he might have as to when we might vote. It does not matter to me. Last night, I indicated a genuine interest in voting quickly. Frankly, if we do not want to get a bill, that is up to the Senator from Texas.

Mr. GRAMM. Let me say to the Senator, it is my understanding that Senator KENNEDY and Senator LAUTENBERG are on their way here to speak on behalf of the bill.

Let me call those who have suggested to me that they might be interested, and it may well be at that point that we could reach a determination as to whether I want to make a motion or whether I just simply want to have a vote.

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

Mr. DOMENICI. Can we withhold on that?

The PRESIDING OFFICER. Will the Senator from Texas withhold?

Mr. GRAMM. I will be happy to withhold.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I just want to read one more time and make one more observation, there is no doubt that the principal concern about the Legal Services Corporation has been class action lawsuits, lobbying, soliciting work, and a number of issues, and I will go through a list in a minute.

But I want to remind everyone again, we have never been able to literally write all of these prohibitions into the law.

Again, I want everyone to know the reason for the prohibitions is because legal services, when it was founded by Richard Nixon in association with the American Bar, intended this to represent individual poor people in individual cases, not to represent a class of poor people suing a welfare agency or suing a legislature or suing the farmers as a class.

We have never been able to put those kinds of prohibitions into law because we never had agreement between the House and the Senate. So I want everyone to know that, with few exceptions, the House has already agreed to the same kind of prohibitions that are in this bill. The House does not block grant this in their appropriations bill. They have funded it.

So with reference to the House, the only difference is that we seek to add some money so that this program gets cut 15 percent, which we think, in comparison to other things, is clearly fair, and we put the same prohibitions and some additional ones in.

So if this bill ever gets signed into law, and unless it does, there will be no funding unless we have an ongoing continuing resolution for the whole year, and it will be close to last year's level—10, 15 percent like we have. If a bill is going to come out and get signed, it is going to have these prohibitions and, once and for all, that is going to be the law.

Having said that, just a budget remark because my friend from Texas said it right. He said, technically, that this bill calls for more money than the budget resolution. I would not want anybody to think that is a rare exception around here either. Frankly, what is really binding is the total amount of the dollars. If we were able to write in the budget resolution and designate the funding level for every program, then there would be no need for annual appropriations. The appropriators could go out of existence. Some might say that is a good idea. I know the occupant of the chair is wondering, and I also believe we ought to appropriate every 2 years instead of every 1. I do not know why we do not change that. It has been proven very worthwhile in many States. But we still have a law that says the appropriators decide with finality. So there is no violation of the budget. If that were the case, every bill appropriations bill that came through here would be in violation because they all have items with different funding levels than the assumption in the budget resolution—maybe 20, 30 times in each bill. That is the prerogative of the Appropriations Committee, and the Senate as an institution. Only if we breach the cap, go over the total amount allowed, is it subject to the budget resolution, which is seeking not specificity but overall control.

So, indeed, if one were to talk about legal services being somewhat higher than the assumption, one could also say that almost all of the Justice Department and the anticrime measures in the bill are higher than the budget resolution. In that context, technically, they are doing much the same thing, letting the appropriators seek what they think is the appropriate level. So I think everybody should know on the up side and the down side of funding, that goes on in every appropriations bill. It does not violate the budget, so long as you do not breach the overall budget target.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the amendment offered by my distinguished colleague from New Mexico. I do so after having had considerable experience as a lawyer. I think I understand the need for representation of the poor in America on many of the complex legal issues and problems which they face.

My first exposure to representation of the poor came as a volunteer defender when I was a year and a half out of law school. That was before the Gideon versus Wainwright case, which established a constitutional right for defendants to have lawyers in criminal proceedings. It is unthinkable in 1995 that there was ever a time when someone would be "haled into court," as Justice Black put it, and not have an attorney represent him when his liberty was at stake. But there was a day, and I was a year and a half out of law school and at a big Philadelphia law firm. There was an enormous backlog of criminal cases, and people were held at detention at the Montgomery County prison. I went over for a month to represent indigent criminals in the courts of Philadelphia.

It was a real eye-opener for me in many, many ways. The first way was to learn that these people had nobody to represent them in a courtroom. They were faced with two counts of rape, four burglaries, and I was a year and a half out of law school, and I was better than nothing, but barely, under those circumstances; and I saw at that time how people had to volunteer, how the community had to come forward to provide legal assistance to people who needed to have their rights represented in a courtroom. It also did something very profound for me, and that was it opened my eyes to public service and to the criminal courts. I had been there for only a month. Notwithstanding that, I was in a very prominent law firm. It was wall-to-wall life. I soon became an assistant district attorney because I wanted to learn to be a trial lawyer, and I wanted to participate in the public process. And it has all been downhill since then, to district attorney and U.S. Senator. But that was a real experience for me to see the importance of legal representation.

Now we have legal services. The first year I was here in 1981, there was an effort to reduce the funding to $100,000, which would have been grossly inadequate. Senators Rudman, DOMENICI, and a few of us stood up, and my recollection is that we had $261,000 for community legal services in that year. Last year, we had a battle on the floor of the U.S. Senate when there was an effort to limit community legal services from representing people in welfare reform cases, because the community legal services had gotten into a New Jersey case over welfare reform. It seemed to me unthinkable to limit community legal services from participating in representing poor people in challenging Federal or State laws. Now we have just gone through welfare reform in this body, dealing with matters which are tremendously complicated and have raised very many important legal issues. And you have to have representation for the poor in America. It is something we ought to be doing. The amount of money involved, in comparison to the scope of the problem, is minimal.

Senator DOMENICI is the leading expert on the budget. I cite him all the time, and I have great confidence in our glidepath for a balanced budget, because Senator DOMENICI is a man I have seen operate for over 6 years as chairman of the Budget Committee, from 1981 through 1986 and again this year. These dollars for legal services are very, very well spent.

I, frankly, have some concerns about the limitations which are present in this bill. I talked to Senator DOMENICI about them, especially the limitations on the use of non-Federal funds, and I know that this is a compromise to try to get the extra funding, to have some limitations. I have grave reservations about these limitations. But I do know this—even with the money which is left, this is not enough to handle individual cases where individuals need representation on complex legal matters.

I have tried to hold my comments to a few moments in the hope that we

may act on this amendment. I do not think any souls are going to be saved or any votes are going to be changed on this amendment on my speech, the speeches before mine, or the speeches going back to about 11 o'clock this morning. We have a lot of other amendments which I hope we can take up. I hope we will move to conclude this amendment. I hope my colleagues will support this amendment because it is important for America.

I yield the floor.

Mr. DOMENICI. Mr. President, I see my friend from Hawaii on the floor. Did he want to say something?

Mr. INOUYE. No.

Mr. DOMENICI. Since there is no business coming before the Senate, I ask for 6, 7, minutes as in morning business at this point.

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

A BALANCED BUDGET

Mr. DOMENICI. Mr. President, I want to talk a little bit about the balanced budget that we have put forth and that we all worked so hard for—at least on this side of the aisle. I am going to put it into the framework of the Secretary of Treasury, Mr. Rubin, talking to the American people and us about that day sometime after October 20, perhaps before November 15, in that timeframe, when the debt limit that we have imposed upon ourselves expires, and in order to borrow additional money, Congress has to act to raise that debt limit. Essentially, that is being discussed with the American people. I am not sure they all quite understand what that means.

I want to, in a sense, respond as I see it to the fear that the Secretary of the Treasury is pushing across this land in terms of that debt limit day.

First of all, Congress has never given up the power to tell the President and those who work for him, like the Secretary of Treasury how much they can borrow. Occasionally, it seemed kind of strange to me because Congress passes all these laws to spend money, and everybody votes on those, and then when it comes time to extend the debt, people say, "We will not extend the debt." But I am beginning to understand that power to control the debt limit is very important, especially in this year and years like this one.

The Secretary of the Treasury is saying to us, "You'd better agree to extend that debt limit because if you do not, something very ominous might happen." Then he talks about such things as default and we will not be able to pay interest on some bonds.

First of all, let me make it very clear from the standpoint of the Senator from New Mexico, who put this budget resolution together, and look at it from my vantage point as to the seriousness of that contention on the part of the Secretary that we had better be prepared to let that go up.

Now, I see it this way. I think there are two major events that are coming together in the month of November. One is described by the Secretary of the Treasury with all of those ominous tones about what will happen; the other is whether we are going to get a balanced budget—no smoke and mirrors—and entitlement reform.

Frankly, many people are now experts on this Federal budget. Interest rates out there on bonds affect our standard of living because it affects interest rates on many things. Those who look at that know precisely what is a balanced budget and what is not a balanced budget.

Mr. President, we know precisely what the big ingredient in a balanced budget is. The big one is reforming the entitlement programs that are out of control—Medicare, Medicaid. I did not say cut them, I said reform them. In addition, we must look at commodity price supports and a whole list of programs that are on automatic pilot.

If we do not stop them and change them, they just spin, some at a 10-percent increase a year, some 12. We had Medicaid in some States, increasing as much as 19 percent a year. I think we had as high as a 28-percent increase in one year in Medicaid—28 percent, automatic. Experts on the Federal budget know if you do not fix those and if your assumptions are not honest, then you have a budget that is smoke and mirrors, and ineffective.

Now, what I am saying to Members on the other side and others who will listen is do not jump to the conclusion that the most serious event is the day that we do not extend the debt limit when it needs to be extended.

Actually, an equally important day is coming when the President of the United States has to decide whether he wants to help us get a real—no smoke and mirrors—entitlement reform budget. Both of them are important events.

I will not place one above the other because I believe we must do everything we can this year—not next year, that is an election year; not 2 years from now; right now, this year. We have to get a balanced budget, with no assumptions that are too optimistic, and one that changes entitlement programs to reduce their ever dramatic increases.

Now, I cannot put it any better than that. I am not suggesting I am for a default. I am suggesting that is an important event. I believe we have to put the other event right up there alongside it. We have to serve notice on the Secretary of the Treasury and the President that we are not just going to run out on this balanced budget. We think we have done a job. We think it is positive. We think it is right.

Let me close by saying the reason that this is a big event is because for the first time in 31 years, elected officials are saying, "We care about the future. It is not about today only. It is about the future. And we care about our children, not ourselves. We care about those yet unborn as much as ourselves." If we really believe that, we cannot continue to spend at what is currently, believe it or not, $482 million a day—a day. That is the amount we are adding to the debt every day—$482 million. That is a lot.

Who will pay it? If we are standing up saying we do not care, well, somebody is going to pay it. Do you know who is going to? The next generation, with a lost standard of living, because too much of the income has to come back up here and pay for our profligacy.

That is not right. That is a big event for adult leaders. It is just as big an event as the event that is closing upon us on whether we increase the debt limit, to let us borrow more or not.

I do not think the Secretary or the President should read anything more into my statement than what I have said. It is pretty clear that I am not running off in some kind of trepidation because we are being told about this need to extend the debt limit. For those who wonder about that debt limit extension, let me suggest—none of which I advocate—but there are a number of ways the Secretary of the Treasury can pay some bills out there after that debt limit is extended, without extending it. They know it. The Secretary knows it.

There are at least four. A couple of them have serious political ramifications. A couple of them they could use. It may be they do not want to do that, even when push comes to shove. But we do not want to abandon our balanced budget. And I am repeating, the kind of balanced budget we are talking about involves no optimistic economic assumptions, no smoke and mirrors. It is entitlement reform that is consistent with what is happening to the budget under current entitlement programs which, run unabated, have no relationship to what we can afford, just merrily run along, causing the debt to increase at $428 million a day.

I yield the floor and 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. HOLLINGS. 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 BUDGET AND SPENDING

Mr. HOLLINGS. Mr. President, while we are trying to arrange a vote here on this important amendment, I would just revisit what our distinguished

chairman of the Budget Committee was talking about: the budget and spending.

Mr. President, the present budget for the fiscal year is $1.518 trillion, in other words, one trillion five hundred eighteen billion dollars. The budget under consideration, of which this State, Justice, Commerce appropriation is a part thereof, is $1.602 trillion. So, one trillion six hundred two billion dollars means spending is going up $84 billion.

Which reminds me of my distinguished chairman of the subcommittee, the Senator from Texas, always talking about those in the wagon who are going to have to get outside the wagon and start pulling it. The funny thing, like Pogo, "We have met the enemy," we have met those in the wagon, "and it is us." We have been spending literally hundreds of billions more than we are taking in each year. While the budget itself increases some $84 billion, interest costs increase $348 billion, or $1 billion a day, as has just been referred to by the distinguished chairman of the Budget Committee.

That is what is bothering this Senator—the reality of it all. We push and pull and tug and talk about those in the wagon, out of the wagon, and hard choices and biting bullets. But the comeuppance is that we continue to spend way more, and we act like we can actually eliminate the deficit by cutting spending. That is absolutely false. It is going to take taxes.

They do not want to say the word "taxes" around this town except to cut them, because a little poll you take, whether it is a Republican poll or a Democratic poll, says that is political poison. A hot-button item is what they call it. So what you do is you get out and you are for the family and you are against taxes. You are against crime and for prisons and on and on, this nonsensical charade we are engaged in.

The truth is, having been in the vineyards here, trying our dead-level best with others. We tried a freeze. Then we tried a freeze and spending cuts. Then we tried a freeze, spending cuts and loophole closings. Then we tried a freeze, spending cuts, loophole closings and a value-added tax. And then just most recently, we opposed new programs that we cannot afford—AmeriCorps.

I stated yesterday the AmeriCorps Program took away 346,000 student loans in order to fund 20,000 to 25,000 student loans. Actually, it is the Federal Government cost of some $20,000 per student on AmeriCorps, plus $6,000 from private and local government resources, so it is $26,000. I remember when I got out of law school, if I could have gotten paid $26,000 I would have jumped for joy. I would have jumped for joy.

I can tell you now—voluntarism? At $26,000 a head, you call it volunteer? Let us cut out the charade and get down to brass tacks and realize it is going to be way, way more than any kind of spending cuts.

The idea of a broad-based consumption tax I proposed over 10 years ago, almost 15 years ago. Now they are copying the idea to replace—I have been through about seven tax reforms in my 28, almost 29 years. The need is not to replace; the need is to replenish. What we need is more money, not different money. So the flat tax is now a wave—a hot-button item, again in the poll, where we are just going to do it one way and replace the income and replace the corporate and replace everything, every other kind of tax. The truth of the matter is, rather than cutting taxes, we need to increase the taxes. And the bill to increase the taxes is presently, and has been, in the Finance Committee for the past 4 or 5 years. I have introduced it right regularly. They quit having hearings on it.

I will never forget the one hearing we had 5 years ago with Senator Bentsen as chairman. As I was leaving the Finance Committee room, a couple of the Finance Committee members said, "If we had a secret ballot we would pass that thing out unanimously. We need it now." That was before the 1992 election for President Bush's reelection.

Of course, we were up to then $400 billion deficits, and the Democrats did not win the 1992 election so much as the Republicans lost that election. I campaigned in it. I know it intimately.

Once again, we are going through the tortures of big talk about how we are really going to balance this budget by the year—they put it out where nobody can get their hands on it—2002; 7 years hence. We used to do it in a year. Then we went to 3 years. Then we went to 5 years. This crowd over here has it for 7 years. And the President has it for 10 years. You meet another Congress and they will have it in 15 years and up, up and away.

But they do not want to write that. They write in a very reverent, respectful, studious term—the media does—that the present budget on which we are now torturing would balance in the year 2002. That is absolutely false. It has no chance of doing it. Simple arithmetic—it is not going to take care of the interest payments. The interest payments are $1 billion a day. There is no plan here. The cuts? You take the consummate cuts right across the board, there is not $1 billion a day to get on top of the increases.

Like the famous character in "Alice in Wonderland", in order to stay where we are, we have to run as fast as we can. In order to get ahead, we have to run even faster.

That is the reality. Nobody wants to talk about it because the poison in politics is taxes. I will never forget, back in 1949, 1950, when Jimmy Byrnes—former Senator Byrnes, Secretary of State, Supreme Court Justice, Governor—he had just come in as Governor. I had a little committee. I said, "This is South Carolina, our little lowest per-capita income State next to Mississippi. We have ground to a halt. We need money. We are going to have to put in a sales tax."

We could not even get the senators to meet with us. We just had House members. I chaired that House group. We sold the idea to Governor Byrnes, and he put it over. Mind you me, we never could have done it without the Governor's leadership. But we put in a sales tax at that particular time for public education, so that then, when we went out and solicited industrial development in South Carolina, we could talk not only of good schools, but fiscally-responsible government.

We did not balance that budget in South Carolina until I finally came in, in 1958. I again raised taxes over the objections. What we did was we got the first triple A credit rating from Texas all the way up to Maryland. So, as a young Governor, I had, as a calling card, a triple A credit rating, which South Carolina has now lost, again with this item of growth—growth. And we are going to have a property tax cut and we are not going to pay the bills and we are going to put the nuclear facility up for sale and start storing nuclear waste all over again at Savannah River; going backwards.

That virus is at the local level, at the Federal level and throughout the land. We have to kill it if we are ever going to get competitive internationally.

If we can pay our bills, develop a competitive trade policy, cut out this nonsense about free trade and join the real world and get a competitive trade policy—Cordell Hull said reciprocal trade policy—then we will begin to survive and rebuild this economy and clean up our cities and get rid of the drug and crime problems and come forward like a great America that I came into in my early years.

With this plan, these programs now have been taken over by the pollsters and we are going right straight down the tubes. We are talking nonsense. The media is going along with it. They think it is great progress. It is not great progress—a half a hair cut—because we had that great progress last year and we had that great progress the year before. We had the great progress the year before that. Like Tennessee Ernie Ford, "another day older and deeper in debt." The debt continues to go and grow and go and grow. It took us 200 years of our history before Ronald Reagan came to town. When he came to town after that 200 years and 38 Presidents, Republican and Democrat, we were less than $1 trillion. And $903 billion was the deficit and debt. We had with President Ford an economic summit, and everything else of that kind after the OPEC cartel

crisis, and what have you. When President Reagan came to town, he said, "First I am going to balance the budget in a year," and then said, "Oops—this is way worse than I thought. It is going to take 3 years. We are going to get rid of waste, fraud, and abuse."

We had the Grace Commission. I served on the Grace Commission. I got me a picture here earlier this year, but Peter Grace and I started implementing his savings. We had to report annually. By 1989 we had implemented some 85 percent of the Grace program. But then we stopped, and we quit reporting.

But the truth is the Budget Committees have come along. Republicans and Democrats have voted for taxes in the Budget Committee. We got eight votes for a value-added tax because back 5 years ago, we could see the coming default and the debt growing up, up, and away.

So now after Reaganomics, voodoo, riverboat gamble, now we have voodoo all over again. We are talking about it again by the very author of voodoo, the chairman of the Finance Committee. That started off as—what is that football player's name? Kemp. Yes. That is right. Kemp-Roth. I remember when the distinguished majority leader said we are not going that direction. He said, "You cannot go that way. We have got to start paying the bills." But the Presidential political pressures that come from GINGRICH to go to GRAMM to come to DOLE have got us all talking nonsense here on the floor of the U.S. Congress. We are talking again in the Finance Committee of devastating health care. Last year, they were saying, "Oh. What is the matter? We have the best health care on the planet." Last year, we had a survey by the very group they quote this year that said Medicare was going broke by the year 2001. This year they are saying it is going broke by the year 2002. Now they say what they are trying to do is save it.

Well, they come in with a contract that increases the deficit and Medicare some $25 billion because, yes, without that contract crowd, we voted to increase taxes on Social Security, liquor, cigarettes, gasoline, and everything else and cut spending $500 billion which has the stock market and the economy, they say, going up and away. But the truth is that of that $25 billion that we got from the increase in Social Security taxes, we allocated it to Medicare and they said, "Abolish that." No. We do not believe in that. They are playing the game, the pollster proposition of Social Security and saying that we are trying to frighten the American people.

The debt now has gone not just to $1 trillion as it did in 1981, but to $2 trillion, to $3 trillion, to $4 trillion. It is right now at $4.9 trillion, and it is going up $5 trillion and on and away, because of what? We are in the wagon. The kids, the children, the grandchildren are the ones pulling the wagon. We are acting like the taxpayers are the ones pulling the wagon. Well, they can hardly move the wagon. The wagon is drifting back. It is not being pulled. It is gradually going backward into debt, and we are on board.

For the last 15 years, the Senator from New Mexico and I have been working in the Budget Committee, and it has gotten worse and worse. The rhetoric has gotten better. We really have them fooled—everybody out in the land, particularly in this editorial column crowd saying we are making progress, that we are going to balance the budget.

We are not even near it. We are doing some cutting. We are devastating programs. But we are not balancing any budget because we will not do all of the above, and all of the above includes taxes. And we need that tax increase allocated to the deficit, and the debt.

Let us get on top of this fiscal cancer, excise it once and for all, and then start spending the amount of money that we need on Government itself rather than on past profligacy and waste. If you had a $74.8 billion interest cost in 1980 and in 1996 in the President's budget, it is $346 billion, that means the interest cost alone has gone up to $273 billion. That is exactly the level of domestic discretionary spending. You take Congress, the courts, the Presidency, you take the Department of Commerce, Agriculture, Interior, Treasury—go right on across the Government itself, take the departments and domestic discretionary spending, it is right at $273 billion. We could double that budget, if we were not wasting it on the interest cost on the national debt.

That interest is what I call "taxes." This crowd that says they are not against taxes is really for taxes. There are two things in life: Death, and taxes. You cannot avoid them. There is a third thing. It is the interest cost on the national debt. It cannot be avoided.

So what we are doing talking about no, we are not going to increase taxes, is, yes, we are going to cut taxes. The truth of the matter is we are going to cut taxes in order to increase the taxes more so the debt can go up so the interest costs or the taxes on that debt go up. You pay it, not avoid it, and you do not get anything more.

But we are in the wagon. All of us are in the wagon, and the children and the grandchildren, are hopefully going to pull it. I hope the country just does not come down in fiscal chaos. But whatever it is, we are in the wagon, and we are raising taxes every day $1 billion. We have a tax increase on automatic pilot in this Government of $1 billion a day. We are talking about cutting taxes. That is how ludicrous, ridiculous, and outrageous this whole rhetoric has gotten in the treatment by the media itself. They do not want to report the truth. They do not want to report the facts. They go along with the political charade.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Massachusetts.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2819

Mr. KENNEDY. Mr. President, I rise in support of the amendment offered by the Senator from New Mexico to restore funds for the Legal Services Corporation.

The words inscribed on the wall of the Supreme Court building capture the idea at the very heart of our constitutional democracy: "Equal Justice Under Law."

The Constitution guarantees to every man and woman in this country the same rights and privileges before the law. Indeed, we require Federal judges to take an oath to render justice equally to the poor and to the rich.

But our courts are largely powerless to render justice to persons who are too poor to afford a lawyer to assist them in protecting their legal rights. And a constitutional right without a remedy is no constitutional right at all.

The bill reported by the Senate Appropriations Committee would unleash an unprecedented assault on the rights of our most impoverished citizens. It would eliminate the Legal Services Corporation, which Congress established more than 20 years ago with the active support of President Richard Nixon.

And though it would authorize the Attorney General to make civil legal assistance block grants to the States through the Office of Justice Programs, it would not earmark one penny of funds for this program and it would impose unprecedented and excessive restrictions on the ability of legal services programs to represent poor people.

There are compelling reasons why the legal services program should be administered by an independent Federal corporation. First, and foremost, litigation to protect the legal rights of poor people often antagonizes powerful interests in the community. President Nixon recognized this when he introduced what later became the Legal Services Corporation Act. He said,

> The program is concerned with social issues and is thus subject to unusually strong political pressures * * * if we are to preserve the strength of the program we must make it immune to political pressures and make it a permanent part of our system of justice.

Many of my colleagues will recall that Federal support for civil legal services for the poor was first provided by the Office of Economic Opportunity [OEO] and later by the Community Services Administration, each of which was part of the executive branch. But in the early 1970's, the Federal program became the subject of heated political debate.

During this period, President Nixon's Commission on Executive Reorganization concluded that the legal services program should not be maintained in the executive branch and that a new structure should be created to administer the program.

Congress responded to that recommendation with passage of the Legal Services Corporation Act of 1974. In its Statement of Findings and Declaration of Purpose, Congress found that "to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures"; and "attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with * * * [professional responsibility] and the high standards of the legal profession."

An independent Federal corporation remains the best way today to assure that powerful constituencies do not pressure legal services lawyers not to protect their clients' legal rights. A block grant program simply cannot insulate these lawyers from political pressure.

Nothing in the bill requires States to apply for block grant funds. Nothing in the bill prohibits States from denying block grant funds to programs that challenge unlawful State actions.

Suppose a Governor issues an Executive order that violates the constitutional rights of a poor person. A legal services program that represents that poor person runs the risk of antagonizing the political establishment and losing its funding.

Let me say to my colleagues: Put yourself in the position of that client. Suppose your Governor issued an order that violated your constitutional rights. Suppose you went to your lawyer and asked that a suit be filed. Suppose your lawyer said to you that the law firm depended on the Governor for its funding. You would want to get another lawyer, would you not?

Poor people cannot get another lawyer. They depend on legal services programs. Those programs must be free to protect their clients' legal rights, without fear of losing their funds.

The committee bill is also unacceptable because it would drastically cut the level of Federal support for legal services. Last year, the Legal Services Corporation received $400 million. The fiscal year 1996 appropriations bill passed by the House allocates $278 million for the Corporation. The Legal Services Corporation is eliminated by the Senate bill, and only $210 million are earmarked for the Office of Justice Programs to pay for the block grant program the bill would establish.

This is far less than is necessary to support this important program. Legal needs studies from numerous States across the country have consistently shown that only 15 to 20 percent of civil legal needs of the poor are met by current funding levels.

The proposed cut in the legal services program is far more draconian than those experienced in the early 1980's, when President Reagan proposed abolishing the Legal Services Corporation, and Senator Warren Rudman and others successfully fought to preserve the program. In 1981, Congress slashed LSC funds by 25 percent, to $241 million. The committee bill contemplates $210 million for 1996, nearly a 50-percent cut from last year's appropriation, and less than half in real terms of what was appropriated in the leanest years during the Reagan administration.

The proposed restrictions on the activities of legal services lawyers in the committee bill make it clear that the bill is not merely an assault on the Legal Services Corporation. It is an attack on poor people across America, and on the very concept of equal justice under law.

The bill would forbid legal services programs that receive Federal funds to file suit on behalf of poor people who have been denied public benefits. And it sharply restricts other actions that programs can bring against poor people:

If a mother with small children lost her job and was illegally denied food stamps, this bill would forbid legal services programs to sue to get her family the food stamps they need.

If a poor widow was denied her Social Security benefits, this bill would forbid legal services programs to represent her in court.

If a poor family is ripped off by a merchant who sold them shabby goods, this bill would forbid legal services programs to bring that merchant to justice.

If an indigent veteran has his electricity wrongfully shut off in the middle of winter, this bill would forbid legal service programs to represent him in an emergency proceeding to have his power restored.

Perhaps the most offensive limitation on legal services lawyers contained in the committee bill is the prohibition against "any challenge to the constitutionality of any statute." Poor people would be denied counsel to protect their constitutional rights.

No longer would it be true that, as Justice Jackson wrote more than forty years ago, under our system of laws, "[t]he mere fact of being without funds is a neutral fact—constitutionally an irrelevance, like race, creed or color." Instead, the committee bill would place a brand new amendment in our Constitution: "The foregoing does not apply to persons too poor to afford counsel."

The Domenici amendment also contains restrictions on the activities of legal services offices, and I do not agree with all of these limits. But the Domenici restrictions are far less severe, and far less intrusive than the restrictions in the underlying bill. Many are in current law already.

It is clear that some restrictions are necessary to ensure support for the program, and the Domenici restrictions on the use of funds in this bill are reasonable under these circumstances.

Almost 45 years ago, Judge Learned Hand said that "[if] we are to keep our democracy, there must be one commandment: Thou shall not ration justice." The committee bill would not simply ration justice, it would put it out of reach for many of our poorest citizens.

The amendment offered by the Senator from New Mexico would correct the harsh injustice of the committee bill and enable the Corporation to continue its important work of securing justice in the courts for poor people. I urge the Senate to support the Domenici amendment.

Mr. President, I support the amendment of my friend and colleague, the Senator from New Mexico, which would continue the commitment of this Nation for the development of legal services for low-income Americans. I am very hopeful that his amendment will be adopted. I am troubled by some of the restrictions that have been placed upon the activities of legal service lawyers in his proposal. But I think that it is a commendable amendment. I hope that it will be accepted by the Members.

Listening to those opposed to this amendment, I was thinking about the availability of lawyers to those who have financial resources. The fact of the matter is we have a legal service program for the wealthiest individuals and the wealthiest companies in this country, and it is subsidized by the taxpayers. When any corporation is in trouble, for example, at the time of the Ill-Wind procurement scandals, that company hires every single lawyer in sight and writes it off as a business expense. So who do you think helps pick up the tab? The taxpayers.

When we have an investigation about the $200 toilet seats in the military, and those companies hire expensive lawyers and then deduct those as business expenses, who do you think subsidizes that? It is the taxpayers.

And so the wealthiest, most powerful interests, the major financial interests in this country have at their fingertips the best available lawyers and those salaries are being paid, in part, by the taxpayers. The poorest of the poor do

not have that particular luxury. They are paying out of their pockets and pocketbooks.

Some of us who have been longtime supporters of the legal service program. As the Senator from New Mexico pointed out, this has been a longstanding bipartisan commitment. President Nixon understood the importance of the development of an independent corporation that would be guided by a board composed of outstanding lawyers, carefully selected over a long period of time under Republican and Democrat Presidents. The Legal Services Corporation has tried to give the words "equal justice under law," a principle enshrined on the walls of the Supreme Court of the United States, meaning for all Americans, not just wealthy Americans.

I am not going to spend the time to go through and rebut every argument offered by the program's opponents. They talk about bureaucracy in the legal services program. But the most recent evaluation by the GAO indicates that only about 3 percent of the LSC budget goes toward administrative costs.

I will just take a moment of the Senate's time to talk about something that is interesting and ironic. About 2 hours ago, we passed by a vote of 99 to 0 an amendment to fully fund a program to help battered women. But look at what is out there in terms of the legal service programs that really implement the spirit of the Violence Against Women Act. Look at what is happening to those who provide some protection for the battered and the violence against women and family violence against children in our society.

Family law, which includes the representation of victims of domestic violence, is the single largest category of cases handled by legal services programs across the Nation. One out of every three of the 1.7 million cases that legal services programs handle each year involves family law.

Mr. President, I will just read portions of a note from Judith Lennett of the Massachusetts Coalition of Battered Women Service Groups. I think it fairly typical of legal services, how they spend their funds:

> Legal assistance aimed at protecting women and children from the devastating impact of domestic violence is the highest family law priority of virtually every local legal service project in Massachusetts. Based on fiscal year 1994 data collected by the Massachusetts legal services program, 4,600 low-income people received legal assistance in family matters from Massachusetts legal services programs. The overwhelming majority of these individuals are adult victims of domestic violence.
>
> Without civil legal assistance in custody and visitation cases, the children of domestic violence are vulnerable to being ordered into the custody of the men who beat their mothers. There is a solid body of clinical literature describing the severe trauma suffered by these children, and many of them will be even more deeply damaged without legal advocacy of the kind provided by the legal services program.
>
> In addition, the studies show that economic dependence is one of the most powerful barriers to escape for battered women. Without legal services in child support actions, many victims of violence will be forced to remain in or return to extremely dangerous situations. Sixty thousand people are likely to lose access to this critically needed legal assistance if these cuts go into effect.

This is what we are talking about. This is a third of all the legal services resources out there. And do not fool yourself, Mr. President. With the Gramm block grant proposal, you are leaving it up to the States. Some States may provide it; some States may not, just as Senator GRAMM has pointed out.

Many of us believe that the concept of equal justice under the law means equal justice under law. And while there is 1 attorney for every 305 members of the general population, it is 1 attorney for every 500 poor people.

Mr. President, the Domenici amendment reaffirms this Nation's commitment to equal justice under law. It deserves the strong bipartisan support that it will receive.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. GRAMM. Mr. President, after consultation with the two leaders, I would like to ask unanimous consent that at the hour of 3 o'clock I be recognized to make a motion to table the Domenici amendment No. 2819, and that the time between now and 3 o'clock be equally divided between Senator DOMENICI and myself to complete debate on his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object; I wonder if the manager would be amenable to permitting me to offer two very brief amendments at this time?

This pending amendment has been debated now for several hours. We have a lot of amendments to complete. And I would very much appreciate the chance—I have two amendments we could complete debate on between now and 3 p.m. if the distinguished manager and the distinguished Senator from New Mexico would forgo further debate. We have had hours on it.

Mr. GRAMM. Well, if I might respond, Mr. President.

I have been informed by the floor staff that we have other people who have been waiting to offer amendments. We have two others who were planning to be here after 3 to offer their amendments. So I could not agree to a unanimous-consent request to put the Specter amendments before them, though, obviously, after 3, if the Domenici amendment is tabled, then the floor will be open for another amendment. If it is not tabled, it is going to be the pending business and another amendment will not be in order.

So, I am not in a position at the moment to add that to the unanimous-consent request.

Mr. SPECTER. Mr. President, continuing to reserve the right to object, the amendments that I have are right behind Senator HATCH and Senator COHEN. And if we proceed to further debate on the pending amendment, which we have been debating for hours, neither Senator HATCH nor Senator COHEN will have an opportunity to offer their amendments.

If either was here, I would say, fine. But it is now 2:25 on Friday afternoon. We have accomplished almost no business today, and I suggest that if we take my two amendments, we could proceed to get something done.

Mr. HOLLINGS. Amen.

Mr. GRAMM. Well, Mr. President, I have asked unanimous consent to try to expedite matters by being recognized to make a motion to table the Domenici amendment at 3 p.m. I do believe that Senator DOMENICI is going to want to restate his case, and it is a case that needs restating many times if it is to be persuasive.

Mr. SPECTER. Further reserving the right to object, if the Senator from New Mexico, Senator DOMENICI, would not re-re-re-restate—that is not stuttering; that is how many times he stated it—we could move on to something else.

Mr. DOMENICI. I think the Senator from Texas ought to speak for the next 35 minutes to see if he could convince anyone.

Mr. SPECTER. Minds are not going to be changed here.

Why do we not move on with this bill? We have two amendments. Let us take them and get going.

Mr. GRAMM. Mr. President, let me remind my colleagues, in addition to the Domenici amendment, we have the Kerrey amendment which is pending and we have a Biden amendment which is pending.

Mr. HOLLINGS. What is wrong with taking this up? We can take this up and kill the half hour.

Mr. GRAMM. Well, the problem is—I do not have to have unanimous consent, Mr. President, to move to table the Domenici amendment. I was simply trying to tell my colleagues what the procedure was going to be, to try to bring a little order to it. It is not my intention to see the Domenici amendment withdrawn prior to my motion to table that amendment at 3 p.m.

We have another amendment that is the pending business, a Kerrey amendment. We have a Biden amendment. So I think the best thing for us to do is to try to finish the debate on the Domenici amendment, have a vote to table it, see where we are on that amendment. And at that time, if it is tabled, we will revert back to these other amendments. If the people who have offered them want to proceed with them at that point, they have standing to do so.

If they would be willing to step aside and allow the Senator from Pennsylvania to get the floor, set aside their amendments, and offer his amendment, if that is something he can work out with them, then I would certainly be happy to see that happen. The problem is we have a whole bunch of people who have been waiting for an opportunity to offer their amendments. We do not have an agreed-to time schedule set.

So basically that is where we are. So let me renew my unanimous-consent request. If there is an objection, I would just notify my colleagues that at 3 p.m., or as near to that as I can get the floor, I will move to table the Domenici amendment. But to try to convenience our colleagues, I would like to ask again unanimous consent that at the hour of 3 p.m., I be recognized to make a motion to table the Domenici amendment No. 2819 and that the time between now and 3 p.m. be equally divided between Senator DOMENICI and myself.

Mr. SPECTER. Reserving the right to object. I would make one more effort to ask that the unanimous-consent request be amended to ask unanimous consent to set aside the Domenici amendment, if the Senator from New Mexico agrees not to have further debate, and to set aside the other pending amendments, and in the course of the next 30 minutes to complete two amendments, 15 minutes equally divided on each side.

Mr. GRAMM. Mr. President, I object.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Texas, first?

Hearing none, so ordered.

Mr. DOMENICI. Is the unanimous consent——

The PRESIDING OFFICER. Thirty minutes of debate, equally divided between the Senator from Texas and the Senator from New Mexico.

Mr. DOMENICI. I yield 3 minutes off my time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the clash between ideas, which is evidenced in this amendment, is a difficult one, because there are valid points to be made on each side of that argument.

On the side of the Senator from New Mexico is the obvious proposition that it is an important priority for society to provide access to the courts in civil litigation or in civil claims for those who are too poor, who do not have the economic wherewithal, to hire their own lawyers.

We, as a society, wish to see that justice is done. We do not wish to deny that justice to people simply on economic grounds, and we know of large numbers of people in many classes who need the kind of assistance which they can get, not solely but frequently, almost alone from an organization like the Legal Services Corporation.

On the other side is the argument that lawyers of the governing body of the Legal Services Corporation have misused the money and the authority that they have been given by Congress to bring lawsuits designed primarily to meet social or political ends of those lawyers or of that governing body in which the poor plaintiffs are not much more than nominal parties, to use that money often for political or ideological ends which may clash not only with conservative thought but with any administration, no matter how liberal that administration may be.

In that clash, Mr. President, it seems to me that the Senator from New Mexico has the better of the argument because he preserves that first social goal of seeing to it under many circumstances the poor can be represented in court while attempting, and I think attempting with a large degree of success, to prevent the misuse of this Federal money.

It is rightfully not only annoying but regarded as an outrage by many people in our society that they, as employers or as landowners or as individuals, are sued by use of their own money.

May I have another minute from Senator DOMENICI?

Mr. DOMENICI. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 additional minutes.

Mr. GORTON. That is a justified objection, Mr. President. But I am convinced that we have an opportunity, if we go along the road that the Senator from New Mexico has set out for us, to retain what is good and what is important in the Legal Services Corporation and prevent the excesses to which many of our citizens have been subjected in the past and about which we have heard.

If it turns out that these requirements, that these limitations do not work, that these injustices continue, well, we are dealing with only a 1-year appropriations bill. We can deal with those objections at another time relatively soon in the future.

So it is for that reason, Mr. President—that we can retain what is appropriate about the Legal Services Corporation, and we can at least begin, and perhaps succeed, in reining in the excesses of that corporation—that I support the position outlined so well by the Senator from New Mexico and ask that we accept his amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas. The Senator from Texas has 15 minutes.

Mr. GRAMM. Mr. President, I thank you for your recognition.

Mr. DOMENICI. Will Senator GRAMM yield for 10 seconds?

Mr. GRAMM. I will be happy to yield.

Mr. DOMENICI. Mr. President, I say to Senator GORTON, I want to thank him for his remarks. I very much appreciate it. It is very helpful to me hearing that statement from him. He is one of the most renowned of the attorneys around here, even though he is not an attorney or lawyer any longer, and I very much appreciate it.

Mr. GRAMM. Mr. President, let me go back, because we have had a lot said, a lot of intellectual sparring, from people who spoke with passion on both sides of the issue. This is an important issue, because you have busy people who are in the process of debating it. But let me remind my colleagues of how we got to this point.

First of all, we adopted a budget that set out a goal of balancing the Federal budget in 7 years, and in that budget, we set out a target number, not binding but set out as a guideline, to fund Legal Services Corporation at $278 million.

In the allocation of funds to the Commerce, State, Justice Subcommittee, we were given $3.4 billion less money than President Clinton had to write his budget; we were given $1.2 billion less than the comparable committee in the House. And in spreading that reduction in spending, I reduced the funding level for Legal Services Corporation proportionately to $210 million.

Senator DOMENICI is proposing raising the funding level to $340 million. I think there are a lot of issues that are important here. Let me just go through each of them.

The first issue has to do with offsets. In order to increase the level of funding for Legal Services Corporation to $340 million, Senator DOMENICI has to cut other programs in order to make that possible.

I think it is important my colleagues decide not whether or not they want to fund the Legal Services Corporation, but whether or not it is worth it to take the money away from other programs in order to pay for it. I want to ask my colleagues look at those other programs.

In order to fund the Legal Services Corporation, a corporation that Senator DOMENICI, in his own amendment, says needs to be dramatically changed, its actions need to be reined in—I submitted for the RECORD letters from everybody, from the Farm Bureau to Citizens Against Government Waste, letters from outside groups that would like to eliminate or dramatically reduce funding for legal services. But

quite aside, the question is, is it worth taking money away from those things that Senator DOMENICI proposes taking money away from in order to fund the program? Let me review a few of those proposed offsets.

In order to fund a Federal Legal Services Corporation, Senator DOMENICI proposes to reduce general legal activities in the Justice Department by $25 million. I remind my colleagues that we are already $10 million below the President's request. This will take us to $35 million below the President's request, and this will eliminate roughly 200 prosecutors in the following areas: Prosecutors in the area of organized crime, major drug trafficking, child pornography, major fraud against the taxpayer, terrorism and espionage, and other types of activities that fall within the Federal jurisdiction.

The first question I would like to ask is, is it important enough to you to fund Legal Services Corporation above the level set out in the budget that we adopted in the U.S. Senate; is it important enough that we ought to take 200 prosecutors away from prosecuting organized crime, child pornography, major drug trafficking, major fraud against the taxpayer, terrorism and espionage? I think that is the first question.

The second question is, in order to fund a Federal Legal Services Corporation at a level above the level that we set out in the budget that we adopted, the Domenici amendment cuts the U.S. Attorney's Office by $11 million. That means that with the adoption of this amendment, we will have 55 fewer assistant U.S. attorneys and 55 fewer support personnel than we will have if the amendment is not adopted.

So the relevant question is not do you want to give the Legal Services Corporation more money, but do you want the U.S. Attorney's Office to have more prosecutors to prosecute people who are selling drugs at the door of every junior high school in America?

The Domenici amendment to fund the Legal Services Corporation at a level above the level contemplated in the budget that we adopted in the U.S. Senate proposes cutting the FBI by $49 million. These funds will largely come out of the FBI Academy at Quantico, VA. This academy is the most important training facility for law enforcement in the United States of America. This project was endorsed by 91 Senators who voted for the Comprehensive Terrorism Prevention Act of 1995.

The question is not do you want to give more money to legal services, not do you want to fund legal services at a level above the level we contemplated in the budget we adopted in the Senate, but are you willing to take $49 million away from the FBI, away from the principal construction project at the FBI Academy which, each year, funds the training of 1,225 of the most outstanding law enforcement officials in America.

The Domenici amendment, in order to fund the legal services Corporation at a level above the level contemplated in our budget, cuts the Federal judiciary by $25 million. Let me put that into people. That is 400 probation officers, who could supervise convicted felons who are out on the street under supervised parole. That is 400 probation officers who, in conjunction with the overall program, could carry out the mandatory drug testing of all released convicts to assure that they are not on drugs.

I could go on, Mr. President, but the basic point is that the Domenici amendment is cutting prosecutors, courts, the FBI, and probation officers in order to fund the Legal Services Corporation. What does the bill that Senator DOMENICI would amend do? What it does is it funds Legal Services Corporation at $210 million. It block grants that money back to the States exactly as we block grant AFDC, exactly as we are going to block grant Medicaid, and it allows the States to set up a system to contract with attorneys to represent poor people. It eliminates a superstructure, which is largely responsible for the use of this agency to promote a political agenda which is largely not the agenda of the American people.

Senator DOMENICI claims in his amendment to tighten up on what the agency can do with this money, but the restrictions imposed are less restrictive than the provisions that are actually in the bill now. And in several areas, they simply have major loopholes. For example, the Domenici amendment says legal services is banned from legislative lobbying. But there is a major loophole, section 14B, that allows funds to be used to lobby for more funds and for fewer restrictions.

The Domenici amendment prohibits the use of money for legal services for filing lawsuits having to do with congressional and legislative redistricting. As I pointed out, that is the law of the land. In 1990, when the Texas Rural Legal Aid filed a lawsuit against redistricting in Texas and the Bush-appointed Legal Services Corporation Board attempted to cut their funding, they filed a lawsuit; the funding continued, and when President Clinton's Legal Services Board took office, they settled the suit out of court, and the funding continues for Texas legal aid.

The problem is that this is an agency which has not carried out the will of Congress, and despite the fact that literally a dozen times we have tried to rein in the Federal superstructure of this agency, we have never been successful in doing it. The proposal that I made—the language that is in the bill—is taking the funds, giving the funds to the State, cutting out this bureaucracy and this Federal infrastructure and letting the funds be used to represent poor people who need legal assistance.

I think this is an amendment that should be defeated. I know that there is strong support for a Federal Legal Services Corporation. I personally do not share the philosophy or the views of those who are for it. But I ask my colleagues—even those who are for it—to look at the cuts that are instituted to pay for it and ask themselves: Do we want more prosecutors? Do we want more funding for FBI? Do we want more courts? Or do we want to give more money to a Federal program that has probably been more abused than any other Federal program that was born in the Great Society era?

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I do not know if there are any others on the Domenici-Hollings amendment side who would like to speak. So, in precaution, because there may be some, will the Chair tell me when I have used 7½ minutes?

The PRESIDING OFFICER. When the Senator has used 7½ minutes or has 7½ minutes remaining?

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. The Senator has 9 minutes, 45 seconds.

Mr. DOMENICI. Tell me when I have used 5 minutes.

Mr. President, let me first start and make sure that everybody understands that when this bill cleared the subcommittee under the leadership of Senator GRAMM, when this amendment came out of his work product, it had no money in it for legal services, none. Senator HATFIELD put an amendment in to put some in it.

What actually happened, Mr. President, is that Senator GRAMM decided, as I see it, not to fund legal services, so he went along the line on every justice program, every prevention program, every law enforcement program, and he put a lot of extra money in it, so he could come to the floor and say, if you take some away, you are cutting it. What he had actually done is eliminate all the money from this program and bump up the funding levels on the above.

Let me give you an example. Let us talk about U.S. attorneys. The Domenici amendment is so bad for U.S. attorneys that the U.S. House is $28 million worse. They have put $28 million less in U.S. attorneys than when we are finished with the amendment of the Senator from New Mexico.

Let me tell you what my amendment does. It leaves an increase of $87 million. Who would have thought that from the argument made by my good friend from Texas? If his numbers are correct, then what we have done is we

have added 440 new U.S. attorneys. The Senator speaks of losing 55. There are 440 new ones. No U.S. attorneys office, including my own, has called me saying that the 440 additional U.S. attorneys, with all their support, was inadequate.

You see, if you put all the money in for these other purposes so there is nothing left for legal services, then when legal services comes to talk about needing funds, it looks like you'd have to cut other programs because there was no money left.

Let me go on with just one other one: the FBI building. First of all, I have never said we do not need modernization and new infrastructure and buildings for the Academy. I am one of its staunchest supporters. As a matter of fact, 2 years ago, I believe Director Freeh will tell you that it was Senator DOMENICI's amendment that added 350 people to the FBI so they would have adequate support. Director Freeh called me up and thanked me profusely for helping the FBI. These 1,225 American FBI policemen who are going through that Academy are going to go through this Academy without any problem if the Domenici amendment is adopted.

What the Senator from New Mexico said is that there is over $80 million in here for a building that is not ready to be built. They will not need the money until next year. Why do we have to put it all in this year again? If you put all the money in that, there is no money left for legal service.

When Senator DOMENICI comes to the floor and says, "Put a little in legal service," you have the FBI Academy. I cannot do any better than that. My friend from Texas is eloquent in his ability to draw analogies and all the other kinds of things that are good in debate, that I do not excel at. I am merely here as best I can, stating the facts.

Now, on another matter, my friend from Texas said we fund this program in this bill to the tune of $210 million. Once again, what is important about a program is not how much you fund it but how much you let it spend.

The Senator from Texas has $210 million but what you can spend in the whole year on lawyers for the poor is $53 million. That is what is allowed under this bill.

Now, having said that, clearly I want to repeat that President Richard Nixon was not afraid to say Republicans are concerned about poor people. He joined with the bar and said, "Let us help poor people who need lawyers. The American system of justice is built around equal representation under the law."

This program has gone far afield from Richard Nixon's day. My amendment will bring it right back where it should have been, and the list of prohibitions have been categorized unfairly by my friend from Texas as less strong than in the bill. I will just tick off the principal prohibitions. No class action lawsuits, no advocating of policies relating to redistricting, no advocacy-influencing action by any legislation, constitutional amendment referendum, no legal services for illegal aliens and on and on. I will print the list in the RECORD again.

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

SUMMARY: DOMENICI LEGAL SERVICES AMENDMENT

IN GENERAL

The amendment restores the Legal Services Corporation, provides $340 million in funding for fiscal year 1996 and adopts House Appropriations restrictions on use of funds. Appropriate offsets will be found throughout the appropriations bill.

FUNDING

Provides $340 million in FY 1996, $225 million through August 31, 1996 and $115, to be provided upon the September 1, 1996, implementation of a competitive bidding system for grants, as outlined in the amendment.

RESTRICTIONS ON USE OF FUNDS BY CORPORATION AND RECIPIENTS

Advocating policies relating to redistricting (same as House)

No class action lawsuits. (stronger than House)

Influencing action on any legislation, Constitutional Amendment, referendum or similar procedure of Congress, State or local legislative body. (same as House)

Legal assistance to illegal aliens. (same as House)

Supporting/conducting training programs relating to political activity. (same as House)

Abortion litigation. (same as House)

Prisoner litigation. (same as House)

Welfare reform litigation, except to represent individual on particular matter that does not involve changing existing law. (same as House)

Representing individuals evicted from public housing due to sale of drugs (same as House)

Accepting employment as a result of giving unsolicited advice to non-attorneys. (same as House)

All non-LSC funds used to provide legal services by recipients may not be used for the purposes prohibited by the Act. (same as House)

SPECIAL PROVISIONS

Competitive bidding of grants must be implemented by September 1, 1995, and regulations must be proposed 60 days after enactment of the Act. Funds will be provided on an "equal figure per individual in poverty."

Native Americans will receive additional consideration under the act but no special earmarks are provided as have existed in the past.

Restrictions shall apply only to new cases undertaken or additional matters being addressed in existing cases.

Lobbying restrictions shall not be construed to prohibit a local recipient from using non-LSC funds to lobby for additional funding from their State or local government. In addition, they shall not prohibit the Corporation from providing comments on federal funding proposals, at the request of Congress.

Mr. DOMENICI. We will return this to a slimmed-down legal services only representing poor people in their individual cases.

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. DOMENICI. I yield 3 minutes.

Mr. HOLLINGS. I think the record should show not only the leadership of Senator DOMENICI but the leadership on behalf of the Senate here, because in essence what we have is Senator GRAMM's position is not in accordance with the authorization.

There is no authorization. There have been no hearings in the Judiciary Committee to change over and abolish the Legal Services Corporation.

The fact is this Senator was waiting for a markup of this particular committee. My distinguished colleague, Senator GRAMM, told me 2 or 3 days before we were due he had one and would submit it to me, and we waited those 2 or 3 days, and finally on the afternoon before we submitted the next morning I finally called the chairman of the full committee, Senator HATFIELD, who said he was just getting together with Senator GRAMM.

In essence, when we faced this particular markup, the subcommittee had not met over it, and when we got to the full committee, the full committee said we would take it up on the floor. This is not a committee markup being amended. The truth of the matter is the amendment of Senator DOMENICI really brings about the committee into its normal course of the treatment in accordance with the authorization.

The fact is if this thing persists under the position of Senator GRAMM I will have to raise a point of order that it is an appropriation for an unauthorized amount, because there is no authorization for the block grant program that he conceived in his own mind.

The U.S. Senate in orderly procedure, in the Judiciary Committee and otherwise, has not had a chance to have hearings. This is such an outstanding program that has brought civic leadership and participation—not just the $400 million that we are appropriating but some $255 million that comes from the cities, the counties, the States, the American bar and different private groups.

This has really engendered quite a contribution and an effort of some 130,000 legal services lawyers paid at an average of around $30,000 a year. You are not going to get that in block grants. We worked with the block grants before, and to our embarrassment this is a subcommittee that finally had to abolish it because it was whitewater rafting and monkfish and tanks on the lawn, and airplanes so the Governor could fly to New York and everything else but law enforcement.

I am absolutely opposed to any block grants back to the States. Keep the so-called cops on the beat on the one hand and the legal services attorneys representing the hungry poor.

The PRESIDING OFFICER. The Senator from Texas has 3 minutes and 13 seconds.

Mr. GRAMM. Let me try to sort out the facts from the fiction.

First of all, there is no authorization for the Legal Services Corporation, period; nor has it been authorized since 1980. This is a program that Congress has consistently refused to authorize, but every year we have appropriated for.

Now, we are getting a lot of gamesmanship on these numbers because in reality the proponents of this amendment want to act as if it is free to give $340 million to the Legal Services Corporation. It is not free.

Under the bill that is before the Senate, we are providing $10 million less for general legal activities in the Justice Department than President Clinton asked for. The Domenici amendment will cut that funding $25 million further.

What does that mean? That means eliminating 200 prosecutors and litigators that are prosecuting organized crime, major drug traffickers, child pornography, major fraud against the taxpayers, terrorism, and espionage cases.

Now, the question is, you can jimmy the numbers however you want. Would you rather spend $25 million prosecuting organized crime, drug traffickers, child pornographers, fraud against the taxpayers, terrorism, and espionage, or fund a Federal legal services corporation? That is the question.

This bill will provide 55 fewer assistant U.S. attorneys, 55 fewer support personnel than the bill that is before the Senate, in order to fund the Legal Services Corporation.

Would you rather have 55 more assistant U.S. attorneys to prosecute people selling drugs at every junior high school in America, or would you rather fund the Legal Services Corporation?

Finally, in terms of the FBI, Senator DOMENICI constantly confuses two projects. One, a technical support center which he cuts; but another which is the upgrade of the FBI Academy, a project that we do have plans for, a project that is desperately needed. In order to fund a Federal legal services corporation, the Domenici amendment cuts the FBI by $49 million, denies the upgraded facilities at the FBI Academy, which is the most important law enforcement training center on the planet.

Now, the question is this: Is it worth it to you to have a Federal legal services corporation; and is it worth taking $49 million away from the FBI and the FBI Academy to fund it? I think the answer to that is no.

We have in the committee bill a block grant of legal services.

Our colleagues say you cannot block grant legal services because the States will not do it right. Why do we trust them to do aid to families with dependent children? Is having the ability to get legal representation when you are drug dealing in public housing, to keep them from kicking you out, more important than eating? Why do we trust them to administer Medicaid? Is getting medical care less important than getting a lawyer? I do not think so.

I think what we are seeing here is a commitment to a program which is the most abused program of any program that was developed in the great society. Not even the proponents of maintaining the Federal program will defend its record.

I believe this program should be block granted. I believe we should not cut law enforcement to fund the Legal Services Corporation.

Mr. President, under the previous order I move to table the Domenici amendment.

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

The PRESIDING OFFICER (Mr. INHOFE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment No. 2819.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

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

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 476 Leg.]

YEAS—39

Abraham	Faircloth	Mack
Ashcroft	Frist	McCain
Bennett	Gramm	McConnell
Brown	Grams	Murkowski
Burns	Grassley	Nickles
Byrd	Gregg	Pressler
Campbell	Hatch	Roth
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Kempthorne	Thomas
DeWine	Kyl	Thurmond
Dole	Lott	Warner

NAYS—60

Akaka	Feinstein	Lugar
Baucus	Ford	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Harkin	Murray
Boxer	Hatfield	Nunn
Bradley	Heflin	Packwood
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Jeffords	Reid
Chafee	Johnston	Robb
Cohen	Kassebaum	Rockefeller
Conrad	Kennedy	Santorum
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Domenici	Lautenberg	Specter
Dorgan	Leahy	Stevens
Exon	Levin	Thompson
Feingold	Lieberman	Wellstone

NOT VOTING—1

Glenn

So the motion to lay on the table the amendment (No. 2819) was rejected.

Mr. DOMENICI. What was the vote, Mr. President?

The PRESIDING OFFICER. On this vote, the yeas were 39 and the nays 60.

Mr. DOMENICI. 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.

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

Mr. DOMENICI. Mr. President, we have 60 votes. I wonder if the Senator would consider vitiating the yeas and nays on an up-or-down vote?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it had been my determination to continue to fight this amendment if it did not have the 60 votes in order to get cloture. Needless to say, I am disappointed. I think we are making a mistake here, but it is clear to me, as a member of the Appropriations Committee, I am never going to be able to eliminate the Legal Services Corporation. Since this is my last day as a member of this committee, I will allow Senator DOMENICI to proceed with a voice vote. Having a recorded vote, I assume, would produce the same result, would simply tie up the Senate's time, and as a result I ask unanimous consent to vitiate the requested rollcall vote on the amendment.

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

Mr. DOMENICI. Mr. President, I thank Senator GRAMM for his gentleness.

Mr. BYRD. Mr. President, may we have order in the Senate? I wish Senators would just stop and look around at what is going on in the Senate. There should be order in the Senate. The Senator has a right to be heard, and other Senators have a right to understand what he is saying.

The PRESIDING OFFICER. The Senator is correct.

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

Mr. BYRD. Mr. President, I hope the Senator will desist until the Chair gets order in the Senate.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from New Mexico.

Mr. BYRD. I hope the Senator will desist——

Mr. BRADLEY. Mr. President, may we have order?

Mr. FORD. Mr. President, the Senate is not in order.

Mr. BYRD. Until there is order in the Senate. The Chair has the responsibility to get order in the Senate——

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Whether or not it is requested from the floor. And I hope Senators will assist the Chair in getting order. This looks like the floor of the New York Stock Exchange.

The PRESIDING OFFICER. Senators will carry their conversations outside the Senate.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have nothing to say. Why not vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 2819.

The amendment (No. 2819) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me first indicate that we are making progress. I am not certain where, but somewhere we must be making progress. It is still our hope we might be able to complete business sometime tomorrow or Monday. We are still in the Finance Committee. We have 40 or 50 amendments left in the Finance Committee to deal with. I do not see how we are going to do all that today.

In addition, one urgent thing we need to address is the continuing resolution because we have about 435 House Members who would like to depart and they cannot do that until we pass the continuing resolution. I am advised by the Senator from New Hampshire [Mr. GREGG] that he intends to offer a sense-of-the-Senate amendment with reference to Bosnia on the continuing resolution once it is before the Senate.

It is our hope, if it is necessary to offer that amendment, it can be offered on the State-Justice-Commerce bill. And also to notify the Senator from Texas his last day on the Appropriations Committee is when we finish this bill. So if the Senator is in a hurry to leave, why, we hope he will cooperate in any event.

So I do not know precisely what to do here. I would like to expedite this and everybody be able to go home tonight and not come back for 8 days. But to do that we have to make some accommodations one way or the other. And we would like to pass the pending bill yet today. Senator HATFIELD is insisting we pass the Labor-HHS appropriations bill so all the appropriations bills and the CR will have passed the Senate. This does not mean they are not going to be vetoed. They may not get to conference.

So if the Democratic leader has any suggestions, I will be happy to hear them.

Mr. DASCHLE. I would like to propound the unanimous-consent request on the CR. I think we are prepared to enter into that arrangement. And I would like to work through the remaining amendments on Commerce, State, Justice. I think we have come to the point where we might be able to put most amendments in a package and dispose of that bill. And if we could work out some understanding of Labor, HHS, I think we could even do a voice vote on that one. So we are prepared to cooperate. And I think the first step would be the passage of the UC on the CR.

Mr. GREGG. Mr. President, will the leader entertain a question?

Mr. DOLE. I will yield to the Senator from New Hampshire.

Mr. GREGG. It had been my original intention to offer this amendment, which simply states what I believe is the administration's policy, which is they should come to the Congress before they introduce 25,000 American troops into Bosnia. I do think it our legitimate right as Congress to request that they do come to the Congress before that occurs.

It had been my intention to put this amendment on the continuing resolution, and put it on as a matter of law, raising that point. Now I have agreed to move to a sense-of-the-Senate, which is a fairly significant reduction of position on my part.

Second, I even agreed to put it on the Commerce bill, which was an even more significant reduction on my part. What I am not getting is any cooperation on this from the other side for a time agreement. Basically, I am told there will be no agreement on a time agreement on this.

Now, I can get this up now by putting it on the continuing resolution, which I think would be very appropriate. I think the House should have a chance to act on this before they go home for a week and we might find American troops moved into Bosnia while we are away.

But, as a practical matter, I am not willing to take that position if we can get a vote on this today before we adjourn and before we get too far into any further consideration of the Commerce bill, as I would have had the opportunity to have such a vote had I put it on the continuing resolution.

I do not feel this is being unreasonable. I think it is being very reasonable in the light of the timeframe here and in an attempt to work with leadership.

Mr. DOLE. I appreciate the comments of the Senator from New Hampshire. I understand the Senator from Georgia, Senator NUNN, indicated a willingness to sit down with the Senator from New Hampshire to try to work out some language that could be supported. I do not have any idea what he has in mind. Maybe it is precisely what the Senator from New Hampshire already has.

Does Senator NUNN have a copy of your resolution?

Mr. GREGG. Yes, he does. We would like to work with it in view of the White House. It is basically language that already existed in another piece of legislation that I believe came through this body.

Mr. DASCHLE. Mr. President, I do not know why that language would have to be offered on this legislation. It is not germane to the Justice-State-Commerce bill. It is not germane to the CR.

We are willing to try to accommodate the Senator if we can have some time to look at the language and find out whether this is in keeping with past precedent. We want to be sure that we are not cutting new ground here. And I think perhaps over a period of time we might be able to resolve this matter.

We cannot do it now. There is no way we can agree to any time agreement until many of us have had a chance to look at it. So it will probably be some time prior to the time we can give any assurance to the Senator from New Hampshire. But we will certainly look at it and see if there is a way to do it in spite of the fact we do not think it belongs on this piece of legislation.

Mr. GREGG. If I may respond to the Democratic leader.

Mr. DOLE. I will be happy to yield.

Mr. DASCHLE. It is clearly germane because it is in terms of spending money for purposes of introducing troops into Bosnia. Now, that is clearly germane to a continuing resolution which involves spending money. And it is clearly topical and timely in light of the rather intense discussion that is going on about moving American troops into Bosnia. It does seem appropriate that this body should speak on that issue before it occurs.

Mr. HATFIELD. Will the leader yield?

Mr. DOLE. Let me first yield to the Senator from South Carolina, seeking recognition. I know it is for an accommodation.

Mr. THURMOND. Mr. Chairman, the reappointment of General Shalikashvili we will take up this afternoon, that nomination, in order for him to continue in office. It will not take over 10 minutes, I do not think. I just wanted to remind everyone we will have to take it up.

Mr. DOLE. We will take it up before we recess because it is important and should be done.

I will be happy to yield to the chairman of the Appropriations Committee, who would like us to complete action on these two bills.

Mr. HATFIELD. I thank the leader.

Let me just reiterate the procedure we are in at this moment on these two appropriations bills.

To put it very bluntly, these are corpses, and all the prayers and all the

amendments that you can pray or offer are not going to change the reality that these two bills have been clearly identified as two bills to be vetoed. I, for the life of me, cannot understand the wasted effort that is going on on the floor and for the last 48 hours in trying to revive a corpse. It just does not happen this way. It only happened once. [Laughter.]

So consequently, it seems to me, if we could voice vote these two bills out, move the process with the CR, the reality is the White House and the Members of Congress, the Budget Committee people, the Appropriations Committee people, are going to have to revisit Defense; Labor-HHS; State, Justice, and Commerce; HUD and independent agencies; and possibly, although the House has now rereferred the bill back to committee, the report on the Interior. Those are veto bills.

Now, we are going to have to find more money. It is not a simple proposition to satisfy the White House on those three nondefense bills. So I say, for one who cannot get a plane reservation on a moment's notice like some can—I do have to go clear to the west coast—and my colleagues like me, we cannot just find an hour and say, well, we are going to be finished in the next hour, and get a reservation. So have some consideration, please, on that basis as well, the personal basis.

But I just want to say—there is no more blunt way I can put it—we are wasting our time on these two appropriations bills.

Mr. SARBANES. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. SARBANES. First of all, I am very responsive to the Senator's personal plea. It strikes me this may be in the way of being an autopsy in order to find out why these bills are corpses, and that is the process we are engaged in, trying to discover what it is about these bills that made them corpses.

Mr. HATFIELD. I could tell you simply, in conjunction with discussions with people at the White House and people representing the White House position, we did not have enough nondefense discretionary dollars for the 602(b) allocations. We had cut too much out of our budget resolution of the program needs and the priorities of the White House, the dollars necessary to get their signature to these bills.

Mr. DOLE. As I understand it now, based on conversations with people I have confidence in at the White House, the President will not sign these two bills. They are essentially dead. And I would like to remove them from the Senate Chamber for last rites.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. I think everybody here is extremely sympathetic to the majority leader's problem in trying to get these bills passed and to get us out of here for a recess that everybody is looking forward to. Now, the chairman of the committee has just said that these bills are dead on arrival at the White House.

But here is the problem I have with that, and in not offering a couple of amendments I feel very strongly about. The President, like every Member of the Senate, reserves the right to change his mind. One of the prime objections he had to this bill was legal services, torpedoing the Legal Services Corporation. We have just taken a giant step toward satisfying one of the objections the President had to this bill.

If we legislate in a diligent way here, we might address a couple of others, and he might sign it. If I do not offer my amendments and the President does sign the bill, I am out until 1996, as is every other Senator here. I want to be as cooperative as possible. I have a couple of amendments. I think one will be accepted; I will agree to a short time agreement on the other. But I am reluctant to quit or to withdraw my amendments or not offer them on the proposition that the President is going to veto all of them because, as I say, he may change his mind.

Mr. BIDEN. Will the Senator yield for a moment?

Mr. DOLE. My understanding is he will not change his mind, but I will be happy to yield.

Mr. BIDEN. Mr. President, unless there is a resurrection that occurs here, talking in metaphorical terms, there is no possibility that the President will sign the bill with your amendment in it or not—zero, none, no possibility. I have been told that by the White House. There is not enough money, there is not enough time, there is not enough ingenuity and enough anything to make this bill palatable to the President, in just talking about the criminal justice side of things.

So I think the majority leader is absolutely, positively correct. I think we should do a managers' amendment on a few of the major chunks of the bill and get on with the show. This really is an exercise in futility.

Mr. HARKIN. Mr. President, will the majority leader yield?

Mr. DOLE. I will be happy to yield to the Senator from Iowa.

Mr. HARKIN. I thank the leader for yielding. I just discussed with the chairman of our Labor-HHS committee, Senator SPECTER, and consulted with our side and on Labor-HHS, with the knocking out of that one provision—and we all know what that is—we can voice vote that in the next 3 minutes. We would be willing to do that. I checked with Senator SPECTER, and I believe I am representing him correctly.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DOLE. Mr. President, I will be happy to yield to the Senator from Pennsylvania.

Mr. SPECTER. I thank the majority leader. I consulted with the distinguished Senator from Oklahoma, Senator NICKLES, who said that he would be willing to, at least speaking for himself, withdraw the amendment on striker replacement, which would set the stage for a voice vote. And here we are dealing again with a corpse that is a pro forma matter.

It seems to me what the distinguished majority leader has said is preeminently correct, backed up by almost everybody, that we ought to voice vote these two bills and move on to the continuing resolution and conclude our business.

For the bill on Labor, Health and Human Services, and Education, we are prepared to move in that direction right now.

Mr. COATS. Will the majority leader yield?

Mr. HARKIN. Will the majority leader yield?

Mr. DOLE. Let me indicate first, I think what we are engaged in—and I do not quarrel with anybody, I talked with the leader about it, and we do waste time periodically in the Senate—but this is a total waste of time to continue on these two bills because they are not going anywhere.

I know some want to make a point. We are going to have to do that in about 6 weeks when we have a real live bill on the floor. I do not see any reason to take today, tomorrow, Monday, and Tuesday of next week to finish two bills that are already in the ash can. If people insist on it, we can accommodate them.

I agree with the Senator from Pennsylvania and the Senator from Iowa that we ought to pass that bill on a voice vote. We cannot get cloture. There were two votes, 54–46, party-line votes. So my view is we ought to do it, pass it and find out what happens after the veto in the next round.

I will be happy to yield to the Senator from Indiana.

Mr. COATS. Mr. President, I would like to just see if I understand the situation here. It seems that the coroner has pronounced these two bills dead, and we all wanted to look at the body and we have all concluded that they are dead, or most of us have concluded that they are dead.

In that light, it is hard for me to understand why the sense-of-the-Senate resolution of the Senator from New Hampshire is something that needs to be delayed. He feels, as a matter of law—and I daresay that would be supported by a strong majority of people on both sides of the aisle—that the President ought to seek congressional authorization for putting 25,000 American troops in Bosnia, something the President has already indicated he wants to do.

But the Senator from New Hampshire has said he will not offer that as a matter of law, nor will he offer it on the continuing resolution, which is a bill which is not dead and will go through here. He will put it on a bill that we have all agreed is going nowhere, and yet objection is raised to the Senator doing that, that the bill has to be examined.

It is a sense of the Senate and something we have already voted on. It is being put on a bill that we have all agreed is going nowhere. The President has already signified his support for the notion, but the Senator is not allowed to go forward with it.

Can anybody explain to me why we now need to delay to examine something that is going nowhere?

Mr. DOLE. If the Senator will yield, I think there is discussion right now with someone on the other side at least to look at the language to see if they can reach some agreement. I think Senator NUNN has a copy of the resolution. Hopefully, we can work it out in a few moments.

Mr. COATS. I thank the leader.

Mr. DOLE. But I am not going anywhere this weekend, so I do not care.

Mr. DOMENICI. Will the leader yield for an observation? It will take little time. I think the discussion we have been having is a good one. But I do not think the White House ought to gather from this discussion that the U.S. Senate is ready to give them more money on the domestic side for these bills. That is not a foregone conclusion. We would be breaking the budget we worked very hard to pass.

I just want to make sure everybody knows that there is no easy solution to the bills the President vetoes. That is his prerogative. But obviously, sooner or later, we have some prerogatives, like maybe we do not get a bill and maybe something happens; maybe Government is not alive and kicking all at the same time.

I yield the floor.

Mr. KERRY. Will the majority leader yield?

Mr. DOLE. I yield to the Senator from New Hampshire and then the Senator from Massachusetts. Then I hope we can work out some agreement on the CR and pass the other bill, and then we only have one left.

Mr. SMITH. Mr. President, I just ask the leader, it would be the intention, after the President vetoes this bill, that we would have the opportunity to debate and vote on the various issues of concern that some Members have regarding this bill; is that his intention?

Mr. DOLE. Is the Senator talking about the Labor-HHS bill?

Mr. SMITH. Yes.

Mr. DOLE. Mr. President, there are three provisions we are both concerned about that were stripped from the bill, and the answer is yes. My point is we can make that fight now, but it is not going to accomplish anything. We can make the fight the next time around, and I think it is for real.

So the answer is yes, and I support the Senator from New Hampshire.

Mr. SMITH. I thank the Senator for that clarification.

Mr. KERRY. Mr. President, I think that the Senator from New Hampshire has made a very fair downscaling of a request. What I want to suggest, I ask the leader, is if we can take a few minutes to see if we can try to come to some agreement with respect to language that might be able to expedite the process, and then conceivably have a managers' amendment and a vote up or down. That might be able to expedite it. I wonder if it might be possible to take the time to do that.

Mr. DOLE. Are you talking about State, Justice, Commerce?

Mr. KERRY. State, Justice, Commerce, and with respect to the State portion of that, if we can spend a minute on the Bosnia issue, we might be able to resolve that, hopefully, with Senator NUNN and other interested parties and come up with language quickly on which we can move forward.

Mr. DOLE. I certainly have no problem with that. Let me indicate, I am not going to ask consent now on the continuing resolution. There will be an objection or an amendment. I hope we can resolve it. There is not an amendment on the CR. A sense of the Senate would not require concurrence by the House. But I hope we can pass a clean CR. We promised our colleagues in the House we would try to do that if they do that, because they had people who wanted to offer amendments, too, and they were not permitted on the House side, and they have different rules.

I will not make that request at this time. I hope in the meantime those Senators who have an interest in the Bosnia resolution can come together and work out some language. It cannot be that difficult. We passed it before, and the President has indicated to us today at the White House he intends to consult with Congress.

So I think it is a fairly moot point, but if we want to vote on a moot point, we have done that from time to time here, too. So I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, what is the regular order?

The PRESIDING OFFICER. Currently the majority leader has the floor. He has just yielded the floor. The Biden amendment is pending.

AMENDMENT NO. 2818, AS FURTHER MODIFIED

Mr. BIDEN. Mr. President, I think the Biden amendment is pending. I already debated the amendment. I ask unanimous consent that I be able to amend my amendment. The managers are aware of the amendment. It relates to a $60 million offset—not offset—$60 million offset to accommodate the Senator from Ohio. I ask unanimous consent that I be able to so amend my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Mr. President, I am ready to vote on my amendment.

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

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. BIDEN. Yes, I will.

Mr. LOTT. Mr. President, will the distinguished Senator from Delaware yield?

Mr. BIDEN. I yield.

Mr. LOTT. The manager of the bill is not on the floor right now. I wonder, has the Senator had an opportunity to discuss and clear this with the manager of the bill?

Mr. BIDEN. Mr. President, I beg the Senator's pardon?

Mr. LOTT. Mr. President, I am just inquiring about the manager of the bill. Has the Senator had an opportunity to discuss it with the manager?

Mr. BIDEN. I have a second issue. I do not want to confuse the Senator. There are two amendments: One, the Biden amendment referred to earlier was debated yesterday. That amendment has a number of offsets in it which we discussed for 2 hours yesterday. That is the one I just amended to accommodate a DeWine proposal.

There is a second issue here and that is a managers' amendment going to the funding in this bill for the police program.

I have reached an agreement, to the best of my knowledge, with the Senator from Kansas, with the Senator from Texas, the manager of the bill, and with the Senator from South Carolina. I have that agreed upon language between the manager and the parties I suggested. That goes to another big chunk of the difference of the debate. All that relates to is, one sentence—it takes out the block grant language for the police and reinstates the original language. That is a separate issue than the Biden amendment. I am not sure if I am answering the Senator's question. If that is the answer, I am prepared to move that amendment right now. That is, the so-called managers amendment and ask for a voice vote on it.

I am not looking for a rollcall vote because we have all agreed as of at least 10 minutes ago. Does that answer the question of the Senator from Mississippi?

Mr. LOTT. I think it does. Let me inquire, Mr. President, so the pending business then is a modification of the managers' amendment, is that correct?

Mr. BIDEN. A modification of the Biden amendment, which is the pending business. The Biden amendment,

which was introduced and debated for an hour and a half yesterday, relates to the drug courts, relates to drug treatment in prisons and to boot camps. The modification I am sending to the desk is a modification of Mr. DEWINE in the Biden amendment which, in a nutshell, I will explain to my colleagues. In the terrorism bill that passed the Senate, Senator DEWINE——

The PRESIDING OFFICER. We need to have the modification sent to the desk.

Mr. BIDEN. I send the modification to the desk.

The amendment (No. 2818), as further modified, is as follows:

On page 26, line 10, after "Act;" insert the following: "$27,000,000 for grants for residential substance abuse treatment for State prisoners pursuant to section 1001(a)(17) of the 1968 Act; $10,000,000 for grants for rural drug enforcement assistance pursuant to section 1001(a)(9) of the 1968 Act;".

On page 28, line 11, before "$25,000,000" insert "$100,000,000 shall be for drug courts pursuant to title V of the 1994 Act;".

On page 29, line 6, strike "$750,000,000" and insert "$728,800,000".

On page 29, line 15, after "Act;" insert the following: "$1,200,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act".

On page 44, lines 8 and 9, strike "conventional correctional facilities, including prisons and jails," and insert "correctional facilities, including prisons and jails, or boot camp facilities and other low cost correctional facilities for nonviolent offenders that can free conventional prison space".

On page 20, line 16 strike all that follows to page 20 line 19 and insert:

Section 245(1) of the Immigration and Nationality Act (8 U.S.C. 1255(1)) is amended—

(1) in the second sentence of paragraph (1), by striking "five" and inserting "ten"; and

(2) in paragraph (3), by inserting before the period at the end the following: "or, notwithstanding any other provision of law, may be deposited as offsetting collections in the Immigration and Naturalization Service "Salaries and Expenses" appropriations account to be available to support border enforcement and control programs".

The amendments made by subsection (a) shall apply to funds remitted with applications for adjustment of status which were filed on or after the date of enactment of this Act.

For activities authorized by section 130016 of Public Law 103-322, $10,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

At the end of title I, add the following:

SEC. . (a) STATE COMPATIBILITY WITH FEDERAL BUREAU OF INVESTIGATION SYSTEMS.—(1) The Attorney General shall make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) USES.—The executive officer of each State shall use the funds made available under this subsection in conjunction with units of local government, other States, or combinations thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(C) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(D) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall require that each person convicted of a felony of a sexual nature shall provide a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(c) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this section.

(d) ALLOCATION.—The Attorney General shall allocate the funds appropriated under subsection (e) to each State based on the following formula:

(1) .25 percent shall be allocated to each of the participating States.

(2) Of the total funds remaining after the allocation under paragraph (1), each State shall be allocated an amount that bears the same ratio to the amount of such funds as the population of such State bears to the population of all States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are hereby appropriated to carry out this section $60,000,000 for fiscal year 1996.

Mr. BIDEN. This is a modification being proposed at the request of Senator DEWINE. When the terrorism bill passed several months ago, Senator DEWINE, with the unanimous consent of the U.S. Senate, authorized a technical assistance program for the FBI to upgrade their computers and a number of other things, a technical upgrade for the FBI. Senator DEWINE has come to me and asked me whether I would be willing to include not the full funding of that amount, but $60 million as opposed to the $200 million that was authorized. I am more than happy to do that.

The offset for that is the money that, quite frankly, has been saved as a consequence of the adoption of the amendment by the Senator from New Mexico relating to Legal Services. So it does not require an offset. It has been agreed to by Senator HOLLINGS—agreed to in the sense that I am able to modify this amendment, and I believe it has been agreed to by the majority to modify it.

I am asking to be able to modify my amendment, which is pending, with the DeWine language that I have sent to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. Mr. President, I ask unanimous consent that the pending amendment be set aside for 5 minutes for consideration of a Brown amendment.

Mr. GRAMM. Reserving the right to object, I cannot grant a unanimous-consent until I have seen the amendment and know what we are doing. I do not mind it being brought up if the distinguished Senator from Nebraska is willing to step aside, but I cannot agree to a time limit.

The PRESIDING OFFICER. There is objection.

Mr. BROWN. Mr. President, I ask unanimous consent to proceed for 1 minute to describe the amendment that I would like the body to consider.

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

Mr. BROWN. Mr. President, many Members will be surprised to learn that we have a different standard for legal conduct that is written into the Legal Services Corporation Act than exists in our law.

Under our law, under rule 11, we permit sanctions in the event an attorney engages in bringing frivolous actions and the sanctions are discretionary in rule 11. Nevertheless, there is at least some potential penalty if someone abuses the legal process.

Under the Legal Services Corporation statute, however, Legal Services is responsible for their action on a much more limited area that involves very, very extreme action. My hope is the body would consider an amendment that simply brings the Legal Services standards into line with what we impose on every other attorney, that we would put Legal Services under exactly the same standards as any other person who appears in person.

It is one that I think merits the consideration. I assume I would have the support of all Members. It would be my hope the body would allow it to be considered while we are awaiting further action.

Having given that brief explanation, I have given copies of this amendment to both sides. I renew my request in asking unanimous consent to set aside the pending question for 5 minutes only for consideration.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. I object.

Mr. BROWN. 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. KERREY. 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. KERREY. Mr. President, I ask the manager of the bill, my amendment is the amendment after Senator BIDEN. I am willing to go immediately to it and ask unanimous consent that the Biden amendment be set aside for consideration.

Mr. GRAMM. I object.

What is the pending business?

The PRESIDING OFFICER. The pending business is the modified Biden amendment.

Mr. GRAMM. And the Biden amendment has been modified?

The PRESIDING OFFICER. That is correct.

Mr. GRAMM. If there is no debate, I am ready to move to table the Biden amendment.

The PRESIDING OFFICER. The question——

Mr. DASCHLE. 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. BIDEN. 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. BIDEN. Parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. The pending question is the Biden amendment 2818 as modified.

Mr. BIDEN. As modified by Senator DEWINE?

Mr. GRAMM. Mr. President, I personally do not object to the modification, but it was my understanding that there had been an objection on our side and that it had not been modified.

Mr. BIDEN. Mr. President, if——

The PRESIDING OFFICER. The Chair granted that request previously. That request can be vitiated.

Mr. BIDEN. I would like to not have it vitiated if it had been agreed to.

Mr. GRAMM. Would the Senator yield?

Mr. BIDEN. I yield.

Mr. GRAMM. So that we can get things moving, why do you not go ahead and start debating the amendment. Let me notify the Senator who thought he had objected that the unanimous-consent request was agreed to, and if he wants to do something about it, he should come over.

In the meantime, we will begin the business.

Mr. BIDEN. I do not have an objection to that.

Let me review quickly, and hopefully this will take just a moment. We debated this amendment at length yesterday, although I have the right to continue to debate it unless there is a motion to table. I do not want to take more time on the part of the Senate.

Let me just briefly, very briefly, explain what this amendment does. First, it reinstates two-thirds of the money for drug courts, mandatory drug testing, drug treatment backed up by certain punishment for 55,000 offenders now on probation. They would all be put into this program. It provides for two-thirds of the funding that we originally agreed to.

The second thing it does is allow States to continue to have the option to have drug treatment in their prisons. We are not talking about drug treatment for people out on the street; we are talking about treatment for people in prisons, administered by States in prisons.

The third thing it does, it reinstates the money—$10 million—for rural drug enforcement. That function was zeroed out. Again, I will not go into all the arguments, but yesterday we spent a lot of time and I pointed out that the violent crime rate and the drug problem in rural America is increasing at a faster rate than it is in urban America.

Every single, solitary Governor that I am aware of, every single, solitary local official that I am aware of, has said on drug matters, in rural areas, we need help. When you have a 2- or 3-person or 10-person police force facing what is happening, particularly in the Midwest, in the Rocky Mountain West, where drug gangs are moving to those rural areas setting up methamphetamine labs, they say they need help.

This allows the control of the cooperation between Federal and local law enforcement officers to drug enforcement. It also reinstates what I think may have been unintentionally taken out of bill; that is, $1.2 million for law enforcement family support. What that is all about is funds to support families who have had their loved ones slain as peace officers. That is, cops who are killed, their families, their husbands, wives, children.

They, in fact, are involved in and have made available the counseling for families killed in the line of duty, post-shooting debriefings for officers and their spouses and marital support groups that relate to the outcome of what happens when an officer is killed and/or wounded. Many have attended along with me every year the police memorial. Every year we honor slain officers that are killed that year. Every year the families line up and are greeted by the President and me and others who are there—Senator THURMOND. Every year immediately after that occurs, they all get on a bus and they go to these counseling services for 2 days.

If you speak to the families of those officers, slain officers, you will find they say it is the single most important thing the Government does for them, the single most important thing for them to cope with this tragedy.

The last piece of this amendment is $60 million for technology grants to the FBI.

Those technology grants to the FBI are moneys that allow the FBI to upgrade all of their, what the average person would say is their very sophisticated technology capabilities and facilities. Frankly, they could use $200 million, which the distinguished Senator from Ohio put in the terrorism bill for them. But that has been stalled. The only reason we are going with only $60 million is so we do not have to go out and seek offsets to get this money. The offsets to pay for the entirety of this amendment come from reducing the State prison money from $750 million in this bill to $729 million. The House bill only has $500 million in it. The President only requested $500 million. And the second piece comes from increasing the fees related to acquisition of green cards. So, there are the offsets.

Senator BOND and Senator SPECTER and a number of my Republican friends, including Senator DEWINE, have spoken to pieces of this amendment. Again, the only reason I am continuing to speak is, not because I like to hear my voice and not because it needs further explanation, it is because I am told we are waiting to determine whether or not the modification will be accepted.

If it was accepted—I think it is important we all exercise comity here—if, in fact, the DeWine amendment that I sent as an amendment to the Biden amendment was accepted and it was accepted without the knowledge of one of my Republican colleagues, I will not insist that be done. I would withdraw the modification because I do not want to catch anyone unawares here. But maybe my friend from Texas has been able to find out whether or not the modification, including the DeWine provision, is acceptable, whether I have unanimous consent to modify my own amendment to that extent.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. BIDEN. I yield the floor.

Mr. GRAMM. The modification is certainly acceptable to me.

The PRESIDING OFFICER. Does the Senator wish to withdraw his motion to table?

Mr. GRAMM. I withdraw the motion to table.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think Senator HATCH is coming over to debate this amendment. What I suggest is that we set this amendment aside and that we take up the Kerrey amendment. I think we can make arguments on both sides very briefly, and then we can have a vote.

Mr. BIDEN. I have no objection to that, Mr. President. That is fine with me.

AMENDMENT NO. 2817

Mr. GRAMM. I think having that vote and getting everybody over here will move us in the right direction.

So I ask unanimous consent the Biden amendment be temporarily set aside and that the Kerrey amendment be the pending business. I ask unanimous consent that there be 10 minutes of debate equally divided on the Kerrey amendment, to be controlled by Senator KERREY and by myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2817, AS MODIFIED

Mr. KERREY. Mr. President, I ask unanimous consent to have a modification, I say to the Senator from Texas, to my amendment. Let me send a copy of it over to him.

Essentially the modification enables me to strike the offset, as a consequence of the Domenici amendment. He was going to take an offset that I originally identified, and that was dropped. As a consequence of that, I no longer need an offset, I am told by staff on the Appropriations Committee.

I also ask, as part of that unanimous consent, that Senator DASCHLE and Senator JEFFORDS be added as cosponsors.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. KERREY. I send the modification to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, I did not hear the motion. I am sorry.

Mr. KERREY. The unanimous consent request is to modify the amendment—I sent the modification to the desk—and to add Senator DASCHLE and Senator JEFFORDS as cosponsors.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, reserving the right to object, I would simply like to add to that that there be no amendment in order as a second-degree amendment to the Kerrey amendment—so we are sure we are going to go to a vote—prior to a motion to table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2817), as modified, is as follows:

On page 73, between lines 4 and 5, insert the following:

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $18,900,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed $900,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services: *Provided further*, That in reviewing proposals for funding, the Telecommunications and Information and Infrastructure Assistance Program (also known as the National Information Infrastructure Program) shall add to the factors taken into consideration the following: (1) the extent to which the proposed project is consistent with State plans and priorities for the deployment of the telecommunications and information infrastructure and services; and (2) the extent to which the applicant has planned and coordinated the proposed project with other telecommunications and information entities in the State.

Mr. KERREY. Mr. President, the modification basically was done as a consequence of really not needing an offset now, as I explained earlier, from the Domenici amendment. Staff informs me the $18.9 million we are adding back is available in the bill.

This is a very straightforward amendment. This program, in 1994, had 90-some individual community organizations that filed applications. They match two for one.

I ask unanimous consent a letter from many, many community-based organizations who have indicated they support this amendment, be printed in the RECORD at this time.

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

SEPTEMBER 28, 1995.

DEAR SENATOR: We write on behalf of a diverse coalition of education, library, arts, disability, civil liberties, trade unions and other civic organizations to urge you to vote for the Amendment to restore $18.9 million of funding for the Telecommunications and Information Infrastructure Assistance Program (TIIAP) to be offered by Senators Bob Kerrey (D–NE), Olympia Snowe (R–ME) and others, with bipartisan support, to the Senate Appropriations bill for Commerce, Justice, State, and the Judiciary (H.R. 2076).

TIIAP, a program administered by the National Telecommunications and Information (NTIA), matches private contributions with government funds to promote the development and widespread availability of advanced telecommunications technologies. Through TIIAP projects, people who may not otherwise have the means or opportunity—like citizens in rural and low income areas and citizens with disabilities—are able to tap into the wealth of information that is accessible via advanced telecommunications technologies. TIIAP dollars are used to purchase equipment for connection to communications networks such as the Internet, train people in the use of equipment and software, and to purchase telephone links and access to commercial on-line services.

Resouces such as the Internet play an increasing role in many facets of the lives of all Americans. Schoolchildren are able to benefit from a wealth of educational information not otherwise available to them. Citizens are able to engage in an active discussion of public issues. And Americans in rural areas are able to access health care-related and other important information without having to travel far distances. To fully realize the benefits of advanced technologies, however, every American must have the opportunity to access these resources. TIIAP-funded support helps to realize this goal by extending advanced telecommunications capabilities, in conjunction with the private sector, to people and places that would otherwise be left out.

Recipients of the grants have included local governments, universities, schools, and libraries. Listed below are just a few examples of how TIIAP has helped these groups utilize telecommunications systems for education, community development and ultimately for economic empowerment:

The University of Oregon, along with fifteen other educational, governmental, health care, community and industrial partners, have received funds for equipment necessary to complete construction of the Lane Education Network. This Network will be fully accessible by the community, and will be the conduit for such educational programs as network mentoring among high schools and on-line training.

In West Virginia, TIIAP funds served to help complete a computer network infrastructure at the College of Human Resources and Education at West Virginia University. This network would both provide the Professional Development Schools with access to the Internet, as well as allow the College of Human Resources to provide information via the Internet on professional development for teachers.

In Montana, TIIAP funds have enabled the Hall Elementary School District to install the town's first Internet connection in the school building which will give the entire town and the students access to Montana statewide information, as well as national services.

In a time of significant budget cutting, TIIAP provides the seeds to help forge partnerships with the private sector to ensure that telecommunications technologies live up to their potential to enhance education, library services, health care, community services, civic participation and much more. The TIIAP is a modest program which can contribute significantly to the development of a truly National Information Infrastructure.

We urge you to support the Kerry/Snowe Amendment to H.R. 2076 and restore partial funding to the TIIAP program for fiscal year 1996.

Very truly yours,

AFL/CIO Department for Professional Employees.
Alliance for Community Media.
Alliance for Public Technology.
American Arts Alliance.
American Association of Community Colleges.
American Association of Law Libraries.
American Association of School Administrators.
American Association of School Libraries.
American Association of State Colleges and Universities.
American Civil Liberties Union.
American Federation of Teachers.
American Library Association.
American Psychological Association.
Association for Educational Communications and Technology.

Association of Art Museum Directors
Association of Research Libraries.
Berinstein Research.
Catalyst Project.
Center for Democracy & Technology.
Center for Information, Technology & Society.
Center for Media Education.
Civic Access, Bellingham Washington.
Communications Workers of America.
Computing Research Association.
Consortium for School Networking.
Consortium of Distance Education.
Consumer Interest Research Institute.
Council for Advancement and Support of Education.
Council for American Private Education.
Council of the Great City Schools.
Davis Community Network.
Davis Community Television.
Delaware Association of Non Profit Agencies.
Delaware Service Provider Network/Diamond Net.
Educational Products Information Exchange (EPIE).
Educational Teleconsortium of Michigan.
Florida Community College Television Consortium.
Higher Education Telecommunications Association of Oklahoma.
Independent Sector.
Instructional Telecommunications Council.
Instructional Telecommunications Foundation.
International Society for Technology in Education.
Intelecom Maryland College of the Air Teleconsortium.
International Telecomputing Consortium.
Learning and Information Networking for Community Telecomputing (LINCT) Coalition.
Libraries of the Future.
Media Access Project.
Media Consortium—Media Democracy in Action.
Museum Computer Network.
National Association of Independent Schools.
National Association of Secondary School Principals.
National Association of State Universities and Land-Grant Colleges.
National Association of State Arts Agencies.
National Campaign for Free Expression.
National Coordinating Committee for the Promotion of History.
National Education Association.
National Federation of Community Broadcasters.
National School Boards Association.
National Writers' Union (UAW Local 1981)
NILRC—A Consortium of Midwestern Community Colleges & Universities.
OMB Watch.
Oregon Community College Telecommunications Consortium.
Organizations Concerned about Rural Education.
People For the American Way Action Fund.
Playing to Win Network.
Public Service Telecommunications Corporation.
Texas Consortium for Educational Telecommunications.
United Cerebral Palsy Association.
United Church of Christ, Office of Communication.
United Way of Delaware.
Urban Libraries Council.
Western Consortium for Distance Education.
World Institute on Disability.

Mr. KERREY. Mr. President, this particular program is a very small program. It has strong support from the Republican leadership in the House. There is $40 million in the bill on the House side. It does enable us to expand not only educational opportunities in telecommunications, but it empowers local communities to be able to create jobs and, as I said, create an understanding of how this telecommunications technology can be used in a variety of different ways. There are lots of organizations that have used it, educational institutions K–12, and universities.

I hope my colleagues will be able to support the amendment. It has a very simple, straightforward purpose. It is consistent with the essential message we have been trying, I believe successfully, to use, which is we are trying to empower people at the local level, shifting power away from the Federal Government.

I think it is a program, thus far at least, that has proven its merit, and it needs to be continued.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, the argument against this amendment is very simple. The National Telecommunications and Information Administration is not, nor has it ever been, authorized. There is no offset in this amendment because it is picking up excessive authority under another amendment. I think, in terms of the budget that we face in this bill, this is not something we ought to be spending money on. As a result I oppose the amendment.

Mr. KERREY. Mr. President, I do not know if the Senator from Maine wants to speak on this amendment. I will be pleased to yield time. If I may take just an additional 30 seconds, there is not a need for an offset with this amendment. As a consequence of the Domenici amendment, an offset is not needed. That is what my modification did, was to strike it.

His is a straightforward argument against this amendment. It can only be made on the basis the Senator from Texas used, that this is a program that Members do not want to fund and do not support.

As I said, it has very strong support from a wide variety of community organizations that matched the Federal dollars, used the Federal dollars two to one. I think this program not only deserves to be supported, but has very strong support from the Republican leadership on the House side.

Mr. LEAHY. Mr. President, I rise in strong support of the Senator from Nebraska's amendment to restore funding for the Telecommunications Information and Infrastructure Administration Program [TIIAP]. This amendment is fully offset.

In today's world of innovative telecommunications, this program helps us meet the demands of keeping up with this constant change. TIIAP develops partnerships with local governments, schools, hospitals, libraries, and the business community to increase access to advanced information and communications infrastructure. These partnerships will be the key to our educational and economic success in the remainder of this decade and into the next millennium.

Unfortunately, this bill terminates TIIAP. Some are trying to abolish this program to claim they have ended an unnecessary, big-government program. Nothing could be further from the truth.

TIIAP is more than necessary in today's world. It is essential. The world has shrunk because of advances in telecommunications. Today, Americans do not just compete with each other, they compete with Japanese, Germans, New Zealanders, and the other citizens of our global economy. To meet the demands of this new global economy, we must develop and maintain world-class telecommunications networks and infrastructure.

Moreover, TIIAP is not big government. Because of its Federal seed money, private companies and public players have come together to form community-based projects. Each project must have at least 50 percent matching funds from the private sector. This requirement had led to innovative networks with groups that have never worked together before. There is no Government redtape restricting these partnerships. Instead, Government seed money is making these partnerships happen.

Let me describe just a few of these innovative partnerships from around the country that have gotten off the ground because of TIIAP's help:

The State of Alaska, the University of Alaska, the K–12 educational system, public broadcasting, and the library community are working together to integrate networks that will result in 81 percent of Alaskans having nontoll access to an education-government-library network;

In South Dakota, 47 rural schools are working together to combine forces to provide distance learning programs;

Youth service organizations in New Haven, CT, and East Palo, CA, are working together to link teenagers in the two cities to keep them off their streets and in their schools;

Schoolchildren right here in the District of Columbia are studying together on virtual visits to museums in New York by using two-way video and teleconferencing technology;

In my home State, the citizens of Fairfax, VT are working together to

develop an electronic bulletin board so this small, rural community can share information on the Internet; and

Physicians from big city medical centers in North Carolina are working together with rural hospitals to provide video teleconsultations and diagnostic images for emergency care.

TIIAP is about finding new ways to learn, to practice better medicine, and to share information. It spurs the growth of networks and infrastructure in many different fields of telecommunications with only a small Federal investment. It is essential and innovative.

Mr. President, I urge my colleagues to support Senator KERREY's amendment to restore this vital program.

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

The PRESIDING OFFICER. The Senator from Texas has 4 minutes 16 seconds.

Mr. GRAMM. Let me remind my colleagues where we are. There may very well be the votes on this amendment, but I am still going to oppose it, and let me tell you why.

First of all, we passed a budget that contemplated the elimination of the Commerce Department. We have passed a bill out of committee that calls for the elimination of the Commerce Department. We have a budget that sets out, over a 7-year period, a plan which would achieve a balanced budget by cutting spending, and possibly by eliminating the Commerce Department. Given these facts, we have set out in this bill a procedure to eliminate the Commerce Department.

We are now talking about providing funding for a program that has never been authorized and that represents the Government, basically, being involved in the whole area where we have the largest private investment, in history, underway. So this is basically an issue as to what is the role of Government and what do we mean when we write a budget which says that we are going to eliminate a department. When we set out on a program to balance the budget, and we count on savings from eliminating a department, are we serious or are we not?

I believe that if you are serious about reducing funding for the Commerce Department, and if you are serious about eliminating this Department, then you cannot be serious about supporting funding for the National Telecommunications Information Administration.

This was one of the hard choices we had to make in committee, and it seems to me that it was the correct choice. I do not want to go back on that choice.

So when the Senator finishes his debate time, I will yield my time and move to table.

Mr. KERREY. Mr. President, one quick point, and then I will yield whatever time the Senator from Maine wants to take, and we will finish.

There is already in this bill a continuation of this program with $3 million for salaries and expenses. This money provides restoration to the grants.

I yield whatever time is left to the distinguished Senator from Maine.

Ms. SNOWE. How much time is left, Mr. President?

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes and 24 seconds.

Ms. SNOWE. Mr. President, I am very pleased to join with the Senator from Nebraska on this amendment because I do think it is very, very important that we do everything that we can as a Government to support the communities, public school systems, and our health care systems in joining the information superhighway.

Frankly, I believe that the grants provided to local communities, States, and public entities by the Telecommunications and Information Infrastructure Assistance Program [TIIAP] play a very important role in enabling these public entities to do everything they can to help serve their communities with advanced technology.

As I said during the telecommunications debate when we are reforming that area of our policy, one of the most important aspects is to make sure that we transmit information across traditional boundaries of time and space. Even the House recognized the importance of these grants to the States and local communities and public entities. They understand that we have to do everything that we can to help serve those populations, particularly those in rural areas that do not have access to this technology.

In 1994, half of the grants went to the rural areas and rural States of our country. One-quarter of the 1994 fund went to the underserved, often low-income areas to enable school children, the elderly, and the other at-risk groups to connect with information resources from their homes, schools, and communities centers. In fact, the House appropriation include report language that said this program:

> Is critical to the development of the national information superhighway which will be of particular value to underserved rural areas. This emerging telecommunications infrastructure will allow more remote areas to gain access to enhance education, health care, and social services, as well as provide enhanced economic opportunity.

I think that characterizes very well the importance of these grants to communities. In my State of Maine, a 1994 planning grant of more than $113,000 was awarded. This grant will be utilized to develop a telecommunications plan that will link the State to the national and global networks. Involved in this planning effort will be not only the University of Maine, but also Maine Public Broadcasting Corporation and a consortium of public, private, and nonprofit organizations—including NYNEX and Central Maine Power. Telecommunications can also help us provide a world class education to children across America. If we want young people to actively use and understand the technology of the future, then we must ensure that schools are part of the National Information Infrastructure.

For starters, telecommunications will enable students and teachers to gain access to libraries across the country, and will allow them to communicate with experts and other students around the world. It will ensure that small schools in remote areas, and schools with limited financial resources will have equal access to the same rich learning resources.

It is also in the Nation's best interest to ensure that all schools and libraries, even those in rural areas, have access to educational services. In the 21st century, our children will be competing in a global economy where knowledge is power. Our future as a nation depends on our children's ability to master the tools and skills needed in that economy. I agree with House Speaker NEWT GINGRICH who said that if the country doesn't figure out a way to bring the information age to the country's poor, that we are buying ourselves a 21st century of enormous domestic pain.

Consider that only 30 percent of schools with enrollments of less than 300 have Internet access, while 58 percent of schools with enrollments of 1,000 or more reported having Internet access. Only 3 percent of classrooms in public schools are connected to the Internet, and cost is cited as a major barrier to access. Seventy-seven percent of libraries serving a populations base of more than 1 million—almost the total population of Maine, I might add—had Internet access, whereas just 13.3 percent of libraries serving communities of 5,000 or fewer people had Internet access.

In addressing these needs, TIIAP grants have served an integral role in connecting our schools to the information superhighway. In Montana, TIIAP funds enabled the Hall Elementary School District to install the town's first Internet connection in the school building. A TIIAP grant in Oregon aided in the construction of the Lane Education Network—a system that is fully accessible to the community and will serve as a conduit for educational programs among high schools.

If we are going to ensure that all of the areas of this country are going to have access to educational telecommunications services, if we are going to be competing in a global economy where knowledge is power—and our future depends on our children's ability to master the tools and skills needed in that economy—then I think that we have to do everything as a Government to promote and to serve that program and those interests.

Mr. President, the Telecommunications and Information Infrastructure Assistance Program works to ensure that rural and low-income regions are not passed by. So I encourage my colleagues to support the Kerrey-Snowe amendment that would restore the funding to this program as the House did in a recent vote in their appropriations bill. Thank you, Mr. President.

I yield the floor.

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

Mr. GRAMM. Mr. President, do I have any remaining time?

The PRESIDING OFFICER. Two minutes and twenty-five seconds.

Mr. GRAMM. Mr. President, let finish by saying—and then I will move to table—that we eliminated this program because it has never been authorized, because it is not part of the budget we adopted that contemplated moving toward eliminating the Commerce Department as part of balancing the Federal budget.

It is almost comical that somehow the Government, with $19 million, is going to open up telecommunications and information systems for America when the private sector is already investing tens of billions of dollars in this area. This is another Government program which is unauthorized, and which does not fit in any program to balance the Federal budget.

So if you are serious about the budget we adopted, if you are serious about saying no to Government programs, then this is one of the easiest places to start.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. LOTT. I announce that the Senator from Alabama [Mr. SHELBY] is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Louisiana [Mr. JOHNSTON] are necessarily absent.

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

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 477 Leg.]

YEAS—33

Abraham	D'Amato	Gramm
Ashcroft	DeWine	Grams
Bennett	Dole	Gregg
Campbell	Domenici	Hatch
Coats	Faircloth	Hatfield
Coverdell	Frist	Helms
Craig	Gorton	Inhofe
Kempthorne	Mack	Santorum
Kyl	McCain	Smith
Lott	McConnell	Thompson
Lugar	Nickles	Thurmond

NAYS—64

Akaka	Feinstein	Murkowski
Baucus	Ford	Murray
Biden	Graham	Nunn
Bingaman	Grassley	Packwood
Bond	Harkin	Pell
Boxer	Heflin	Pressler
Bradley	Hollings	Pryor
Breaux	Hutchison	Reid
Brown	Inouye	Robb
Bryan	Jeffords	Rockefeller
Bumpers	Kassebaum	Roth
Burns	Kennedy	Sarbanes
Byrd	Kerrey	Simon
Chafee	Kerry	Simpson
Cochran	Kohl	Snowe
Cohen	Lautenberg	Specter
Conrad	Leahy	Stevens
Daschle	Levin	Thomas
Dodd	Lieberman	Warner
Dorgan	Mikulski	Wellstone
Exon	Moseley-Braun	
Feingold	Moynihan	

NOT VOTING—3

Glenn	Johnston	Shelby

So, the motion was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KERREY. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The yeas and nays are ordered.

Mr. KERREY. I ask unanimous consent to vitiate the yeas and nays and do it by voice vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to amendment No. 2817, as modified.

So the amendment (No. 2817) as modified, was agreed to.

Mr. KERREY. 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.

AMENDMENT NO. 2818, AS FURTHER MODIFIED

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. What is the pending business?

The PRESIDING OFFICER. The pending business is the BIDEN amendment No. 2818, as further modified.

Mr. BIDEN. Mr. President, have the yeas and nays been ordered on the Biden amendment?

The PRESIDING OFFICER. They have not.

Mr. BIDEN. Mr. President, I will just urge adoption of my amendment and ask for a voice vote on the amendment.

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

Mr. BIDEN. Mr. President, one more parliamentary inquiry. The amendment is modified by the DeWine language; correct?

The PRESIDING OFFICER. That is correct, the Biden amendment is modified.

Mr. BIDEN. I urge adoption of the amendment and ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 2818), as further modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Parliamentary inquiry. Is it appropriate to send up an amendment?

The PRESIDING OFFICER. The committee amendments are still pending.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending committee amendments be set aside so that I can send an amendment to the desk.

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

AMENDMENT NO. 2838

(Purpose: To provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. DOLE, Mr. REID, Mr. THURMOND, Mr. SPECTER, Mr. KYL, Mr. ABRAHAM, Mrs. HUTCHISON, Mr. GRAMM, Mr. Santorum, Mr. GRASSLEY, and Mr. BROWN, proposes an amendment numbered 2838.

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

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

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

Mr. HATCH. Mr. President, I ask the managers of the bill how much time they want us to take on this amendment.

Let me ask my colleague from Nevada how much time he thinks he needs.

Mr. REID. Mr. President, I appreciate the Senator's courtesy. I will be happy to do whatever is appropriate. I would like 15 or 20 minutes myself.

Mr. HATCH. I ask my colleague if we can do it in a half hour equally divided.

Mr. REID. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that this amendment take a half hour equally divided on both sides.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, Mr. President, and I shall not

99-059 O—97 Vol. 141 (Pt. 19) 19

object, I just want to tell my colleagues, there are two of my colleagues on this side who are going to seek to modify the Senator's amendment. I am not sure that is going to actually happen, so he is not caught blindsided by that. I am not at liberty to agree to a time agreement that is not subject to an amendment in the second degree. I do not know that will happen, so I do not object.

The PRESIDING OFFICER. Is there objection to the request that there be 30 minutes equally divided?

Without objection, it is so ordered.

Mr. REID. Mr. President, if the Senator from Delaware is going to offer a second-degree amendment to this, I am not sure it would be in the best interest of the proponents of the amendment to agree to a 30-minute time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, and I will not object, if I can get the same time limit pertaining to a second-degree amendment, if there is a second-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object, and I shall not, what is the subject matter of the amendment?

Mr. HATCH. This is the prison litigation reform amendment to do away with frivolous lawsuits. It should not take a lot of time, and if there is a second-degree amendment, we will just have to face that when that happens.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Who yields time?

Mr. DOLE. Mr. President, I want to say a few words in support of the amendment offered by my distinguished colleague from Utah, Senator HATCH.

Unfortunately, the litigation explosion now plaguing our country does not stop at the prison gate. The number of lawsuits filed by inmates has grown astronomically—from 6,600 in 1975 to more than 39,000 in 1994. These suits can involve such grievances as insufficient storage locker space, a defective haircut by a prison barber, the failure of prison officials to invite a prisoner to a pizza party for a departing prison employee, and yes, being served chunky peanut butter instead of the creamy variety.

These legal claims may sound far-fetched—almost funny—but unfortunately, prisoner litigation does not operate in a vacuum. Frivolous lawsuits filed by prisoners tie up the courts, waste valuable legal resources, and affect the quality of justice enjoyed by law-abiding citizens. The time and money spent defending these cases are clearly time and money better spent prosecuting violent criminals, fighting illegal drugs, or cracking down on consumer fraud.

The National Association of Attorneys General estimates that inmate civil rights litigation costs the States more than $81 million each year. Of course, most of these costs are incurred defending lawsuits that have no merit whatsoever.

This amendment will help put an end to the inmate litigation fun-and-games. It establishes a garnishment procedure so that prisoners, like law-abiding citizens, will have to pay the court fees associated with filing a lawsuit. It requires State prisoners to exhaust all administrative remedies before filing suit. It would allow Federal courts to revoke the good-time credits accumulated by a prisoner who files a frivolous suit. And it prohibits prisoners from suing for mental or emotional injury, absent a prior showing of physical injury.

The second major section of this amendment establishes some tough new guidelines for Federal courts when evaluating legal challenges to prison conditions. These guidelines will work to restrain liberal Federal judges who see violations of constitutional rights in every prisoner complaint and who have used these complaints to micromanage State and local prison systems. More specifically, by requiring Federal judges to meet a high burden of proof before imposing a prison cap order, this amendment will help keep convicted criminals behind bars where they belong.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield myself such time as I may need, and I will try to reserve time for the Senator from Nevada.

I am pleased to be joined by the majority leader and Senators REID, KYL, ABRAHAM, GRAMM, SPECTER, HUTCHISON, THURMOND, SANTORUM, and GRASSLEY in offering this amendment. Our amendment is virtually identical to the Prison Litigation Reform Act of 1995, S. 1279, which we introduced yesterday. This landmark legislation will help bring relief to a civil justice system overburdened by frivolous prisoner lawsuits. Jailhouse lawyers with little better to do are tying our courts in knots with the endless flow of frivolous litigation.

Our legislation will also help to restore a balance to prison conditions litigation and will ensure that Federal court orders are limited to remedying actual violations of prisoners' rights, not letting prisoners out of jail. It is time to lock the revolving prison door and to put the key safely out of reach of overzealous Federal courts.

As of January 1994, 24 corrections agencies reported having court-mandated population caps. Nearly every day, we hear of vicious crimes committed by individuals who really should have been locked up. Not all of these tragedies are the result of court-ordered population caps, of course, but such caps are a part of the problem. While prison conditions that actually violate the Constitution should not be allowed to persist, I believe that the courts have gone too far in micromanaging our Nation's prisons.

Our legislation also addresses the flood of frivolous lawsuits brought by inmates. In 1994, over 39,000 lawsuits were filed by inmates in Federal courts, a staggering 15 percent over the number filed the previous year. The vast majority of these suits are completely without merit. Indeed, roughly 94.7 percent are dismissed before the pretrial phase, and only a scant 3.1 percent have enough validity to even reach trial. In my own home State of Utah, 297 inmate suits were filed in Federal courts during 1994, which accounted for 22 percent of all Federal civil cases filed in Utah last year. I should emphasize that these numbers do not include habeas corpus petitions or other cases challenging the inmate's conviction or sentence. The crushing burden of these frivolous suits makes it difficult for the courts to consider meritorious claims.

Indeed, I do not want to prevent inmates from raising legitimate claims. This legislation will not prevent those claims from being raised. The legislation will, however, go far in preventing inmates from abusing the Federal judicial system.

In one frivolous case in Utah, for example, an inmate sued demanding that he be issued Reebok or L.A. Gear brand shoes instead of the Converse brand being issued. In another case, an inmate deliberately flooded his cell and then sued the officers who cleaned up the mess because they got his pinochle cards wet. And in a third case, from Utah, a prisoner sued officers after a cell search, claiming that they failed to put his cell back in a fashionable condition, and mixed his clean and dirty clothes.

Mr. President, these examples from my State are far from unique. I believe each of my colleagues could report numerous similar examples from their States as well, and we had a number of attorneys general here yesterday who gave us a whole raft of bizarre incidents and litigation.

It is time to stop this ridiculous waste of taxpayers' money. The huge costs imposed on State governments to defend against these meritless suits is another kind of crime committed against law-abiding citizens.

Mr. President, this legislation enjoys broad bipartisan support from States attorneys general from across the Nation. We believe, with them, that it is time to wrest control of our prisons from the lawyers and the inmates and return that control to competent administrators appointed to look out for society's interests as well as the legitimate needs of prisoners.

So I urge my colleagues to support this amendment, and I look forward to securing its quick passage by the Senate.

I yield to my distinguished colleague from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I wish to express my appreciation to the senior Senator from Utah, and especially to his staff. The staff has worked on this legislation for many, many weeks. And I publicly express my appreciation to them and to the chairman of the Judiciary Committee, the Senator from Utah.

I also thank the majority leader, who has been with us on this legislation from the beginning. I appreciate his being with us throughout the development of this legislation.

I also wish to thank our Nation's attorneys general who have worked diligently to bring this problem to our attention. I understand they would like to see some minor modifications made to this amendment as it works its way through conference and I hope the conferees will consider their expertise.

Mr. President, when I was a new lawyer in Las Vegas, I was appointed by a Federal judge to represent someone charged with stealing cars, a violation of taking a car across State lines. I went to see this man as a young lawyer, very anxious to help him. When I got to the prison, this man said, "Don't bother, I committed this crime on purpose. I wanted to go back to a Federal prison. I did not want to go to a State prison. I like being in a Federal prison." Ever since that, Mr. President, I have thought to myself, there is something profoundly wrong with a criminal justice system where people look forward to going to prison.

Now, this amendment deals with a lot of things. One of the things it deals with is frivolous lawsuits by prisoners. I wrote an article for a Las Vegas newspaper. I would like to recite part of what I wrote.

Life can be tough. Mom brought home creamy peanut butter when you asked for extra chunky? You didn't get that fancy weight machine you wanted for Christmas? Don't like the type of music they play over the stereo system at work.

Well, heck. Why not file a lawsuit?

Oh, I know what you're thinking: "I can't afford a lawyer."

Suppose, though, I told you about a plan that provides you with an up-to-date library and a legal assistant to help in your suit. This plan not only provides legal research, it also gives you, absolutely free, three square meals a day. And friends, if you get tired of legal research, you can watch cable TV in the rec room or lift weights in a nice modern gym.

"OK, OK," you're saying. "What's the catch? How much do I have to pay to sign up for the program?"

Well, folks, that's the best part. This assistance plan is absolutely free. All you have to do to qualify is to commit a crime, get caught and go to the pen.

That is like the man I met, Mr. President, a number of years ago in the Clark County jail.

Mr. President, prison inmates are abusing our system. I have behind me a chart that shows the lawsuits that have been filed. In 1970, we had a few. Here it is, Mr. President, our last recorded number. There are certainly far greater than that. I will bet that today they are up to 50,000. Here we only go up to about 40,000.

What kinds of lawsuits do they file? Well, Mr. President, as the senior Senator from Utah said, all States have some examples. I would like to give you what we have had in Nevada. These are the top 10 lawsuits in Nevada filed by prisoners.

Inmate's claim: He should not be required to open his window slot when meals are delivered. He filed a lawsuit.

Inmate's claim: Limiting the receipt of stamps in mail violates his religious belief in writing letters.

Inmate's claim: The prison's delivery of mail interfered with his usual sleeping pattern. A lawsuit was filed.

Mr. President, 40 percent of the lawsuits—the litigation handled in our Federal judiciary in the State of Nevada is prison litigation—40 percent of it. Lawsuits like: "Prison destroyed his hobbycraft items." What were they? Woman's clothing. This was a man, of course.

Inmate's claim: Forced to wear a size 5 tennis shoe when the actual size of his foot was 4 3/4.

He filed a lawsuit.

Inmate's claim: The prison chaplain refused to perform same-sex religious ceremony.

Mr. President, if these were not so serious, we would laugh about it. Forty percent of the Federal judiciary in Nevada spends their time on this garbage.

Inmate's claim: He filed a lawsuit claiming the cake he was served for dessert was hacked up.

Inmate's claim: Jeans fit him improperly, and because of that he suffered an epileptic seizure.

Those must have been tight jeans.

Inmate's claim: Prison denied him incense and jewelry to use in the practice of his religion.

This next one is a dandy.

Inmate's claim: He ordered two jars of chunky peanut butter from the prison canteen and was sent one jar of chunky and one jar of creamy.

He filed a lawsuit.

You know, Mr. President, this is just horrible. And to think that we, the taxpayers, are paying for all of this—not only in the time of the judiciary but, as I indicated in my narrative to begin with, we are often supplying the lawyers. And, the prisoners have better law libraries than 90 percent of the lawyers in America.

Almost 100 percent of these claims are dismissed, but the judges have to go through all of them. Yet, notwithstanding the odds against prevailing, inmates continue to file suits. They laugh about it. On one national TV program, a man bragged that he filed hundreds of them himself. With our rate of incarceration increasing, this will go up. Few would back a solution that reduces our prison population. Ironically, this is practically what some judges are doing through the ordering of prison population caps.

There is much that this amendment has in it, Mr. President. It is something that we should adopt. Some may ask, is there a need to curb this? I have gone over the reasons I think we need to curb it. I have talked about some of the cases in Nevada. But these are only a few Nevada cases. There are hundreds of them. The attorney general—every time she talks, she talks about her staff time being used on these kinds of cases. She cannot render opinions that legal constitutional officers in the State of Nevada want her to do because she is defending chunky peanut butter. One prisoner filed a claim as to how many times he should be able to change his underwear.

This problem, as the Senator from Utah indicated, plagues all States.

In California, an inmate alleged that prison officials implanted an electronic device in his brain to control his thoughts. He claimed that his thoughts were then broadcast over the prison PA system.

Another California inmate claimed he suffered mental anguish worrying that tear gas would be used if he refused to exit his cell.

An Indiana inmate sued the State of Indiana for $3,000, but he was not sure why. He asked the court to determine what the cause should be.

An Iowa inmate sued for the right to lobby the legislature to approve consensual sex between minors and adults.

A Massachusetts inmate brought suit claiming the State should not have thrown out the personal property he left behind after he escaped from prison.

A Missouri inmate sued because the prison did not have salad bars and brunches on weekends.

Well, Mr. President, this is the worst. I feel very strongly about this legislation, and we can go into detail about what it does. But, basically, without going into a lot of detail, it would stop this kind of foolishness. This foolishness costs tens of millions of dollars throughout the States. The taxpayers finance this litigation.

A report on ABC suggests the cost of inmate litigation hindered the expansion of Head Start and the rebuilding after Hurricane Andrew.

The attorney general of California has 50 attorneys working full-time doing this. Dan Lungren, who I served with in the House of Representatives, now the attorney general, has 50 lawyers working on this, all the time. They do not do anything else.

We need to make sure that the prisoners, when they file these lawsuits, they pay. There is no reason they should get the legal docket free. If they have money in the bank, let them pay. If they have a meritorious lawsuit, of course they should be able to file. I support that.

Today, our attorneys general deal with thousands of these lawsuits. I have indicated that almost none of them have any merit. The amendment establishes procedural hurdles that will prevent frivolous lawsuits.

The PRESIDING OFFICER. All time has expired.

Mr. REID. I ask unanimous consent I be allowed 1 minute.

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

Mr. REID. I want to say, because I saw on the floor the Senator from Arizona, Senator JON KYL, who has been extremely helpful in preparing this legislation based upon his experience in the law and the work his staff has done, and I want to compliment and applaud the Senator from Arizona.

Mr. HATCH. Mr. President, I ask unanimous consent that Senators GRASSLEY, BROWN, and HELMS be added as cosponsors.

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

Mr. THURMOND. Mr. President, I am an original cosponsor of the Prison Litigation Reform Act of 1995 and was pleased to join Senator HATCH as an original cosponsor of this amendment.

We have an opportunity here to put a stop to the thousands and thousands of frivolous lawsuits filed by the prisoners across this nation. They have tied up the courts with their jailhouse lawyer antics for too long. This amendment will allow meritorious claims to be filed, but gives the judge broader discretion to prevent frivolous and malicious lawsuits filed by prison inmates.

In my home State of South Carolina, the State government last year spent well over $1 million to defend against frivolous lawsuits filed by inmates. Compare that to 10 years ago when South Carolina spent only about $20,000 to defend these types of lawsuits. The problem is getting worse, not better.

Mr. President, the overwhelming majority of these cases are dismissed, in fact well over 95 percent. We need to put a stop to these jailhouse lawyers who are making a mockery of our criminal justice system.

Mr. President, the other provisions in this bill will place limits on Federal judges who have been micromanaging prisoners with population caps. Our amendment requires a strong showing from the judge to justify population caps as the least intrusive means as a judicial remedy. We need this legislation. I commend Senator HATCH for offering it and I urge my colleagues to support its adoption.

Mr. HATCH. Mr. President, I ask unanimous consent that our colleague from Arizona—I do not know that there is any opposition to it. In fact, I believe we can probably get this accepted by voice vote.

I ask unanimous consent that my colleague from Arizona who has been a major mover in this area, whose attorney general was one of the major causes of this legislation be granted, I ask unanimous consent that 4 minutes be granted to the distinguished Senator from Arizona, and 1 minute to the distinguished Senator from Texas, Senator GRAMM, and 3 minutes to the distinguished Senator from South Carolina.

Mr. BIDEN. Reserving the right to object, and I will not object, I have an amendment and I have a speech. I have no problem with it being accepted. If other people are going to speak to it then I will speak to it.

I hope that we all will have learned by now, when you win, accept the victory, put the speeches in later. I hope we do that.

Stemming the tide of frivolous prisoner lawsuits is certainly an important goal.

Our courts are flooded with lawsuits brought by prisoners. The Administrative Office of the U.S. Courts reported that in fiscal year 1994, 39,100 Federal and State prisoner civil rights cases were filed in Federal court. This volume of cases drains precious court resources, further burdening an already overburdened court system.

But in solving these problems, we must not lose sight of the fact that some of these lawsuits have merit—some prisoners' rights are violated—some prisons are terribly overcrowded.

In one case, for example, children in a severely overcrowded juvenile detention center in Pennsylvania—a facility that was at 160 percent of capacity—were beaten by staff—sometimes with chains and other objects. These problems were not resolved until a court order was entered.—(Santiago versus City of Philadelphia.)

In a recent case right here in the District of Columbia, Judge June L. Green found that correctional officers had routinely sexually assaulted women prisoners—one had raped a woman prisoner, another had forced a prisoner to perform oral sex. When these conditions were reported to the D.C. correction officials, nothing was done. It was when the court entered an order that the district take steps to prevent these incidents from recurring that the prisoners were able to get relief.—(Women Prisoners of D.C. Dept. of Corrections versus D.C.)

Senator HATCH's amendment has two overriding problems—first, in an effort to curb frivolous prisoner lawsuits, the amendment places too many roadblocks to meritorious prison lawsuits.

Second, in an effort to relieve the courts and State and local governments from the overwhelming task of dealing with frivolous lawsuits, Senator HATCH's amendment, in fact, creates restrictions on the power of those governments from voluntarily negotiating their own agreements and would place an even greater burden on the courts to litigate and relitigate these suits.

Because Senator HATCH's amendment makes only marginal improvements over what is already in the bill, I oppose this amendment, just as I oppose the similar provision in the committee bill.

I am willing to withhold if others are. I ask that the Senator maybe reconsider his request and accept it by voice vote and make speeches later.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BIDEN. I object.

Mr. HATCH. If my colleagues would forgo so we can pass this—we are all interested in passing it and establishing once and for all that we have to get rid of frivolous prisoner litigation.

The PRESIDING OFFICER. Did the Senator withdraw the unanimous-consent request?

Mr. HATCH. I ask unanimous consent 2 minutes be given to the distinguished Senator from Arizona.

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

Mr. KYL. Mr. President, I will take 2 minutes right now and speak in support of this legislation. I appreciate the Senator from Utah bringing it to the floor, and I also appreciate the kind comment from the Senator from Nevada.

This is clearly a bipartisan effort. Obviously, this legislation is going to pass.

I just wanted to indicate where this came from. The attorney general of Arizona, Grant Woods, brought this matter to my attention several months ago, and we brought it to the majority leader, and we introduced legislation to cut the prisoner litigation.

It has been in effect now in the State of Arizona pursuant to State law for about a year, and the prisoner litigation there has been cut in half as a result of the requirements that we place on the filing of lawsuits, by the inmates in the Arizona State system.

If you can extrapolate from the same statistics, it clearly ought to result in the reduction of delays and expenses in our Federal court system if we are able to impose the same requirements on our Federal prisoners when they attempt to litigate.

All we are doing is asking they pay the same kind of filing fees and costs that a citizen who has not committed any violation of law has to pay, and that their suits be subject to the same kind of requirements in terms of meeting the tests of a legitimate lawsuit rather than just being a frivolous lawsuit.

I think if we can extrapolate the figure to all 50 States, from the experience we had in the State of Arizona

where the litigation has been cut in half, we ought to be able to save about $81.3 million. That is a significant chunk of change that would save the United States taxpayers in addition to the benefit of unclogging the courts.

Mr. President, there is one other thing that this will do. I think it begins to send a message that prison is not necessarily a nice place. You do not have extra privileges when you go to prison. You certainly ought not to be treated any better than the average citizen.

Another part of this bill is to put impediments on "special masters," and I think by doing that we also make it clear we regain control of the Federal court system, and we do not just allow the Federal judges to dictate to the States how their prison systems will be run. I am pleased the legislation will be adopted and pleased to express my views.

I ask unanimous consent to have frivolous lawsuit lists printed in the RECORD.

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

TOP 10 LIST: FRIVOLOUS INMATE LAWSUITS IN ARIZONA

(10) Death row inmate has sued corrections officials for taking away his Gameboy electronic game. (Donald Edward Beaty v. Bury)

(9) An inmate brought a suit demanding $110 million because of a delay in receiving a dental appointment for a toothache. (Beasley v. Howard)

(8) An inmate convicted of murder and a subsequent escape attempt brought a suit based on the denial of dental floss. Anzivino v. Lewis)

(7) An inmate brought suit for damages to his electric typewriter and fan. He alleges the damage was done because prison officials did not allow him to have a surge protector in his cell. (Prison officials disallow surge protectors because they can be easily fashioned into lethal weapons.) (Souch v. State)

(6) An inmate alleged his First Amendment right to freedom of religion was being denied because he was not allowed to have conjugal visits. (Jamison v. ADOC)

(5) An inmate alleged he was libeled and slandered by a female prison official who referred him to disciplinary action after he continually walked into the restroom she was using. (Holt v. Grant)

(4) An inmate sued because he was not allowed to reside with his spouse, who is a fellow prison inmate. The inmate is a convicted murderer, while his spouse, whom he has met only at their prison marriage ceremony, is a convicted kidnaper. (Boyd v. Lewis)

(3) An inmate alleges that the Department of Corrections failed to properly rehabilitate him. Therefore, when he was released on parole he was arrested and convicted of another crime, which resulted in more jail time. (Kabage v. ADOC)

(2) A male inmate sued alleging his constitutional rights were violated by the refusal of prison officials to allow him to have and wear a brassiere. (Taylor V. Adams)

(1) An inmate alleges that the correction officials have retaliated against him. Part of that retaliation he alleges occurred when he was not invited to a pizza party thrown for a departing DOC employee. (Dickinson v. Elliott)

TOP 10 FRIVOLOUS INMATE LAWSUITS NATIONALLY

(10) Inmate claimed $1 million in damages for civil rights violation because his ice cream had melted. The judge ruled that the "right to eat ice cream . . . was clearly not within the contemplation" of our Nation's forefathers. [NT—Clendenin v. State]

(9) Inmate alleged that being forced to listen to his unit manager's country and western music constituted cruel and unusual punishment. [OK—Watkins v. Sutton]

(8) Inmate sued because when he got his dinner tray, the piece of cake on it was "hacked up." [NV—Banks v. Hatcher]

(7) Inmate sued because he was served chunky instead of smooth peanut butter. [TX—Thomas v. State]

(6) Two prisoners sued to force taxpayers to pay for sex-change surgery while they were in prison. [PA—Brown v. Jeffes and Doe v. Vaughn]

(5) Inmate sued for $100 million alleging he was told that he would be making $29.40 within three months, but only made $21. [KS—Williams v. Dept. of Corrections]

(4) Inmate claimed that his rights were violated because he was forced to send packages via UPS rather than U.S. mail. [CA—Alcala v. Vanquez]

(3) Prisoner sued demanding L.A. Gear or Reebock "Pumps" instead of Converse. [UT—Winsness v. DeLand]

(2) Prisoner sued 66 defendants alleging that unidentified physicians implanted mind control devices in his head. [MI—Doran v. McGinnis]

(1) Death row inmate sued corrections officials for taking away his Gameboy electronic game. [AZ—Donald Edward Beaty v. Bury]

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2838) was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BROWN. I ask unanimous consent I be allowed to proceed in morning business for 60 seconds.

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

COLORADO BUFFALOES

Mr. BROWN. Mr. President, Coloradans were devastated to learn that the Colorado Buffaloes had no chance whatever to win our football game this weekend with Oklahoma.

Early in the week the Oklahoma Coach Schnellenberger said, referring to our Colorado team, "Our football team would prefer Detmer play. I don't want a damn asterisk when we beat their posteriors." Actually, I believe he used a different term than "posterior."

Upon being advised of the Oklahoma coach's statement implying the game's result was a foregone conclusion, our Colorado Coach, Rick Neuheisel, inquired if it would be OK if our team showed up anyway. He indicated that Colorado already paid the rent on the plane and would have a great deal of trouble getting our deposit back if we did not show up.

Mr. President, Oklahoma's reputation as being a great football power is legendary. The Golden Buffs feel honored to merely be able to appear with them in Memorial Stadium in Norman, OK. Our only hope is that the Oklahoma Sooners will be gentle with us.

Mr. SMITH. Mr. President, I ask unanimous consent to speak in morning business for up to 5 minutes.

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

U.S. MARINE CORPS

Mr. SMITH. Mr. President, I rise today to bring to the attention of my colleagues a very insightful and compelling portrayal of the U.S. Marine Corps. In yesterday's Washington Post, George Will provides a heartfelt tribute to the culture and character our Nation's premier 911 force. It is an excellent editorial which I encourage all of my colleagues to review.

As Mr. Will so appropriately points out, the U.S. Marine Corps is a very unique institution. Its culture is rich with tradition, its character strong on conviction. Honor, discipline, valor, and fidelity are its virtues; dedication, sacrifice, and commitment its code. To those who willingly join this elite society, service is not merely an occupation, it is a way of life.

Mr. President, as we grapple with the challenges of balancing the Federal budget and downsizing our military force structure, there is much we can learn from the U.S. Marine Corps. The men and women of our Corps have experienced fiscal adversity first hand. For decades they have endured shortfalls in procurement, operations, and maintenance and qualify of life programs. Yet, amidst the challenges of austerity, they have remained true to their convictions and determined in their vow to be the most ready when the Nation is least ready. They have always delivered on this promise, and answered the Nation's call.

Whether rescuing American citizens in Rwanda, maintaining the watch off Somalia, conducting migrant rescue and security operations in the Caribbean, and ashore in Jamaica, Cuba, and Haiti, responding to crises in the Persian Gulf, or rescuing downed pilots in the hills of Bosnia, today's Marine Corps continues to deliver on its commitment to the American people and the United States Constitution. We owe them a profound debt of gratitude.

Mr. President, in closing, I ask unanimous consent that yesterday's Washington Post op-ed piece by George Will be printed in the RECORD, I commend Mr. Will for his thoughtful observations on the U.S. Marine Corps, and I encourage each of my colleagues to read this article and reflect upon the

service these brave men and women provide to our Nation.

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

THE MILITARY'S COUNTERCULTURE

(By George F. Will)

QUANTICO MARINE CORPS BASE, VA.—President Truman was a former Army captain and given to pungent expression of his prejudices, one of which was against the Marine Corps, which he derided as "the Navy's police force" with "a propaganda machine almost equal to Stalin's." He said that in August 1950. Note that date.

During the postwar dismantling of the military, other services grasped for the Marine Corps' missions and budget. Chairman of the Joint Chiefs of Staff Omar Bradley, a Missourian and Truman confidant, said, "large-scale amphibious operations . . . will never occur again." He said that in October 1949.

In the summer of 1950 the Korean War vindicated the Marine Corps' vow to be the most ready when the nation is least ready. While Truman was criticizing the Corps, Marines were rushing to Pusan to help stop the North Korean sweep, then going to Inchon in September for the great amphibious landing that reversed the tide of the war. The "propaganda of deeds" was the Marines' decisive argument regarding their future.

Today, in another military contraction, there again are voices questioning the Corps' relevance. Critics should come here, to these 60,000 acres devoted largely to a stern socialization of a few young men and women. The making of a Marine officer amounts to a studied secession from the ethos of contemporary America. The Corps is content to be called an island of selflessness in a sea of selfishness, and to be defined by the moral distance between it and a society that is increasingly a stranger to the rigors of self-denial.

The commanding general here, Paul K. Van Riper, says Quantico begins by teaching officer candidates four things—discipline, drill, knowledge of the service rifle and the Corps' history and traditions. The last is not least in a small institution that subscribes to Napoleon's dictum that "In war the morale is to the material as three to one."

Marines tell young men and women thinking of joining one of the military services that there are three choices and one challenge—that the Corps is a calling, not just a career. On this day, a cluster of young officers—from Harvard, the University of North Carolina, as well as the Naval Academy and other fine colleges and universities—eating a lunch of field rations in a grove of trees agrees. Says one, other people tell you what they do, Marines tell you what they are.

A barracks poster portraying the Trojan horse proclaims that "Superior thinking has always overwhelmed superior force," and officers are impatient with the stereotype of (as one puts it) "Marines with their knuckles dragging on the ground." "Why would the Marine Corps need a library?" asked an incredulous congressman when the Corps asked for the one it subsequently got. The answer is that this nation, with its vast human and material resources, has often waged wars of attrition, but the Marine Corps, the smallest service, must be, like Stonewall Jackson in the Valley, imaginative.

Being so is a tradition. During the 1930s the Marines refined the amphibious tactics that soon were used from North Africa to the South Pacific, and after 1945 were particularly innovative regarding the use of helicopters.

True, there has not been an amphibious assault since Inchon, and Iraqi sea mines—inexpensive leverage for second-rate nations—prevented one during Desert Storm. However, the Marine Corps, which 50 years ago was in danger of being consigned to largely ceremonial roles and embassy protection, is the service least affected by the end of the Cold War.

Lt. Col. Thomas Linn dryly estimates that about once every 11 years since 1829, someone in the White House or the other services has declared the Marine Corps dispensable. However, it is the nation's forward deployed expeditionary force and will not want for work in a world increasingly ulcerated by small, low-intensity conflicts fueled by religious, ethnic, and other cultural passions.

Speaking of cultural conflicts, what makes the Corps not only useful but fascinating is, again, its conscious cultivation of an ethos conducive to producing hard people in a soft age. Toward the end of their 10-week program, officer candidates arrive in the predawn gloom at the Leadership Reaction Course—a series of physical and mental problems they must try to solve under the stress of short deadlines. The candidates arrive after a two-mile run they make after they make an eight-mile march, which they make after being awakened after just two hours sleep. What is their reward for choosing this steep and rocky path in life? Life-and-death responsibilities at age 23.

Looking for today's "counterculture"? Look here.

The PRESIDING OFFICER. The Senator from Nevada.

DEPARTMENT OF COMMERCE, JUSTICE AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

Mr. BRYAN. Mr. President, I ask unanimous consent to set the pending amendment aside.

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

AMENDMENT NO. 2840

(Purpose: To provide funding for the U.S. Travel and Tourism Administration for implementing certain recommendations and for carrying out a transition)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself, Mr. BURNS, Mr. HOLLINGS, Mr. MCCONNELL, Mr. INOUYE, Mr. AKAKA, Mr. GRAHAM, Mr. MURKOWSKI, Mr. REID, Mr. BREAUX, Mr. DASCHLE, and Mr. THURMOND, proposes an amendment numbered 2840.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, for implementing the recommendations from the White House Conference on Travel and Tourism and for carrying out the transition of that Administration into a public-private partnership, $12,000,000, to be transferred from the amount for deposit in the Commerce Reorganization Transition Fund (established under section 206(c)(1) of this title) that is made available in the item under the heading "COMMERCE REORGANIZATION TRANSITION FUND" under the heading "GENERAL ADMINISTRATION" under this title, notwithstanding any other provision of law.

Mr. BRYAN. Mr. President, I am pleased to report the floor manager has indicated that this amendment will be accepted. I want to acknowledge the support of the distinguished Senator from Montana, who has been most helpful in working through this amendment.

I yield the floor, if I may, to him. I made remarks earlier this morning. This deals with the USTTA. The distinguished floor managers have accommodated that.

I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my friend from Nevada. I do not think there is anybody on the Commerce Committee who is any more dedicated to the health of the industry we call tourism. If the American people would look around, this happens to be one part of the Commerce Department that produces an export that is $20 billion to this country in the black—not in the red. In fact, if it was not for agriculture and tourism, our balance of payments would look really bad.

But when any industry produces around $77 billion in foreign exchange earnings every year, we have to take note, especially since this country probably makes less investment in this part of our national economy than any other part.

Mr. President, 7.7 million people visited our State of Montana. Sometimes we think we are pretty authentic, but I also understand where the Senator from Nevada is coming from, too, because they have a very active tourism part of their State government and he has been supportive of that.

If this amendment is accepted, it is only an increase of around $5 million, because there is already $7 million of transition funds in there. Also, the plans and preparations are being made to privatize this department because the tourism industry wants to put together the funds. They think they can do a better job in establishing this commission than the Government can, and we agree with them. But let us give them the time, some funds, and a transition period and let them do it.

Mr. GRAHAM. Mr. President, as a former Governor of Florida, where the

tourism industry is the State's largest employer, I am amazed at the fact that an industry with such tremendous economic impact can continually be so under-appreciated and misunderstood. Travel and tourism is the second largest industry in the United States behind health care, employing more than 13 million Americans both directly and indirectly. Last year, foreign spending on U.S. travel accounted for 39 percent of all service exports and 9 percent of total U.S. exports resulting in a $22 billion trade surplus.

The work of the administration gives our country international presence. USTTA plays an important role in helping States and the private sector to develop its international travel market, a part of a coordinated national marketing and economic strategy. State governments and private industry depend on USTTA research to assist them in marketing activities and spending decisions.

In Florida, tourism represents a $33 billion a year industry, employing 750,000 residents. International visitors, who make up 20 percent of Florida tourists, also have a regional impact. Often, tourists first visiting the United States will travel to Florida or California. On subsequent visits, however, statistics show they are likely to travel throughout the region or the country.

Yet while we are debating this issue today it is imporant to note that the National Governors Association at their 1995 summer meeting, adopted a resolution supporting the USTTA and their proposal to transition the agency into a public private partnership at the end of fiscal year 1996.

The resolution states:

The Governors believe that a strong public private partnership is essential to promote tourism abroad and increase visitation to the United States. The Governors also believe that in a number of areas, the federal government bears responsibility for functions that can ensure benefits for state and national economies and international visitors.

This resolution like the Bryan-Burns amendment has bipartisan support because in the final analysis international tourism promotion is an investment in economic development and job creation. The United States cannot afford to be the only one of 157 developed nations without an official National Tourism Office.

Additionally, the first ever White House Conference on Travel and Tourism will bring together the recommendations of over 15,000 travel and tourism representatives from the 55 States and territories. One of the key recommendations to be announced is the strong support for a national tourism office that will serve as a catalyst for implementing a national tourism strategy for the 21st century.

Please join me in supporting the Bryan-Burns amendment which provides one additional year of funding at the $12 million level to allow the agency to transition itself in a businesslike and professional manner while implementing the recommendations of the first ever White House Conference of Travel and Tourism.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think we have worked out a good agreement here. We have decided in the committee to terminate this agency. Our dear colleagues asked for a provision that would allow them to phase it out over a year's period with a definite commitment that at the end of the year it is gone, with a transition into a private partnership program. I think it is an excellent amendment. I am happy to accept it.

I know Senator HOLLINGS feels the same way, so we are happy to accept this amendment.

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

Mr. BRYAN. Mr. President, I acknowledge publicly my appreciation for the response of the Senator from Texas.

I ask unanimous consent the junior Senator from California, Senator BOXER, be listed as a cosponsor.

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

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

The amendment (No. 2840) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2841

(Purpose: To protect the reproductive rights of Federal women prisoners)

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

The PRESIDING OFFICER. Without objection the pending amendment is set aside. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. COHEN, Mr. JEFFORDS, Ms. SNOWE, and Ms. MIKULSKI, proposes an amendment numbered 2841.

The amendment is as follows:

On page 34, strike lines 1 through 7.

Mr. GREGG addressed the Chair.

Mr. SPECTER. Mr. President, I yield to my distinguished colleague from New Hampshire on the condition I do not lose my right to the floor.

Mr. GREGG. Mr. President, I seek to propound a unanimous consent request at this time that I will present a sense-of-the-Senate amendment to this amendment that is pending, there will be 20 minutes of debate equally divided, that there will be a vote at 6 o'clock on the sense-of-the-Senate amendment.

I ask unanimous consent that be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, I am prepared to accede to the vote at 6 o'clock providing there is a consent to my amendment which I discussed with the manager.

Mr. GRAMM. Which is this?

Mr. SPECTER. This is the amendment to strike the language which prohibits the expenditure of funds to pay for abortion for a woman in prison.

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I will not object with the understanding it has been cleared on our side. Is that the understanding of the Senator from Pennsylvania?

Mr. SPECTER. No; it has not been cleared on that side.

Mr. DASCHLE. Then we have to object until I have had the opportunity to consult with our manager.

Mr. SPECTER. I object to the interruption of the pendency of the amendment.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the amendment which I have sent to the desk—I had not sought clearance from Senator HOLLINGS because Senator GRAMM objected to it so there was no point in seeking clearance. But the amendment provides we strike lines 1 through 7 on page 34. The amendment would strike the following language:

None of the funds appropriated by this title shall be available to pay for abortion except where the life of the mother would be in danger if the fetus were carried to term, or in the case of rape, provided that should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Mr. President, the law at the present time is that a woman in prison may obtain an abortion under circumstances where the prison authorities think it is appropriate to do so. The use of this procedure has been very, very limited.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. SPECTER. The procedures have been used on a very limited basis. From April 1995 through July 18, only nine abortions were performed on Federal women prisoners.

The restrictions on the ban were lifted in late 1993, but when language was not included in the appropriation bill, the Bureau took more than 1 year to reestablish procedures for funding abortion services. In 1994, I am advised that there were 73 live births to Federal prisoners. In 1995 there have been 21 births.

The Bureau of Prisons advises that there are nearly 7,000 women incarcerated for Federal crimes, and about 70

percent of those are there on drug offenses.

The situation would exist, if this language were to become law, the language which I seek to strike, that women in prison who have a serious medical need would be denied an abortion. They obviously are not in the position to pay for their own abortions when they are in jail and unable to earn any money.

By way of background, in 1995, an amendment was offered to prohibit funding to the Federal prison system for abortions on pregnant inmates except when the life of the mother was in danger. A tabling motion failed on a 46 to 46 vote. Then the amendment was defeated on a constitutional point of order—may we have order, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

The amendment was then defeated on a constitutional point of order 47 to 48, that prisoners are legally entitled to adequate medical care when there exists a serious medical need.

The thrust of this amendment would place women in prison in a very disadvantaged position, and it is my view this language ought to be stricken.

Ms. MIKULSKI. Mr. President, I am pleased to support the amendment offered by the distinguished senior Senator from Pennsylvania.

The amendment would strike from the bill before us the provision which prohibits Federal funds from being used for abortion services for women in Federal prison.

But, let me be clear. The amendment would leave intact language in the bill which provides a conscience clause for those opposed to abortion. That language, which this amendment does not touch, ensures that no person would be required to perform, or facilitate in any way the performance of, any abortion.

Let me tell you why I believe this amendment must be adopted.

The provision contained in the committee-passed bill is part of a wideranging assault on women's reproductive rights. Mr. President, it is going to be a long autumn for America's women. Let us look at what has happened already.

The Senate has voted to deny women who are Federal employees coverage under their health plans for abortion services.

A Senate/House conference committee has voted to ban abortions for women in the military stationed overseas.

The House has voted to let States deny Medicaid abortions for victims of rape and incest.

The House version of the D.C. appropriations bill would tell the District of Columbia that it can not use its own, locally raised, revenues for abortions for poor women.

Legislation to ban certain late term abortions, even when severe fetal abnormalities are present or the woman's life or health is at serious risk, is under consideration in both the House and Senate.

And now, under the bill before us, no abortions for women in Federal prisons.

Action after action, vote after vote, we have seen yet another attack on women's reproductive rights. We are facing a full scale assault on women's constitutionally protected right to choose.

Those who oppose reproductive rights know better than to launch a direct attack. The public strongly supports the right to choose, and the antichoice forces know it.

So, instead they chip away at the right, hoping perhaps that no one will notice that yet another group of women have lost their rights.

The bill before us today picks upon a particularly vulnerable population. Women in prison. Women who are totally dependent on health care services provided by the Bureau of Prisons.

Let us be honest. There is no significant Federal expense involved in providing abortions for women in Federal prisons.

Only nine women have obtained abortions since earlier prohibitions were repealed in 1993. So this is of no real consequence to the Federal budget.

Yet, it is a huge issue for the few women who do find themselves in this desperate circumstance. These are not women who have the resources to ever afford private medical services. So by including this provision in this bill we are voting to deny these women access to a legal medical procedure.

And who are these women?

Over two-thirds of the women in Federal prisons are drug offenders. Many of them are in poor health, perhaps HIV-infected, or suffering from AIDS—with all the risks this entails for a developing fetus. Many are themselves victims of abuse.

To add to all this, if these women are forced to carry a child to term, they face the certainty that the child will be taken from them. How can we force women facing these circumstances to bear children against their will?

To deny these women the right to make their own decision on abortion—a decision carefully arrived at after consultation with a physician and appropriate counseling—is unconscionable.

The provision included in this bill is bad policy. It is one more attack on women's reproductive rights.

I hope my colleagues will join me in supporting the amendment offered by the Senator from Pennsylvania.

IN OPPOSITION TO BACK-DOOR APPROACH TO UNDERMINING THE CONSTITUTIONAL RIGHT TO AN ABORTION

Mrs. FEINSTEIN. Mr. President, I rise in opposition to sections 103 to 105 of the Commerce Justice State appropriations bill. These sections would further undermine the constitutional right to an abortion.

The right to an abortion was first articulated by the Supreme Court in the 1973 Roe versus Wade decision. This decision balanced the interests of protecting the fetus with the important interests of the mother, establishing a trimester system under which the right to choice in this country was delineated. Subsequent decisions have held that the Government may not place an undue burden on the woman's right, prior to fetal viability, to make a decision whether or not to have an abortion.

There is no right to choose without access to choice. Restricting women's choice on these appropriations bills, and on other unrelated legislation, is a circumspect, back-door approach to prohibiting abortions.

For women who cannot afford an abortion on their own, for poor women, this back-door approach to limiting abortions is just one more step to a back-alley abortion.

The many efforts to undercut the constitutional right to an abortion in this Congress, and earlier Congresses, have been documented by the National Abortion Rights Action League in their publication, "The Road to the Back Alley." I recommend that interested individuals consult this publication.

Efforts to undercut a woman's right to choose have included:

Blanket restrictions on Federal funding for abortions. As an alternative to unsuccessful congressional efforts to prohibit abortion outright, abortion opponents have worked to ban the use of Federal funds to pay for abortions. These restrictions, popularly referred to as "Hyde amendments," have been attached to appropriations bills ever since Roe versus Wade. The most recent of such measures was Representative ISTOOK's amendment to give States the option of not providing funds to Medicaid recipients in cases of rape and incest.

Banning U.S. aid to international family planning groups performing abortions or abortion counseling. In June, the House approved an amendment to a foreign affairs bill that would ban U.S. aid to any international organizations that perform abortions, counsel women on abortions, or lobby on abortion issues.

Prohibiting health insurance companies from paying for abortions for Federal employees. On July 19, the House approved reinstatement of legislation prohibiting the Federal Employees Health Insurance Program from paying for abortions, except when a woman's

life is in danger. The Senate approved similar language on August 4, with exceptions for rape and incest.

Barring abortions at military hospitals, even when paid for privately. On June 16, the House voted to restore a ban President Clinton had lifted against privately funded abortions in overseas military hospitals.

Prohibiting certain types of late-term abortions. On July 18, the House Judiciary Committee reported legislation that would make it a crime for doctors to perform a late-term abortion procedure called intact D&E. This procedure is extremely rare, and almost exclusively limited to cases in which tragic fetal deformities have been detected.

This is only a partial list of the backdoor assaults on a woman's right to choose. The proposed language is just one more step in the long line of rollbacks on women's reproductive freedoms. I urge my colleagues to strike this language from the Commerce-Justice-State appropriations bill.

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

Mr. GRAMM. Mr. President, this is House language in the bill. The House language is very clear. We are talking about taxpayers' money. Both the House and the Senate have taken the position that when the taxpayers' money is being spent to fund abortions, that abortion should be restricted, that it ought to be restricted to rape, to incest, and to the life of the mother.

What the distinguished Senator from Pennsylvania will do by striking the Hyde language from this bill is to basically give taxpayer funding for abortion on demand. I do not believe that the House or the Senate supports that action, and I am opposed to it.

Let me see if any of my colleagues want to speak on the issue. If not, we will have a motion to table.

Mr. GREGG. Mr. President, I would like to make another attempt at propounding this unanimous consent.

I ask unanimous consent that at the conclusion of the debate and disposal——

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Will Senators and staff please take their conversations to the cloakrooms?

The Senator from New Hampshire may proceed.

Mr. GREGG. I ask unanimous consent that at the conclusion of debate on the present Specter amendment, that my sense-of-the-Senate proposal—which would be to the underlying bill which will be offered and not be subject to a second degree—would be debated for 20 minutes, with 10 minutes on both sides, and that there would then be a sequence of votes should there be a vote ordered on the Specter amendment. If there is not a vote ordered on the Specter amendment, then there would be just a vote that would occur on my sense-of-the-Senate amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I will agree to that time agreement, and I think 10 minutes on each side is adequate. I will only modify it with the one additional request, that the Senator from Wisconsin, Senator KOHL, be recognized to offer the next amendment following the disposition of the Specter amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, I want to be sure I understand this. At the conclusion of the debate on this amendment, then the Gregg amendment would follow, and there would be back-to-back votes on my amendment and the amendment by the Senator from New Hampshire.

Mr. GREGG. There would be 20 minutes of debate on my sense of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, is there an understanding as to how long we will be debating the Specter amendment? Could we get a time agreement on that?

Mr. GRAMM. It is our intention to move to table the amendment now.

Mr. SMITH. Will the Senator yield?

I say to the minority leader, I have no intention to debate. I am prepared to move to table. But I do not want to cut the debate off if there are others who wish to speak. At this time, if it is appropriate, I move to table.

The PRESIDING OFFICER. Is there objection to the unanimous consent offered by the Senator from New Hampshire, as modified by the Democratic leader?

Without objection, it is so ordered.

Mr. SMITH. Mr. President, I move to table the Specter amendment.

Mr. SPECTER. Will the Senator from New Hampshire hold off on that for a brief reply to what the Senator from Texas had to say?

Mr. SMITH. Yes. I withhold.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, by way of a very brief reply, the language in this bill is even more restrictive than the Hyde amendment. As the Senator from Texas has propounded, the language of the Hyde amendment limits abortion except for rape, incest, or the life of the mother, and that amendment does not even permit an abortion in the event of incest. Rather, the current language of the bill does not permit abortion even in the event of incest.

The language is that none of the funds appropriated by this title—in prison, my colleague from Texas says. But a prisoner can be impregnated as a result of incest before coming to prison. This language is even more restrictive than the Hyde language. This language says that none of the funds appropriated by this title shall be available for an abortion except for the life of the mother——

The PRESIDING OFFICER. If the Senator will withhold, the Senate will please come to order.

The Senator from Pennsylvania.

Mr. SPECTER. Except when the life of the mother would be endangered if the fetus were carried to term, or in the case of rape.

It is entirely possible that a woman might be the victim of incest prior to the time she is incarcerated. It still takes 9 months from the time of impregnation to give birth to a child. Incest is a distinct possibility within that time limit.

Contrary to what the Senator from Texas has said, this is not a matter of abortion on demand. This is a matter of abortion when the prison authorities permit the abortion to be carried out. It is not a matter that a woman can simply demand it.

The PRESIDING OFFICER. Will the Senate please come to order?

Mr. SPECTER. And if there is a case of serious medical need, a woman ought to be entitled to have an abortion. These women are in prison. They are obviously not able in most cases—in many cases—to earn enough money to have an abortion. When the matter is left within the discretion of the prison officials considering all the circumstances, it has been used on a very, very limited basis, with the statistics showing that only seven abortions were conducted in a period of several months since they were begun in April 1995 through mid-July.

I think this is a very reasonable position leaving the decision in the hands of the prison authorities, and I urge adoption of the amendment.

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

Mr. SMITH. Mr. President, if no one seeks recognition for further debate, I move to table the Specter amendment.

Mr. FORD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized for 10 minutes.

Mr. GREGG. I thank the Chair.

AMENDMENT NO. 2842

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG) proposes an amendment numbered 2842.

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

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

The amendment is as follows:

At the appropriate place insert the following:

It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peacekeeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

Mr. GREGG. Mr. President, the amendment which I proposed originally I had planned to offer as to the continuing resolution, as an act versus a sense-of-the-Senate, but in an attempt to accommodate my colleagues——

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from New Mexico is correct. Staff and Members will please take their conversations to the Cloakroom.

Mr. GREGG. To accommodate my colleagues——

Mr. DOMENICI. Mr. President, the Senate is not in order. I cannot hear the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is correct. The Senators to the left of the Chair, please take their conversations to the Cloakroom.

The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from New Mexico for his courtesy.

Mr. President, in an attempt to accommodate my colleagues, who I understand wish to move on to other business but who I also think desire to speak on this issue in some manner before we break for a week, I have made this——

Mrs. BOXER. Mr. President, if I may say, there are conversations on the floor of the U.S. Senate when the Senator is trying to speak about a very crucial issue that is a matter of life and death, and I urge, if the Chair could, the Chair to be even stronger than he has been to get some order because it is hard for me to hear sitting right across from the Senator.

The PRESIDING OFFICER. The Chair is attempting to be strong. I hope the Senators will be strong in holding forth their conversations elsewhere.

The Senator from New Hampshire.

Mr. GREGG. I thank the Chair for his strength.

The purpose of this amendment is to raise the issue of how this legislative body should address the pending potential introduction of troops into Bosnia, American troops.

The administration has stated on a number of occasions that it is a distinct possibility that up to 25,000 American soldiers will be asked to serve on the ground in Bosnia. That, of course, creates a significant issue first for those soldiers who would be putting their lives at risk but also for us as a country as to whether or not it is appropriate for us to be asking our men and women to put at risk their lives in this conflict.

It seems, when there has been such a clear statement of purpose and potential risk for American troops, it is appropriate that we as a Congress act to either approve that action or disapprove that action. Clearly, the power to undertake actions which put American soldiers' lives in harm's way lies primarily and first with the President, but obviously we as a Congress also play a major role, not only on the appropriating side but, more importantly, on the side of being concerned for our soldiers, many of whom will obviously be our constituents.

Therefore, I feel strongly that prior to the President taking this action, he should come to the Congress and ask for our approval. I believe he should meet three tests before we give him that approval.

First, he should be able to define what it is that the soldiers will be asked to undertake, what the conflict is that we will be entering and what our role is in that conflict.

Second, he should be able to explain to us the length of time and the manner in which they are going to serve when they are on the ground and what sort of risks they will be put at.

And, third, he needs to be able to express to us how we will be getting our soldiers out.

I think it is very important that he define in this process what our national interest is in putting American lives at risk. That is the bottom line, I believe, that he must satisfy as President.

In addressing that issue, the appropriate body to address it to, obviously, is the American people but also the Congress of the United States as the representative of the American people. Therefore, I do feel it is absolutely critical that before troops are deployed in this region, especially in the numbers which are being considered by the administration—25,000—we have a full and open debate of the matter here in the Congress and that we get from the President a clear and precise and understandable definition of purpose in undertaking this very serious act.

So this sense-of-the-Senate resolution essentially addresses that issue. It says that the President shall come to the Congress before he sends troops into harm's way in Bosnia except in certain limited circumstances.

The language which I have agreed to is actually language which I originally drafted and then presented to the other side, which was reviewed, and to which they made some adjustments, and I understand it is now acceptable to the Democratic leader. As such, I hope we could have strong support of this because it is clearly the role of the Congress to undertake this sort of debate and pursue this sort of action before our troops are deployed in this type of situation.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who controls time in opposition to the amendment?

Mr. NUNN. Mr. President, I believe I am in control.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, could I be notified after 4 minutes?

Mr. President, I agree with this amendment expressing the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this act shall be used for deployment of combat equipped forces of the Armed Forces of the United States for any ground operations in Bosnia unless, and then the two conditions as set forth: Congress approves in advance deployment of such forces of the Armed Forces and the temporary deployment authority.

Mr. President, this amendment does not have the effect of law and does not tie the President's hands. It does state the sentiment and view of the Senate of the United States. If it did tie the President's hands at this critical juncture while the peace negotiations are underway, I would oppose it and vote against it. We should not tie the hands of the President at this critical juncture. If the word went out that there was going to be no U.S. participation after a peace agreement is entered into, then there likely would be no peace agreement entered into by the parties.

Mr. President, America must lead. We have seen what happens when we do not lead. We have recently seen what happens when we do lead. Our leadership must be in NATO and through NATO. Our objections to deployment, if there are objections to deployment, of troops by the United States should also be applicable to NATO troops because we are part of that alliance. It is not just the United States we are concerned about. It is also our allies and the alliance itself. Our conditions for deployment should be made known through NATO and that forum.

Before any decision is made to deploy U.S. forces or in my view NATO forces pursuant to a peace agreement, we should ask a number of questions, a very difficult set of questions, a very important set of questions regarding that deployment.

The first question that I would have—and there would probably be others that would occur to me as time goes on—are the borders between the various factions under the peace agreement both definable and defendable? Is this a sound peace agreement? If we are deploying pursuant to a peace agreement, the key question is, What kind of peace agreement? Is it a sound peace agreement? Does it have a reasonable chance of success? And can U.S. forces and NATO forces enhance the prospects of success?

The second question I would have: Has the President clearly made the case to the American people that the deployment of U.S. ground forces is important to America's national security? That case must be made. The American people must understand this. They must support it. That is a condition that has to be fulfilled if we are going to have a sustainable position if things get rough in Bosnia. And they could get rough—no one should be mistaken about that—although the risk has gone down substantially compared to a month ago when the lines were not as clear as they have been since the recent ground action.

Mr. President, the concern I have would not be simply the rights of the Bosnian Moslems versus the Bosnian Serbs but also the rights of the Bosnian Moslems vis-à-vis the Croatian-Bosnians, if that kind of federation breaks up. And it is very important that federation not break up.

Another question, Mr. President, that I think has to be discussed by our executive branch and by Congress, Do we have an exit strategy? By that I mean, Do we know when the mission will be successful, when it will end, and how we define success?

That involves at least deciding in advance with our allies whether we are going to arm the Bosnian Moslems before we exit—before we exit—or whether we are going to find another way to level the playing field so that the parties can defend their own territory including the possibility of a build-down.

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. NUNN. I yield myself 1 more minute, Mr. President.

Mr. President, the other question that occurs to me at this moment is whether NATO is clearly going to be in charge. NATO must be in charge. There must be no dual key. We cannot have a repeat of what we have had in the last 2 years with the United Nations having the dual key. I believe it is also imperative, if we are going to deploy NATO forces and U.S. forces, that we deploy a robust force, a force that is big enough and tough enough and well enough equipped not to be pushed around and to defend itself in the event of any kind of conflict.

There must be clear rules of engagement. And those rules of engagement must permit a very vigorous response to any attack on U.S. forces or NATO forces.

Mr. President, these are just a few of the questions that I believe are important.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent to add Senator LIEBERMAN and Senator DOMENICI as cosponsors.

I yield 2 minutes to Senator SPECTER.

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

Mr. SPECTER. I support this sense-of-the-Senate resolution because I think it is indispensable that advance approval be given by Congress before U.S. troops are deployed, absent the emergency situation described in subparagraph 2.

When the distinguished Senator from Georgia talks about impeding the ultimate peace agreement, it seems to me that we ought to put everyone on notice that congressional approval is required before there will be a commitment of 25,000 U.S. personnel. What we are really involved in in modern times is that the constitutional authority of the Congress to declare war has been undermined by the conflict in Korea, which was really a war without a congressional declaration, and by the Vietnam war, which was really a conflict there without a congressional declaration, the Gulf of Tonkin resolution not really being a substitute.

There was very serious debate on the floor of this body in January 1991, when the use of force was authorized. I took the position, as did many Senators, that the President, a Republican President, George Bush, did not have the authority to go into the gulf war without congressional authorization.

The questions which have been posed by the Senator from Georgia are very important questions for congressional debate. We should not have a decision made to obligate U.S. personnel without congressional authority. And everyone who is a party to the negotiations there, ought to understand that that is the position of the Congress.

Without support from the American people, the military action cannot be sustained. That support is determined by the action of the Congress of the United States. So this is a very important resolution to put everyone on notice, including the President of the United States.

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

Who yields time?

Mr. LEVIN. Would the Senator from Georgia yield me 1 minute?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I yield the Senator from Michigan 1 minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. LEVIN. I thank the Senator and I thank the Chair.

I wonder if the Senator would be willing to answer a question relative to his understanding of this resolution.

I, first of all, think he laid out a series of very important questions, and I concur that those are critical questions that need to be answered prior to the use of ground forces in Bosnia.

But my question of the Senator is this: He pointed out this is not legally binding because it is a sense-of-the-Senate resolution. If this same language, at a later time, were offered without the words that it is a "sense of the Senate" so that it did then become a legally binding document or language, would it be consistent for those of us who might vote yes today to vote no at a later time because of the timing of the offer of that language or for any other of a number of possible reasons?

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

Mr. LEVIN. Would the Senator yield me 30 additional seconds?

Mr. NUNN. I yield myself 30 seconds.

I will respond to the Senator from Michigan that his question should be answered, yes, it would be consistent. There is a great deal of difference in expressing to the President what the view of the Senate is and then passing a law that binds the President, particularly when this kind of negotiation is going on. So it would be consistent.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, I went to the White House today and met with the President and Members of the Senate on this particular subject. I took the occasion at that time to make three points:

First, the American public needs to fully and completely understand what U.S. national security interests are at stake before the United States commits or sends United States service men and women to Bosnia.

Next, the President of the United States should not commit or send U.S. troops without congressional approval.

Now, if that congressional approval is given—this is the third point—any U.S. forces will have to be under the NATO operational control with robust

rules of engagement. And I feel that this is such a serious situation, that these three points should be observed in considering this important matter.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Georgia. I thank the Senator from New Hampshire also for working out language with us. This is precisely the same thing we have already voted on in the Senate by 99 to 1. We basically already approved this language. It is a variation in the language here today. But it is the same principle. And the principle is very simple; that if we are going to engage in a large-scale peacekeeping effort, the country is better off and the President is better off with approval from Congress.

I think it is very important to note that the meeting that the Senator from South Carolina just talked about today was attended broadly by House and Senate Members, bipartisan leadership.

The President made it very clear, saying that he thought President Bush did the right thing in coming to Congress to ask for approval. He thought the Congress did the right thing in giving it. But we should remember that President Bush sent 500,000 troops to the gulf prior to any approval from Congress. All he had was a sense-of-the-Senate resolution saying this was OK after the fact. The President appropriately has reserved the right with respect to constitutional power not to make a commitment. And we should not hold him to that.

So I think it is entirely appropriate here today to say that a sense of the Senate should have unanimous approval. But if this were a law tying the hands of the President, I think many Members on the other side would also join us in disapproving it.

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

Mr. NUNN. I reserve the remainder of my time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 55 seconds.

Mr. NUNN. Mr. President, of that time, I yield to the Senator from Illinois 1 minute and I yield to the Senator from Connecticut 55 seconds.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. SIMON. Mr. President, I agree with everything the Senator from Georgia had to say. I reach a different conclusion. And I may be the only one voting against this. Tom Friedman of the New York Times had a column recently in which he said, "France acts like a great power but does not have the resources. The United States has the resources but does not act like a great power."

We cannot have effective foreign policy if Congress micromanages it. The Senator from Georgia asks a series of questions. I think there is one other question. Does it help peace in Bosnia to adopt this resolution? I think it unnecessarily raises questions, and I am going to vote against the amendment.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for the remaining time.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to support the amendment. I am privileged to be a cosponsor of it because I think it ought to be the beginning of bipartisan cooperation on this question of authorizing American troops to be part of a peacekeeping mission in Bosnia. The fact is that this amendment is consistent with what President Clinton has said. He has clearly said he expects and would welcome congressional action prior to any dispatch of American troops to Bosnia to enforce a genuine and just peace agreement.

Mr. President, I want to make very clear that I view the exercise of American leadership to bring about the NATO strikes which have brought Bosnia now to the verge of peace as an exercise of leadership which has revived NATO's credibility.

There is no way, if there is a peace agreement, that we can maintain our credibility and NATO's if we do not contribute American troops to that peacekeeping force.

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

Mr. LIEBERMAN. I thank the Chair and yield the floor.

Mr. GREGG. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes 40 seconds.

Mr. GREGG. I yield 2 minutes to the Senator from Maine.

Mr. COHEN. Let me take a moment to challenge the notion that somehow the U.S. Senate is engaged in micromanagement.

We are talking about the President of the United States, who is considering deploying 25,000 troops to one of the most hostile regions in the world, that has been filled for centuries with ethnic hatred, poison and death. And we are talking about deploying those troops to that region without having any sort of defined plan presented to us, without knowing what the ground rules are going to be, so to speak, without knowing who is in charge, without knowing what the Russian role is going to be.

If ever there was a case in which we ought to be consulted and give approval, it is this one.

Let me also take issue with those who said, "Well, President Bush finally came to Congress." It was only after we insisted day in and day out and by going down to the White House, that the President finally agreed to come to Congress to get authority. Before that President Bush was determined to say, "I only have to get authority from the United Nations, that's where I get my authority." We resisted that, and we actually forced the administration to come to us. Not only was it politically wise for him to do so, but we believe he was constitutionally mandated to do so.

So the notion that somehow we are micromanaging is misconceived. We are the ones who raise and support the Army, and we have a coequal responsibility, not just the President, if we start deploying 25,000 troops to a region that has been afflicted over the centuries with hatred and conflict.

Mr. President, I support the Senator's resolution.

The PRESIDING OFFICER. The Senator from New Hampshire has 40 seconds remaining.

Mr. GREGG. Mr. President, this resolution lays down the ground rules for any major American involvement in Bosnia, and essentially they are: The President must explain to this Congress and the American people what the national interest is which justifies putting American lives at risk, and must receive the approval of this Congress before those lives are put at risk.

That is a reasonable request in a democracy, and I appreciate the support of the Members of the Senate in this matter.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The majority leader.

Mr. DOLE. Madam President, I will use 2 minutes of my leader's time to comment on the pending matter.

We had a good meeting with the President this afternoon. Many of us were there, Republicans and Democrats. I think he understands the administration needs to present their case to Congress.

I asked three questions, very short questions: How many? How long? And how much? How many American troops, men and women are going to go to Bosnia? How long are they going to be there? And how much will it cost? That is the first thing the American people want to know.

I believe we are making progress in that part of the world because of the bipartisan efforts of Members of Congress who have stood firm in support of a small nation, an independent nation, a member of the United Nations, Bosnia and Herzegovina. That plus the Croatian military action a couple of months ago, in my view, moved us along, plus the negotiating efforts by the administration.

So I think everybody can take some credit. But the case has not been made to this point. It may be made, perhaps

it will be made. The view I had from the President, without quoting anything he said, is that he certainly understood that they would have to come up and make their case. They are going to ask for money, and I think they will go before the Foreign Relations Committee, maybe the Armed Services Committee and maybe make an excellent case.

I know how bitter some of the debate was during the gulf crisis, and I know many in this body said we ought to have sanctions, that sanctions would work. We still have sanctions, and Saddam Hussein is still there. It has been years and years, so that was not the right way to go.

In any event, I hope that we will do what we should do. We are talking about American lives, American young men and women, and we do need to make a very careful judgment, and I think this sends a strong signal that we will make that careful judgment. I thank my colleague.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I ask unanimous consent that I be granted 1 minute for debate before the vote.

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

Mr. EXON. Madam President, I wish to congratulate the majority leader for the remarks he just made. I thought it was an excellent meeting at the White House today.

I will simply say that I think the President unquestionably has agreed to consult with the Congress. I believe that commitment was made again today.

This is a very critical time. I hope and believe that adoption of this measure is meaningless, but I hope and think at this particular time we could do no good by adopting this once again, but, obviously, it will be adopted. I will oppose it because I think it is ill-timed for us to be stepping into this matter once again at this particular juncture.

I thank the Chair, and I yield the floor.

Mr. DOLE. Madam President, I ask unanimous consent to print in the RECORD a letter the President sent to me on October 20, 1993. Let me read one paragraph:

> I also have made clear that it would be helpful to have a strong expression of support of the United States Congress prior to the participation of U.S. forces in implementation of a Bosnian peace accord. For that reason, I would welcome and encourage congressional authorization of any military involvement in Bosnia.

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

THE WHITE HOUSE,
Washington, DC, October 20, 1993.

Hon. ROBERT DOLE,
United States Senate,
Washington, DC.

DEAR MR. LEADER:

The violent conflict in the former Yugoslavia continues to be a source of deep concern. As you know, my Administration is committed to help stop the bloodshed and implement a fair and enforceable peace agreement, if the parties to the conflict can reach one. I have stated that such enforcement potentially could include American military personnel as part of a NATO operation. I have also specified a number of conditions that would need to be met before our troops would participate in such an operation.

I also have made clear that it would be helpful to have a strong expression of support from the United States Congress prior to the participation of U.S. forces in implementation of a Bosnian peace accord. For that reason, I would welcome and encourage congressional authorization of any military involvement in Bosnia.

The conflict in Bosnia ultimately is a matter for the parties to resolve, but the nations of Europe and the United States have significant interests at stake. For that reason, I am committed to keep our nation engaged in the search for a fair and workable resolution to this tragic conflict.

In closing, I want to express my sincere appreciation and respect for the manner in which we have been able to work together on important issues affecting national security. Over the years, the greatest successes in American foreign policy have had bipartisan support. I am gratified that we have been able to sustain that tradition and thank you for your leadership in that regard.

Sincerely,

BILL CLINTON

MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1996

Mr. DOLE. Madam President, before moving to the vote, I would like to take up the CR, which has now been cleared on each side.

I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 108.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 108) making continuing appropriations for the fiscal year 1996, and for other purposes.

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.

Mr. HATFIELD. Madam President, the Senate has received from the House a joint resolution to provide funding through November 13, 1995, for the continuation governmental activities carried out during fiscal year 1995.

This is a clean bill, providing funding for the activities funded in the 13 annual appropriations bills. The funding levels are sufficient to continue government activities without prejudice to the ultimate enactment of regular bills, but at levels sufficiently low to provide an impetus for successful completion of those bills.

The bill continues ongoing programs at restrictive rates that are the average—less 5 percent—of the 1996 levels in the House-passed and Senate-passed bills. For those programs that are terminated or significantly affected by either the House or Senate bills, the rate may be increased to a minimal level—which could be up to 90 percent of the current rate. In any instance where the application of the formula would result in furloughs then the rate can be increased to a level just sufficient to avoid furloughs.

I would have preferred to come here today to announce the enactment into law of the 13 regular bills, rather than to urge your support for a continuing resolution covering those 13 bills. At this point, however, non of the regular bills has been enacted into law. I am hopeful that before the end of the session we can resolve our differences with the administration and the House and have 13 bills enacted into law. The 6 additional weeks granted by this resolution will give us some breathing room for addressing some fundamental differences between the executive and legislative branches.

This joint resolution is very restrictive. This resolution is drafted so that there is very little incentive to extend the resolution for a longer time. For example, section 114 mandates that the resolution "shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for the continuation of projects and activities." In addition, section 113 mandates that, for those programs that had high initial rates of operation or completed distribution of funds to other entities at the beginning of fiscal year 1995, no similar distributions shall be made or grants shall be awarded that would impinge upon final funding prerogatives. Also, section 109 states that no provision in the fiscal year 1996 Appropriations Acts that makes the availability of any appropriation contingent upon the enactment of additional authorizing or other legislation shall be effective before the expiration date set forth in the resolution. These provisions help guarantee that neither the executive nor legislative branches will prefer continuation of this resolution to the enactment of the regular fiscal year 1996 bills.

Mr. BYRD. Madam President, I congratulate the Republican leadership in the House and Senate for working diligently over the past number of days in hammering out with the administration this continuing resolution, H.J. Res. 108. I particularly compliment the efforts of the chairmen of the Appropriations Committees of the House and

Senate, Congressman LIVINGSTON and Senator HATFIELD, for their leadership in working out this agreement. These two chairmen deserve the lion's share of the credit for working day and night over the past several weeks in negotiations with the administration on this continuing resolution.

Enactment of this resolution will provide the necessary funds to continue the operations of all agencies and departments of the Federal Government over the period October 1 (the beginning of fiscal year 1996) through November 13, 1995. In addition, the resolution provides that, upon enactment into law of any of the 13 regular appropriation bills for fiscal year 1996, that full year appropriation act shall supersede the continuing resolution.

This continuing resolution is necessary to enable Congress to complete its work on the fiscal year 1996 appropriation bills. To date, only two of the 13 regular appropriation bills have been sent to the President for his signature—namely, the Military Construction Appropriation Bill and the Legislative Branch Appropriation Bill.

There are a number of other bills upon which conferences either have been completed or are nearing completion. However, the President has indicated that he will veto as many as five, or possibly more of the 1996 appropriation bills. Among the bills that he has expressed his intention to veto are the Defense Appropriation Bill, which, in the President's view, provides several billion dollars above what he and the Pentagon agree is necessary in defense spending for fiscal year 1996. The President rightly believes that this excess defense spending could be more wisely used to ease the dramatic reductions that are contained in a number of the other 1996 appropriation bills. These bills provide for the investments in our Nation's physical and human infrastructure. The President believes that too little funding is being recommended for a number of these infrastructure programs in bills such as VA/HUD and Independent Agencies; Labor/HHS; Commerce, Justice, State; and Interior. In addition to these bills, the President has objected to a number of legislative riders which are being recommended in several bills. Among these are: Treasury/Postal; Interior; Labor/HHS; Commerce, Justice, State; VA/HUD and Independent Agencies; and possibly others.

One can see that there remains a great deal of work to be done before all 13 of the regular 1996 appropriation bills can be signed into law.

As the distinguished chairman of the committee, Senator HATFIELD, has stated, the terms of this continuing resolution will ensure that all projects and activities throughout the Federal Government will continue to operate at funding levels which will be reduced no more than 10 percent below their fiscal year 1995 levels. Furthermore, the language of the resolution prohibits furloughs of any Federal workers. In other words, as White House Chief of Staff Leon Penetta has indicated, this continuing resolution will ensure a level playing field as very difficult negotiations continue on the 1996 appropriation bills and will allow us an additional 44 days to resolve the differences that remain in connection with a number of them.

I am sure that all Members share my hope and desire that all of the remaining differences can be resolved and that conferences can be completed and that all 13 appropriation bills can be enacted prior to the expiration of this continuing resolution, so that we can avoid the need for further continuing resolutions.

I urge my colleagues to support the adoption of this resolution.

Mrs. FEINSTEIN. Madam President, I understand that the joint resolution would continue funding actions during fiscal year 1996, for HUD essentially under the provisions of the fiscal year 1995 VA, HUD, and Independent Agencies Appropriation Act. Funding would continue at a variety of different levels, depending on the circumstances, under the authority and conditions of the 1995 appropriation act. Some of the authority and conditions is in the appropriation accounts themselves, such as the Stewart B. McKinney Act provision in the annual contributions for assisted housing account that permits the proceeds of certain refinancings to be split between PHA's and the Treasury. Other authority and conditions, such as the amendments to the U.S. Housing Act of 1937, at section 8(c)(2)(A), that purports to sunset at the end of fiscal year 1995, are in the administrative provisions.

Is my understanding correct that the Secretary of Housing and Urban Development will continue under this joint resolution to have the authority to share savings from bond refinancings with State and local bond issuers pursuant to the Stewart B. McKinney Act, and continue to apply the provisions that would otherwise sunset?

Mr. HATFIELD. The Senator's understanding is correct. Authorities and conditions, such as those under the McKinney Act and the section 8 programs that you cite, and all other administrative provisions in the 1995 act, would remain in effect during the period covered by the joint resolution.

Mrs. HUTCHISON. Madam President today the Senate is considering House Joint Resolution 108, the resolution to continue appropriations for fiscal year 1996. I would like to ask the manager of the bill to confirm my understanding that the continuing resolution keeps in place for its duration the moratorium on the listing of the endangered species and the designation of critical habitat enacted in Public Law 104-6 of April 10, 1995. Is that correct?

Mr. HATFIELD. Yes, that is correct.

Mrs. HUTCHISON. I am joined by Senators GORTON, KEMPTHORNE, and KYL in making this statement in order to clarify the continuing resolution, and to prevent any misunderstanding of its terms.

Mr. KEMPTHORNE. Would the Senator from Texas yield?

Mrs. HUTCHISON. The Senator would be happy to yield.

Mr. KEMPTHORNE. As chairman of the Subcommittee on Drinking Water, Fisheries and Wildlife of the Senate Environment and Public Works Committee, I am glad the Senate is clarifying the intent of House Joint Resolution 108 to continue the moratorium placed on listing and critical habitat designation under the Endangered Species Act. This extension will ensure consistency in Federal policy as the debate on the Endangered Species Act [ESA] moves forward. This is important because in the next few weeks I will introduce my bill to reform the ESA. I thank the floor leader and Senator HUTCHISON for their efforts to clarify this issue.

Mr. GORTON. Would the Senator from Idaho yield?

Mr. KEMPTHORNE. Certainly.

Mr. GORTON. I would just like to echo the statements of the Senator from Idaho. As a strong supporter, and one who worked with the Senator from Texas in developing her amendment to the Defense supplemental, I believe that the continuing resolution must continue the current moratorium on listing and critical habitat designations under the ESA. The continuation of this moratorium during the short time of the continuing resolution is even more critical because the fiscal year 1996 Interior appropriations conference report includes language that extends the current moratorium.

As chairman on the Interior Appropriations Subcommittee, I included language in the fiscal year 1996 Interior conference report that prohibits listings and critical habitat designations under the ESA during fiscal year 1996, or until legislation reauthorizing the act is enacted. It is critical to maintain the moratorium during the short time period covered by the continuing resolution.

Mr. LEAHY. Mr. President, I will vote for this continuing resolution because we should not shut down the government. Defeating this resolution would force millions of Americans to bear the weight of political intransigence. That is neither fair nor prudent.

However, I oppose the practice of delaying appropriations bills, and then propping the country up on a temporary set of crutches without firm congressional direction. In many cases, the crutches are inadequate. I am most concerned about the way the Low Income Home Energy Assistance Program was treated by this measure. This

resolution essentially means that Vermont LIHEAP families, many who only earn $7,200/year, will not get any help to keep warm in October. While this Congress goes back and forth about budget numbers in warm conference rooms and well-appointed offices, some Vermonters will be seeing their breath in the air of their homes.

In their third effort to kill LIHEAP this year, the House Republicans have rationalized that LIHEAP funds are expended equally all year round, as if just as much money is spent in August as is spent in November. Therefore, the continuing resolution makes about 16 percent of the money available on October 1, 1995. In fact, in past years States have received 60 percent of the money in the first quarter which has amounted to $900 million, or $3.2 million for Vermont.

Under the extreme limitations of this continuing resolution, Vermont receives only about $500,000 and the net effect is that LIHEAP families will not receive October assistance. I welcome the LIHEAP opponents to come to Vermont in late October when the leaves are off the trees, the ground is freezing under the corn field stubble, and a cold Canadian wind blows under a slate gray sky. People will be cold.

I have been working with the White House and other Members of Congress to get the Republicans to accept a 6 month schedule so that 30 percent of money is available at a reasonable time of year. They have rejected that proposal, and forced us to accept this proposal by delaying the final consideration of the resolution. I am disappointed by this approach to LIHEAP, disappointed by the political tactics involved in passing the resolution, and disappointed that we do not have our appropriations bills finished. Nonetheless, I am forced to support this resolution because of the circumstances.

PASS THE CONTINUING RESOLUTION NOW

Mr. WELLSTONE. Mr. President, I rise in support of House Joint Resolution 108, the continuing resolution. I am pleased that Congress and the President, after long negotiations, were able to work out this agreement that would provide interim levels of funding for programs and activities of the Federal Government until November 13, 1995.

I understand the President will sign this bill. Its expected enactment over the weekend will avert a massive shutdown of the Federal Government, and all of the many costly problems that would cause for people in my State and throughout the Nation who depend on the Federal Government for Social Security, Medicare, student loans, farm payments, and other benefits and services—and for Federal workers who might otherwise have been furloughed for an extended period starting as early as next week. I expect that the administration will exercise its spending authority to avoid furloughs that is provided for in this bill.

I am also pleased that at my urging, working with White House Chief of Staff Leon Panetta, the Appropriations Committee removed the outrageously unfair and arbitrary provision in the bill which would have prohibited any Low-Income Energy Assistance Program (LIHEAP) funding to be distributed to the States.

Several days ago, I alerted Appropriations Committee Chairman HATFIELD to my concerns about this matter in a letter, a copy of which I ask be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, in the letter, I observed that LIHEAP is a highly targeted, cost-effective way to help 5.6 million very low-income American families—or roughly 15 million individuals—to pay their energy bills. More than two-thirds of LIHEAP households have annual incomes less than $8000; more than one-half have incomes below $6000. Further, the average LIHEAP recipients spend 18.4 percent of their income on energy, compared with 6.7 percent for all households.

I pointed out that Minnesota is the third coldest State, in terms of heating degree days, in the country, after Alaska and North Dakota. Especially in cold-weather states like Minnesota and Oregon, funding for LIHEAP is critical to families with children and vulnerable low-income elderly persons, who without it could be forced to choose between food and heat.

The LIHEAP program assists approximately 110,000 households in Minnesota, and provides an average energy assistance benefit of about $360 per heating season. In Minnesota, where the first snows have fallen in some parts of the State, that heating season is already underway, and many people are relying on this funding. While I believe that more should have been released, considering the unique nature of LIHEAP which historically releases the bulk of its funds to cold-weather States immediately in October, I am pleased that at least some of these funds—about $140 million—will be made available immediately on Monday to help pay fuel bills, fix or replace furnaces on an emergency basis, and help with weatherization against the coming winter.

While final funding levels for LIHEAP for this winter and next will likely have to be settled on the Senate floor, and in a conference committee, interim funding for the first part of this winter will be made available on October 1 to avoid large numbers of utility shut-offs and other heating emergencies that could have resulted in serious heating-related tragedies, including the deaths of people in cold-weather areas whose furnaces fail and who are unable to get them repaired or replaced, or other serious problems for those who are unable to pay for the heating season's first fill of fuel without LIHEAP assistance, or who are otherwise placed at risk by this provision.

Mr. President, this is a compromise bill. It does not provide for adequate funding levels for all Federal programs. But in general it applies its spending formulas in a way that is fair and responsible, and I urge its prompt enactment.

EXHIBIT 1

September 26, 1995.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write to urge you to drop from the continuing resolution that is being prepared for likely Senate floor consideration later this week the provision that would prohibit all federal Low-Income Energy Assistance Program (LIHEAP) funds from being released until enactment of the FY 1996 Labor-HHS Appropriations bill, which could be delayed until late November.

In my view, it is outrageous that recipients of energy assistance are being singled out, among those who are helped by all programs of the federal government, for this special funding restriction. I hope you will agree that isolating for especially harsh treatment families with children and vulnerable low-income elderly persons, who without LIHEAP assistance early this winter could be forced to choose between food and heat, is deeply unfair, arbitrary, and even mean-spirited, and should be opposed. It is especially troubling that such an important decision could be made without a single hearing, or even a public indication of the Committee's intentions.

As you know, the huge reductions in this winter's LIHEAP funding (approximately 25 percent) contained in the recently-enacted rescissions bill was one of the main reasons I insisted on an opportunity to try to amend the bill to restore LIHEAP funding on the floor. Though that effort was unsuccessful, I believe it showed the substantial support which exits within the Senate for the program, and for its goal of providing critical energy assistance to qualified recipients.

While final LIHEAP funding levels will likely have to be debated on the Senate and House floors, and again in conference, interim funding for early this winter must be made available on October 1 to avoid large numbers of utility shut-offs and other heating emergencies that could result in serious tragedies. These could include the deaths of people in cold-weather areas whose furnaces fail and who are unable to get them repaired or replaced, or other serious problems for those who are unable to pay for the heating season's first fill of fuel without LIHEAP assistance, or who are otherwise placed at risk by this provision.

LIHEAP is a highly targeted, cost-effective way to help 5.6 million very low-income American families—or roughly 15 million individuals—to pay their energy bills. As the Committee's report on the rescissions bill observed, more than two-thirds of LIHEAP households have annual incomes less than

$8000; more than one-half have incomes below $6000. Further, the average LIHEAP recipients spend 18.4 percent of their income on energy, compared with 6.7 percent for all households.

Minnesota is the third coldest state, in terms of heating degree days, in the country, after Alaska and North Dakota. Especially in cold-weather states like Minnesota and Oregon, funding for LIHEAP is critical to families with children and vulnerable low-income elderly persons, who without it could be forced to choose between food and heat. The LIHEAP program assists approximately 110,000 households in Minnesota, and provides an average energy assistance benefit of about $360 per heating season. In Minnesota, where the first snows have fallen in some parts of the state, that heating season is already underway, and many people are expecting this funding to be released, as long scheduled, on October 1.

This proposal to arbitrarily prohibit distribution of all LIHEAP funds to the states on October 1 could wreak havoc in the lives of eligible vulnerable elderly, families with children, and other low-income people in my state and across the nation. I urge you in the strongest terms to reject it.

Thank you for your consideration.

Sincerely,

PAUL DAVID WELLSTONE,
U.S. Senate.

Mr. DOLE. Madam President, I ask unanimous consent that the resolution be read three times, passed, and the motion to reconsider be laid upon the table.

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

So the joint resolution (H.J. Res. 108) was deemed read the third time and passed.

MIDDLE EAST PEACE FACILITATION ACT

Mr. DOLE. Madam President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 2404, regarding Middle East peace, just received from the House; that the bill be read a third time and passed; and that the motion to reconsider be laid upon the table.

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

So the bill (H.R. 2404) was deemed read the third time and passed.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2841

The PRESIDING OFFICER. Is there further debate?

Mr. DOLE. Madam President, there will be 4 minutes evenly divided between the votes, and I ask unanimous consent that the second vote be 10 minutes in length.

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

The question is on agreeing to the motion to lay on the table amendment No. 2841. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Louisiana [Mr. JOHNSTON] are necessarily absent.

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

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 478 Leg.]

YEAS—52

Abraham	Frist	Mack
Ashcroft	Gorton	McCain
Biden	Graham	McConnell
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Bryan	Grassley	Nunn
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Coverdell	Heflin	Santorum
Craig	Helms	Simpson
D'Amato	Hutchison	Smith
DeWine	Inhofe	Thomas
Dole	Kassebaum	Thompson
Domenici	Kempthorne	Thurmond
Exon	Kyl	Warner
Faircloth	Lott	
Ford	Lugar	

NAYS—44

Akaka	Feingold	Moseley-Braun
Baucus	Feinstein	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Packwood
Bradley	Inouye	Pell
Brown	Jeffords	Pryor
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Campbell	Kerry	Sarbanes
Chafee	Kohl	Simon
Cohen	Lautenberg	Snowe
Conrad	Leahy	Specter
Daschle	Levin	Stevens
Dodd	Lieberman	Wellstone
Dorgan	Mikulski	

NOT VOTING—4

Bennett	Johnston
Glenn	Shelby

So the motion to lay on the table the amendment (No. 2841) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

The majority leader.

There are 4 minutes equally divided.

Mr. FORD. Madam President, could we have order, then, please?

The PRESIDING OFFICER. May we have order in the Chamber, please?

The Senator from New Hampshire.

AMENDMENT NO. 2842

Mr. GREGG. I ask unanimous consent Senator D'AMATO and Senator HOLLINGS be added as cosponsors.

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

Mr. GREGG. I will yield the 2 minutes on our side.

The PRESIDING OFFICER. Is there anyone else who seeks recognition?

The Senator from Kentucky.

Mr. FORD. Madam President, the Senator from Georgia has been trying to get recognition, and you cannot hear him for the noise in the Senate Chamber.

The PRESIDING OFFICER. May we have order?

The Senator from Georgia.

Mr. NUNN. Madam President, this resolution is very similar to the resolution we passed in 1993. If I had my way, I would not have brought up the resolution at this point in time. Of course, every Senator has the right to bring up whatever they would like on any bill under our procedure. The peace agreement is being negotiated now. This resolution, in my view, is a sense-of-the-Senate resolution that does not have the effect of law. It is not binding on the President. It does make it clear the Senate of the United States expects the President of the United States to, basically, have Congress speak to this issue before we have deployment of troops.

We had a good meeting at the White House today. I think the President made it clear his position is very similar to what President Bush's position was before the Persian Gulf war, that is, he would welcome an expression by Congress approving this peacekeeping mission, but he at this point in time certainly is going to consult with Congress in any event.

Madam President, there are a lot of questions that need to be asked by the United States before this deployment takes place. We need to have hearings in the Armed Services Committee and the Foreign Relations Committee. We need to ask a lot of tough questions. Most of all, the American people need to be informed by the President that this is truly in our national interest before we make any commitment under our NATO alliance.

But the United States must lead. If there is a deployment that takes place after an agreement, it is important for the United States to ask the tough questions before deployment within the NATO context, but it is also important for the United States to lead.

So, we have a long way to go before there is a peace agreement. We have a lot to do before we, in the Congress, have done our duty by asking the questions. This is a sense-of-the-Senate resolution that is not binding. It indicates the will of the Senate.

I will vote aye.

The PRESIDING OFFICER. All time has expired. The question is now on the

amendment offered by the Senator from New Hampshire, amendment No. 2842.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Louisiana [Mr. JOHNSTON] are necessarily absent.

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

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 479 Leg.]

YEAS—94

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Bradley	Gregg	Nickles
Breaux	Harkin	Nunn
Brown	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Robb
Chafee	Inhofe	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Santorum
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Simpson
Coverdell	Kennedy	Smith
Craig	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Lautenberg	Thompson
Dole	Leahy	Thurmond
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Faircloth	Lott	
Feingold	Lugar	

NAYS—2

Exon	Simon

NOT VOTING—4

Bennett	Johnston
Glenn	Shelby

So the amendment (No. 2842) was agreed to.

Mr. GRAMM. Madam President, we have many things working and trying to work out an agreement. I think it would probably be advantageous at this point to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Madam President, I ask unanimous consent that the previous vote be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. LOTT. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. 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 PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I ask unanimous consent now to bring up the nomination of General Shalikashvili for reappointment as general. Today is the last day. We have to act on it now.

The PRESIDING OFFICER. Is there objection to bringing up the nomination in executive session?

Mr. KOHL. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Regular order, Madam President.

Mr. KOHL. Objection withdrawn.

EXECUTIVE SESSION

Mr. THURMOND. Madam President, I move we go into executive session.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

Is there any objection?

There is a unanimous consent order to recognize Senator KOHL for an amendment. Is there an objection to going into executive session?

Without objection, it is so ordered.

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Gen. John M. Shalikashvili for reappointment as Chairman of the Joint Chiefs of Staff and reappointment to the grade of general.

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination?

Mr. THURMOND. Mr. President, today the Senate is considering the nomination of Gen. John M. Shalikashvili for reappointment as Chairman of the Joint Chiefs of Staff and for reappointment to the grade of general.

We all know General Shali very well. His record is exemplary. General Shali was only a young lad when he came to this country with his family as they immigrated from Poland. He began to excel almost immediately.

General Shali graduated from Bradley University receiving a degree in mechanical engineering. Later he received a Master's degree in international relations from George Washington University.

General Shali entered the Army as an enlisted man in August 1958. Later, he was commissioned as a second lieutenant in the field artillery. He served in the United States, Germany, and Vietnam rising to the rank of general, the highest rank attainable. He commanded a division. He was the deputy commander-in-chief of the U.S. Army in Europe. He also commanded Operation Provide Comfort, feeding and preserving the freedom of the Kurds in northern Iraq.

Not only did General Shali rise from the lowest enlisted rank to the highest grade possible, he was selected to succeed Gen. Colin Powell as the Chairman of the Joint Chiefs of Staff. As such, he became the principal advisor to the President on military matters. To say that this is a significant achievement is an understatement. His accomplishments represent what is right and good about America. General Shali is an outstanding soldier and an outstanding American. Through hard work, dedication and professionalism, he became the most important military officer in our Armed Forces.

Last week, the Armed Services Committee held a confirmation hearing at which General Shali testified. He responded fully and completely to every question, many of which focused on current and potential operations in Bosnia. Following the hearing, the committee unanimously voted to favorably report General Shali's nomination to the Senate.

I point out to my colleagues that General Shali's current appointment expires at the end of September. In order to ensure there is no gap in his appointment, the Senate will have to act on this nomination before the end of the month.

I urge my colleagues to vote to confirm General Shali's nomination.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Colorado.

Mr. BROWN. Mr. President, I rise not to object. I simply wish to make a brief statement on this nomination.

I believe that the vast majority of the Members of the Senate are committed to confirming the very distinguished general. I, however, have some concerns. Let me be specific.

I believe that part of the reason for America's military failures—and they have been few—has been a failure of leadership, not a failure of the American will, the American spirit, or the American fighting men and women.

This country has an extraordinary record in combat, and it has an extraordinary record in peace. But when you look at our failures—and there have been few—you are struck by the fact that we have had a failure of leadership at times. In Lebanon, President Reagan committed United States troops and literally left the guards at the gate without bullets for their guns.

The decision was made because of diplomatic concerns, but resulted in the loss of hundreds of American lives, of Marines who never had a chance to defend themselves.

That was a failure of leadership, Mr. President. It was not a failure of the men and women who sacrificed their lives. It was a failure of leadership to commit to their troops and ensure that they were never put in harm's way without a way to defend themselves.

This country's failure in Vietnam was a failure of leadership. American troops were committed to combat. They were asked to risk their lives. They were asked to fly missions, they were asked to commit their very lives to that combat. But our leadership was not committed to them. This country followed a course of putting men and women in harm's way, of risking their lives, but it was not important enough for our leadership to stand behind them and stand with them.

I believe with all of my heart that it is a mistake to use military force other than to fight and to win a war. It is a mistake to use them as social workers. It is a mistake to use them as policemen. It is a mistake to have them remove garbage in Haiti. It is a mistake for them to serve as a local police force. Our men and women in the Armed Forces are willing to risk their lives for us, and they deserve to have this United States stand behind them when they are committed to combat.

Mr. President, in 1993, October 5th to be exact, the administration came forward and talked about their commitment of United States fighter aircraft to maintain a no-fly zone over Bosnia. I specifically questioned those testifying along this line: Was the administration willing to stand behind the pilots that they sent into harm's way over Bosnia? I asked for specific assurances that they would not do what they did in Vietnam.

For those who may not recall our actions in Vietnam, the United States sent planes into hazardous areas where we knew there were ground-to-air missiles. We sent them on restricted courses, without the ability to defend themselves and without the necessary rules of engagement that would have allowed our pilots to have a fighting chance to defend themselves. We even sent them at times into situations without any ability to retrieve them if they were shot down.

During the October 5 hearing, I was assured specifically that the mistakes of Vietnam were not to be repeated. I specifically questioned several times whether U.S. planes that were attacked would be permitted to retaliate and whether the retaliation would not be limited only to the SAM that fired at them. In Vietnam, the United States response to enemy fire was limited in such a way that United States pilots who had been fired upon could not attack the supplies and the ammo depots. I was assured that in Bosnia there would be a full and effective retaliation if our men and women who fly the planes and the aircraft of the United States were fired upon.

Specifically, Mr. President, this was the answer of the Assistant Secretary of State for European Affairs, and I quote from the committee record:

> They would have the necessary rules of engagement to permit them to defend themselves if attacked and to carry out the engagement which may require coercion. . ..

Now, some Members may have forgotten, but I do not think the family of our pilot has forgotten. On June 2, 1995, Captain Scott O'Grady, a young American pilot, was shot down over Bosnia by a ground-to-air missile, a Serb SA6. After that shootdown, several things became clear.

First, that the Bosnian Serbs had made it clear in advance that they intended to go after our planes. This was not a secret. They had said it publicly, clearly and precisely.

Second, that the Bosnian Serbs had the capability, and we knew it; that they had ground-to-air missiles, and we knew it.

Third, that their missile radar had painted our aircraft in that same area before O'Grady's plane was shot down.

Fourth, the plane was shot down, and

Fifth, we did nothing.

Now, this violates the very clear commitment that this administration gave us. They told the Foreign Relations Committee that if they sent our troops, our planes and our pilots into harm's way and they were fired upon, we would defend them. We were told specifically that United States rules of engagement would not tie their hands as we did in Vietnam, and that the United States would retaliate.

The truth is, we did tie their hands exactly as we did in Vietnam, and we did not retaliate.

That is wrong. If we want to risk young men and women's lives in combat, if we want to do that, we ought to be willing to stand behind them. If the United States is not willing to stand behind our fighting men and women, do not send them to war.

If it is important enough to make the tough decision to send American troops into harm's way—if we must do it—then do it. But if it must be done, our leaders cannot tie the hands of our fighting men and women and we cannot desert them. We must not desert them when they are in combat.

Now, that is what the United States did with this young Captain O'Grady. Thank God he came back alive. But, Mr. President, we did not meet our commitment to him. We have not met our commitment to other men and women put into harm's way.

For those of you who think this is impossible, take a look at what happened in Somalia. I do not need to remind you of that painful incident. It happened under a previous Chairman of the Joint Chiefs of Staff. The tendency exists to put combat troops into situations in which they are not permitted to defend themselves and do not have adequate backup.

For those of you who think these mishaps are over, take a look at what Haiti was, because the United States sent U.S. troops to collect garbage and to act as a local police force. I think that was a mistake.

Mr. President, I rise because I believe the Chairman of the Joint Chiefs of Staff has a responsibility that is fundamentally different from that of other soldiers. The responsibility of soldiers in this Nation is to follow orders. We believe in civilian control of the military, and we ought to, and we ought to insist on it. But the responsibility of the Chairman of the Joint Chiefs of Staff goes further than just following orders. The Chairman of the Joint Chiefs of Staff has to be the one who stands up when the political leadership misunderstands the role of the military in this country.

The Chairman of the Joint Chiefs of Staff, I believe, is going to be the one who says, "Mr. President, do not use our troops to collect garbage." "Mr. President, do not send our troops and our planes into combat situations without protection." "Mr. President, if our planes are shot down, we must retaliate."

The Chairman of the Joint Chiefs of Staff has a responsibility to rise above politics, to not simply follow orders. Most importantly of all, Mr. President, the Chairman of the Joint Chiefs of Staff has a responsibility to every young man and every young woman in this country who puts on a uniform. He has a responsibility to stand up for them, to speak up for them, to be concerned about their welfare.

Mr. President, the Chairman has a responsibility to speak out if this Nation ever attempts to put our combat troops in harm's way without standing behind them, without giving them the ability to defend themselves.

Mr. President, I come to this nomination full of admiration for General Shalikashvili on a personal basis, with great respect for his intellect, with deep respect for his military service and for his commitment to this country. But, Mr. President, I do not feel that General Shalikashvili has stood up for the men and women who wear the uniform of the United States. General Shalikashvili has tended to follow orders from his superiors when he had a responsibility to speak out for conditions that will protect American fighting men and women.

General Shalikashvili should have insisted that if we send U.S. planes to Bosnia into harm's way, the pilots have the right to defend themselves fully. The Chairman of the Joint Chiefs

of Staff has a special responsibility to America's fighting men and women. He must ensure that every possible measure has been undertaken to ensure their safety. That includes making clear to our country's leaders the actions necessary for their protection. He has not fulfilled that part of his job. I wish to be recorded as opposing the confirmation.

Mr. NUNN. Mr. President, I rise in strong support of the nomination of Gen. John S. Shalikashvili for a second 2-year term as the Chairman of the Joint Chiefs of Staff.

I have worked closely with General Shalikashvili or General Shali, as he is usually referred to, over the years. This has been particularly true since August 1989 when then Lieutenant General Shali was the deputy commander-in-chief of the U.S. Army Europe and Seventh Army. During that assignment, General Shali commanded the Combined Task Force Provide Comfort that provided humanitarian assistance to the Kurdish refugees in Northern Iraq. That very difficult operation, which involved providing assistance to between 500 and 700,000 Iraqi Kurds who had taken to the mountains and coaxing them back down to resettle their towns and villages, saved tens of thousands of lives.

From August 1991 to June 1992, then Lieutenant General Shali served as the Assistant to the Chairman of the Joint Chiefs of Staff. In that position, General Shali represented the then Chairman of the Joint Chiefs of Staff, General Powell, in interagency fora. Based upon his performance in those demanding assignments, General Shali was promoted to four-star general in June 1992 and was assigned as the Supreme Allied Commander, Europe, the senior military officer of NATO, and Commander-in-Chief, United States European Command. General Shali has served as the Chairman of the Joint Chiefs of Staff since October 1993.

General Shali has testified numerous times before the Armed Services Committee since his advancement to four-star rank. He also testified before the Armed Services Committee in September 1993 in connection with his initial nomination to be the Chairman of the Joint Chiefs of Staff and testified again before the Committee last week in connection with his nomination for a second 2-year term. The Committee voted unanimously to favorably report his nomination to the Senate.

I think that it is important to review the role of the Chairman of the Joint Chiefs of Staff. I find that many people believe that the Chairman has far more authority than he does. Under the law, the JCS Chairman is the principal military adviser to the President, the National Security Council and the Secretary of Defense. The chain of command runs from the President to the Secretary of Defense and from the Secretary of Defense to the commanders of the combatant commands. Communications between the President and the Secretary of Defense and the combatant commanders are transmitted through the JCS Chairman. The Secretary of Defense has assigned to the Chairman of the Joint Chiefs the responsibility for overseeing the activities of the combatant commanders but that assignment does not confer any command authority on the Chairman. The Chairman outranks all other officers of the armed services but he does not exercise military command over the Joint Chiefs of Staff or any of the Armed Forces.

In other words, the Chairman of the Joint Chiefs of Staff is the senior member of our Armed Forces and the principal military adviser to our civilian leaders but he does not exercise command over any element of the Armed Forces and is not in the chain of command for our Armed Forces.

General Shali is responsible for giving the best military advice that he can. There is no guarantee, however, that his military advice will carry the day on any issue. He has agreed if asked, to give the Congress his personal views on any issue even if those views differ from the administration. I have no doubt that he has fulfilled that agreement. As a matter of fact, General Shali's testimony before the Armed Services Committee last week was germaane to both of these points. With respect to providing military advice he testified as follows:

> I am very much convinced that . . . the Secretary of Defense and the President, and for that matter, the National Security Council, not only welcome military advice, seek it, give me every opportunity to voice my views. Again I say that does not mean that my views are always the ones that prevail, but I can think of only a few where they have not prevailed and not in cases where I felt that whatever was decided was such that I needed to walk away from it because I could not in clear conscience support that.

With respect to a decision that was contrary to his advice, General Shali testified as follows with respect to the complicated issue of demarcation between theater and national missile defense:

> . . . the Chiefs met on a number of occasions during this period when demarcation and particularly specific limits on interceptors were discussed, and we were always of the view, all of us, that we should not place any limits on them. When it came to the decision, everyone in the administration was aware that my view and the view of the Joint Chiefs was that we should not put any limits on it. The debate and the decision went the other way. At the earliest possible opportunity, I raised the issue that we need to reopen that point and that we need to pursue without limits on interceptors. I believe that is essentially where we are today. So, I feel good that my view in the long term has prevailed.

If the opposition is because of disagreement with the administration's Bosnia policies or past Bosnia policies, then the opposition is misplaced because General Shali is an adviser not a decisionmaker.

General Shali has my unqualified and strong support for confirmation for a second 2-year term as Chairman of the Joint Chiefs of Staff.

Mr. LEVIN. Mr. President, I rise in strong support of the nomination of Gen. John Shalikashvili to continue as Chairman of the Joint Chiefs of Staff.

He has the total well-being of the men and women in our Armed Forces foremost in his mind as he performs his duties. He has been a firm and steady voice for assuring that when our military is used, it be only with clear purpose and with the full backing of our civilian leadership. He has focused great resources on readiness, training, and morale.

For these reasons, he has broad and deep support within the services, and enjoys the confidence of the military, from generals to privates. General Shali is truly a soldier's soldier.

The General has rendered outstanding service to the Nation throughout his career, and for the last 2 years as Chairman of the Joint Chiefs. The Armed Services Committee unanimously approved General Shali's nomination, and we have greatly benefited from his expertise, his responsiveness to our inquiries and his clarity and directness. We always get a straight answer to our questions, and get it promptly.

Mr. President, I urge the Senate to approve this nomination.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. THURMOND. I move to reconsider the vote whereby General Shalikashvili was confirmed.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that the President be immediately notified of this confirmation.

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

Mr. NUNN addressed the Chair.

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

Mr. NUNN. Just a procedural question, Mr. President.

Has this nomination passed the Senate by voice vote?

The PRESIDING OFFICER. It has passed.

Mr. NUNN. Has there been a motion to reconsider and a motion to lay on the table?

The PRESIDING OFFICER. There has been a motion to reconsider and to lay on the table.

Mr. THURMOND. Mr. President, I would like to thank the distinguished

Senator from Wisconsin, Senator KOHL, for allowing us to proceed with this nomination ahead of his amendment. He is a gentleman and a scholar.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will return to legislative session.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 2843

(Purpose: To provide for the evaluation of crime prevention programs, and for other purposes)

Mr. KOHL. Mr. President, I rise to offer an amendment which I will send to the desk after I explain it.

The amendment is being offered on behalf of myself and Senator COHEN, and cosponsors also include Senator BIDEN and Senator SNOWE.

In last year's crime bill, Mr. President, we authorized $300 million—somewhat in excess of $300 million—for crime prevention. The split, as you recall, was 80 percent for law enforcement and 20 percent for prevention.

The reasoning at that time was if we are going to have a balanced crime bill, we have to be willing to spend some modest amount of money on effective crime prevention measures and that an 80–20 split between law enforcement and crime prevention was reasonable, and we passed the crime bill on that basis.

Well, what we are attempting to do today is strike virtually all of that crime prevention money. It is an attempt to strike it from this bill so that we will have a bill devoted entirely to spending for law enforcement to the total exclusion of crime prevention.

It seems to me that is not what we intended to do and that is not what we should do and not what our country needs. There is no question that spending a modest amount of money in a crime bill on trying to set up programs that have a proven record of success at keeping young people from getting involved in crime in the first place, setting up a modest amount of money in a crime bill to do these kinds of things is a reasonable effort. It should not be sidetracked.

We debated it at great length last year before we passed the crime bill and decided on an 80 to 20 split. There are programs like the block grant programs. There are weed and seed programs. There are programs which have been evaluated and demonstrated to work.

What I am suggesting is that we put back 25 percent, which is $80 million, out of that over $300 million that was authorized last year for prevention. I and Senator COHEN, Senator BIDEN, and Senator SNOWE are desiring to put back $80 million in proven effective crime prevention programs.

Now, that money is being taken from overfunding of the FBI for this year. When I say overfunding, it is $80 million that the FBI did not ask for, that the President did not ask for, that the House did not fund. It is an extra $80 million that has been given to the FBI. We are taking that $80 million and putting it into a very modest account to fight crime by way of prevention. And that is what this amendment is all about.

Before Senator COHEN speaks, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself and Mr. COHEN, propose an amendment numbered 2843.

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

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

The amendment is as follows:

On page 15, line 16, strike "$282,500,000" and insert "$202,500,000".

On page 15, line 23, strike "$168,280,000" and insert "$88,280,000".

On page 25, line 19, strike "$100,900,000" and insert "$130,900,000".

On page 25, line 22, insert "$30,000,000 shall be for the Local Crime Prevention Block Grant Program, as authorized by section 30201 of the Violent Crime Control and Law Enforcement Act of 1994;" before "$4,250,000".

On page 27, line 5, strike "$50,000,000" and insert "$30,000,000".

On page 27, between lines 17 and 18, insert the following:

"To carry out chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, $50,000,000, which shall be derived from the Violent Crime Reduction Trust Fund.

On page 30, line 20, strike "$23,500,000" and insert "$43,500,000".

On page 30, line 20, strike "$13,500,000" and insert "$43,500,000".

On page 30, lines 23 through 25, strike "and $10,000,000 shall be derived from discretionary grants provided under part C of title II of the Juvenile Justice and Delinquency Prevention Act" and insert "funded by the Violent Crime Reduction Trust Fund".

On page 31, line 26, strike "$144,000,000" and insert "$164,000,000".

On page 32, line 5, strike "$10,000,000" and insert "$30,000,000".

On page 32, line 8, strike "gangs;" and insert "gangs, of which $20,000,000 shall be derived from the discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs funded by the Violent Crime Reduction Trust Fund;"

On page 64, between lines 22 and 23, insert the following new section:

SEC. 121. EVALUATION OF CRIME PREVENTION PROGRAMS AND DEVELOPMENT OF NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY

(a) EVALUATION OF CRIME PREVENTION PROGRAMS.—The Attorney General shall provide, directly or through grants and contracts, for the comprehensive and thorough evaluation of the effectiveness of the following programs funded by this title:

(1) The Local Crime Prevention Block Grant program under subtitle B of title III of the Violent Crime Control and Law Enforcement Act of 1994.

(2) The Weed and Seed Program.

(3) The Youth Gangs Program under part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY.—

(1) STRATEGY.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall formulate and publish a unified national crime prevention research and evaluation strategy that will result in timely reports to Congress and to State and local governments regarding the impact and effectiveness of the crime and violence prevention initiatives described in subsection (a).

(2) STUDIES.—Consistent with the strategy developed pursuant to paragraph (1), the Attorney General may use crime prevention research and evaluation funds reserved under subsection (e) to conduct studies and demonstrations regarding the effectiveness of crime prevention programs and strategies that are designed to achieve the same purposes as the programs under this section, without regard to whether such programs receive Federal funding.

(c) EVALUATION AND RESEARCH CRITERIA.—

(1) INDEPENDENT EVALUATIONS AND RESEARCH.—Evaluations and research studies conducted pursuant to this section shall be independent in nature, and shall employ rigorous and scientifically recognized standards and methodologies.

(2) CONTENT OF EVALUATIONS.—Evaluations conducted pursuant to this section shall include measures of—

(A) reductions in delinquency, juvenile crime, youth gang activity, youth substance abuse, and other high risk-factors;

(B) reductions in risk factors in young people that contribute to juvenile violence, including academic failure, excessive school absenteeism, and dropping out of school;

(C) reductions in risk factors in the community, schools, and family environments that contribute to juvenile violence; and

(D) the increase in the protective factors that reduce the likelihood of delinquency and criminal behavior.

(d) COMPLIANCE WITH EVALUATION MANDATE.—The Attorney General may require the recipients of Federal assistance under this Act to collect, maintain, and report information considered to be relevant to any evaluation conducted pursuant to subsection (a), and to conduct and participate in specified evaluation and assessment activities and functions.

(e) RESERVATION OF FUNDS FOR EVALUATION AND RESEARCH

(1) IN GENERAL.—The Attorney General shall reserve not less than 2 percent, and not more than 3 percent, of the amounts appropriated to carry out the programs described in subsection (a) in each fiscal year to carry

out the evaluation and research required by this section.

(2) ASSISTANCE TO GRANTEES AND EVALUATED PROGRAMS.—To facilitate the conduct and defray the costs of crime prevention program evaluation and research, the Attorney General shall use funds reserved under this subsection to provide compliance assistance to—

(A) grantees under this programs described in subsection (a) who are selected to participate in evaluations pursuant to subsection (d); and

(B) other agencies and organizations that are requested to participate in evaluations and research pursuant to subsection (b)(2).

Mr. COHEN. Mr. President, let me express my support for what the Senator from Wisconsin is seeking to do. We have a choice to make in our society as to whether we are going to try to have intervention programs for young people who are on their way to becoming criminals, or whether we are simply going to sit back and say we are going to build more prisons and more jails and have more incarceration.

I was interested yesterday, to read in the Washington Post—I was shocked, really to read in the Washington Post yesterday a story of a little town in Texas where some kids, they are not old enough to be called adolescents, they are children—whether 6 years old—the Senator from Texas may know—6, 7, 10, ranging all the way to 11—they happened to go by and they took a horse and beat that horse to death. They crippled the horse so it could not move. Then they jammed a stick up its nostril. Then they took some kind of a bludgeon instrument and beat the horse's head until it died. They then went on to school and they laughed and joked about it. And they were telling all their friends what a joy it was they had just engaged in, beating this horse to death.

They finally were apprehended later that day or the next day and were somewhat surprised to find themselves forced to stay overnight in a local detention facility. But what was surprising about it is these young kids were really expressing their crime, as such, against this animal in a positive fashion. They were laughing about it. They were joking about it. And the fear that was expressed in that community is what is going to happen a couple years from now? What is happening in our society that we have got young people like this who take joy and pleasure in killing an innocent animal? What is going to be the future down the line when they start turning whatever is inside them toward their fellow human beings?

So, Mr. President, we have a choice here. We can say we are going to put them away, we are going to lock them up, we are going to wait until they really do something serious by committing some other crime and then put them in an incarceration facility. That has been one solution that we are moving toward.

This is an opportunity to provide block grant money to States and let them decide how the money should be spent. Let them decide whether or not they are going to have weed and seed programs. Let Wisconsin decide with its funds, whether they want to put police officers into high schools and junior high schools and working with kids before they get into the fast lane to crime.

I read a book sometime ago called "There Are No Children Here." It talked about what is happening in our inner cities, in particular; that these young kids are growing up under circumstances in which they have to duck bullets whizzing by in the nighttime; that they do not have any opportunity to ever walk the streets safely.

So States and local communities ought to have an opportunity to come up with programs. Now, I do not know much about midnight basketball. I am a professional basketball fan. Maybe midnight basketball works in some inner cities, I do not know. It does not apply to me. It might work in Chicago. It might work in cities in Wisconsin.

Why should we make that judgment? This is an opportunity to provide some limited funding for States to employ juvenile prevention programs.

Mr. President, it is worrisome that the number of young males who are aged from 14 to 17 will grow over the next 5 years. We can expect to see record levels of juvenile crime. There is one expert who estimates that this demographic trend is going to produce a minimum of 30,000 more muggers, murderers, and chronic offenders than we currently have. Are we going to keep building jails and prisons, and keep putting our kids away, or are we going to try to intervene in the early years to see if we can prevent them from heading down the pathway to crime?

So I join with enthusiasm my colleague from Wisconsin. I think it is a very important amendment, and I hope it will enjoy the support of a majority of our colleagues.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

PROVIDING FOR AN ADJOURNMENT OF THE TWO HOUSES

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the adjournment resolution, which provides for an adjournment of the Senate beginning tonight or any day up to next Thursday, October 5; that the resolution be agreed to and the motion to reconsider be laid upon the table.

This has been agreed to by the Democratic leadership.

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

So the concurrent resolution (H. Con. Res. 104) was agreed to, as follows:

H. CON. RES. 104

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, September 29, 1995, it stand adjourned until 10 a.m. on Friday, October 6, 1995, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day beginning with Friday, September 29, 1995, through Friday, October 6, 1995, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Tuesday, October 10, 1995, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

Mr. GRAMM addressed the Chair.

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

AMENDMENT NO. 2843

Mr. GRAMM. Mr. President, I hope we can dispose of the pending amendment in short order. The committee reviewed all of these programs that the amendment proposes to fund. These are all of the so-called prevention programs that, when we debated this bill, we discussed at great length.

What is being proposed here is to give money to the States for activities such as midnight basketball, and to pay for it by cutting the $80 million from the FBI. I remind my colleagues that when we passed the Anti-Terrorism Act, we authorized additional funding for the FBI.

What I have tried to do in this bill is to provide some of that funding which we authorized. What we are being asked to do here is to go back and fund the very programs that we passed over because we did not think they were worthy, and we are being asked to pay for them by cutting the FBI.

I think that if people could take a look at this amendment and decide whether they wanted these prevention programs or whether they wanted the money to go into law enforcement to grab violent criminals by the throat and not let them go to get a better grip, I think it would be a very clear choice.

I am opposed to the amendment. I would be happy to have a voice vote on

the amendment if the Senator is willing to do that.

Mr. KOHL. Mr. President, I will call for a rollcall vote, but I want to answer briefly what the Senator said.

The FBI this coming year is funded at a 15-percent increase over last year. There is not a single request the FBI has made for funding that we have not authorized and are prepared to fund, without—without—this $80 million. This $80 million is over and above everything that the FBI has authorized, the President has requested and the House has funded.

He talks about midnight basketball league, and that is a synonym for money that we think is wasted on prevention. As Senator COHEN pointed out, this money is block granted to States. They do not have to spend it on midnight basketball.

We have decided that much of the money we are spending at the Federal level the States can spend much more effectively. You have made that argument time and time again. Let the Governors, let the local government spend the money, not Washington. That is what these crime prevention programs are aimed at.

These crime prevention programs, if the Governors so wish, could be spent on programs like DARE. Everyone in this Chamber understands and recognizes that DARE is a program that works.

So midnight basketball is not where these funds are going to be expended. They are going to be given to States and Governors and local governments to spend as they see fit.

Again, the argument is that in any crimefighting bill, a certain amount of money, modest as it is, needs to be spent on trying to prevent it from occurring in the first place, and I do not think that there are any Senators, or many Senators in this Chamber who would not agree with this principle. And that is all this amendment intends to do.

Several Senators addressed the Chair.

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

Mr. GRAMM. Mr. President, $80 million will be spent here by this amendment, our distinguished colleague talks about letting the States spend it, but we are not taking it away from Federal midnight basketball, we are not taking it away from Federal prevention programs. We are taking the money away from the FBI.

We passed an antiterrorism bill by a vote of 91 to 8 authorizing funds for the FBI. All I have tried to do in this bill is to provide part of that funding.

What we would be doing here is cutting the FBI to fund programs that may or may not do anything to prevent crime. The intentions of the program may be good. There are people who are strong proponents, for example, of midnight basketball.

The point is, do we want to cut the FBI to fund it? I say no. I think this amendment should be rejected and it should be rejected soundly.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief. First of all, this is not about midnight basketball. That is a great thing to talk about. The States are not using this for midnight basketball. Let me tell you what they are using it for, to give you one example.

I can pick almost any one of your States. The thing States use this money for, for example, is boys clubs and girls clubs. Let me tell you about boys clubs and girls clubs. There is a study the Judiciary Committee did and it has been done by others, and no one disputes it. If you put in a boys club and girls club—the study was done in Chicago and New York—you take two housing projects, the same type of housing projects, and put a boys club and girls club in the basement of one and no boys club and girls club in the basement of the other, the difference in the rate of crime is as follows: 31 percent fewer arrests in the project that has a boys club and girls club in it; 27 percent less use of drugs, arrest for drugs; and 19 percent fewer arrests for any acts of violence.

As my dear old mother would say, an idle mind is a devil's workshop. You put these kids out there, and you have nothing for them. Let me tell you what these boys and girls clubs do with the money we have in here. One example: There is not a single one of these clubs that has midnight basketball.

I will tell you what they have. They have the following deal: If you join the club and you are involved—and particularly, they put them in housing projects, which they are now doing in most of your States, putting in public housing projects. What they are required to do is to have computer classes before they can play in the gym.

Second, they are required in a State like mine, and many of yours, to have mentoring programs. They bring the mentoring programs into the schools. Of the people who volunteer in the boys and girls clubs, 80 percent are uniformed police officers.

Third, what they do is they get these kids into these programs, and part of the requirement to stay in the program and to be able to use the boys and girls club is you have to stay in school and have passing grades. What they have done is changed the culture in those communities. I will give you one example by limiting it to boys and girls clubs. YMCAs and church groups are all involved in these programs. We are not talking about midnight basketball.

Second, we are talking about the weed and seed program, which started under President Bush. I can pick 50 quotes. I will pick one from a Republican U.S. Attorney from Georgia, Joe Whitley, former U.S. Attorney from the northern district of Georgia:

> I have said that this is the most important matter I have ever dealt with as U.S. Attorney. It's a simple but fundamentally sound idea that people in communities really seem to believe.
>
> . . . The program is responsive to the concerns of citizens. It's positive because residents thought it had real and credibility—combining law enforcement and prevention.

I can talk about Michael Chertoff, former U.S. Attorney for New Jersey, a Republican, and Debra Daniels, former U.S. Attorney, southern district of Indiana, a Republican. The list goes on.

Crime prevention is an issue that has been the subject of more misinformation and outright mischaracterization than perhaps any other in the crime debate—

Whether we should work to prevent crime before it happens, instead of waiting until after the shots are fired, until after our children become addicted to drugs, until after more Americans' lives are ruined.

The anticrime law enacted last year answered that question unapologetically. In addition to fighting crime—the law made a commitment to preventing crime.

A commitment supported by virtually every criminologist, every legal scholar, every sociologist, every psychologist, every medical authority, and nearly everyone's common sense.

Those who study this issue agree that breaking the cycle of violence and crime requires an investment in the lives of our children—

With support and guidance to help them reject the violence and anarchy of the streets in favor of taking positive responsibility for their lives.

In fact, the Fraternal Order of Police, the National District Attorneys Association, and the International Brotherhood of Police Officers cite prevention programs as critical to a long-term cure for crime.

Prevention is what cops want—what virtually everyone in law enforcement wants. Every police officer I have talked to, every prosecutor, every prison warden, every probation officer says the same thing—we can't do it alone.

And listen to local officials—the very people the Republicans say they want to give greater voice.

Republican Mayors Giuliani of New York and Riordan of Los Angeles say this:

> By funding proven prevention programs for young people, the crime bill offers hope—hope that in the future we can reduce the need for so many police officers and jails.

Listen to Paul Helmke, the Republican mayor of Fort Wayne, IN:

> It's a lot less expensive to do things on the prevention side than on the police side.

And prevention of crime—particularly juvenile crime—is more important now than ever before.

Last week the Department of Justice released its first national report on juvenile offenders and victims. The report found that between 1988 and 1992 the juvenile violent crime arrest rate has increased by more than 50 percent.

It further estimated that even if the crime rate ceases to grow in future years, juvenile population growth alone would produce a 22 percent rise in violent crime arrests. Should the violent rate continue to grow as it has between 1988 and 1992, the number of juveniles arrested for violent crimes will double by the year 2010—to more than 260,000 arrests!

Attorney General Janet Reno specifically cited prevention and intervention programs as one of the fundamental ways to combat this type of growth in juvenile crime.

Prisons, though essential, are a testament to failure: They are the right place for people gone wrong.

On the other hand, when a life about to go wrong is set back on the right track—that is a testament to hope.

We build hope by showing children that they matter, by challenging disaffection with affection and respect, and by contrasting the dead-end of violence with the opportunity for a constructive life—

I would now like to briefly comment on the three programs in this amendment.

LOCAL CRIME PREVENTION BLOCK GRANTS

Local crime prevention block grants were created to allow cities and towns to develop their own prevention programs to combat child abuse, youth gangs, drug abuse by children, and crimes against the elderly—including the D.A.R.E. Program and the boys and girls clubs.

Local crime prevention grants enable communities to institute successful initiatives such as: Measures to prevent juvenile violence, juvenile gangs, and the use and sale of illegal drugs by juveniles, programs to prevent crimes against the elderly, midnight sports league programs to keep kids off the street and away from drugs, supervised sports and recreation programs after school and on holidays, the establishment of Boys and Girls Clubs of America in public housing facilities, and the creation of special crime units to deal with crimes in which a child is involved, to name a few.

These prevention strategies and programs have proven effective in reducing the incidence of crime in both the short and long term. Here are some examples of programs that have proven track records:

In hundreds of public housing projects across the country, boys and girls clubs give kids a safe place to hang out after school—a place with positive activities and positive role models.

A recent, independent evaluation has reported that housing projects with clubs experience 13 percent fewer juvenile crimes, 22 percent less drug activity, and 25 percent less crack use, than do projects with clubs.

In Honolulu, professionals identify families at risk for neglect or abuse when children are born and then visit their homes regularly over several years to help parents learn to care for their children.

In Houston, Texas, a core of professionals provides one-on-one counseling, mentoring, tutoring, job training and crisis-intervention services to students at risk for dropping out.

And in Delaware, "Stormin' Normin" Oliver runs an award-winning summer basketball league—in which team members must participate in supervised study sessions and perform community-service work in addition to their time on the courts.

Although many communities are putting their best foot forward, the need and demand for prevention programs far outpace the supply.

And yet the republicans have targeted prevention grants in the crime law for complete elimination—a move some charge is cold-hearted and mean. But I say it is just plain dumb.

Local crime prevention block grants are one of the best means we have to ensure States and localities have the funding they need to reduce crime over the long haul.

Weed and seed is a republican, Bush administration program, the brainchild of former Attorney General William Barr.

The program funds prevention efforts and comprehensive law enforcement efforts.

The weed and seed program has achieved notable success primarily because it requires the kind of community policing that works, and then requires that law enforcement, social service agencies, the private sector, and the community work together to prevent crime.

So this is a program that works because it utilizes both law enforcement and community participation.

In a number of cities—such as Madison, Houston, Trenton, and Camden—notable reductions in crime have been achieved in weed and seed areas.

Many of weed and seed's biggest fans are former Republican U.S. attorneys. Let me tell you what a few of them have said:

Joe Whitley, former U.S. attorney from the northern district of Georgia:

> I have said that this is the most important matter I have ever dealt with as U.S. attorney. It's a simple but fundamentally sound idea that people in communities really seemed to believe. * * * The program is responsive to the concerns of citizens. It's positive because residents thought it had real credibility—combining law enforcement and prevention.

Michael Chertoff, former U.S. attorney for New Jersey:

> Trenton was a pilot city. It was a very successful project and I think very highly of it. * * * Community policing worked very well in closing the distance between the police and the community, and it deterred crime because it gave the police a better reputation within the community.

Debra Daniels, former U.S. attorney from the southern district of Indiana:

> In a nutshell, it is the kind of program that you want. "Program" is the wrong word because it connotes money only—you want to emphasize the aspect of weed and seed that has to do with planning at the grassroots level.
>
> Weed and seed requires collaboration of all governmental agencies working closely at all levels with people in neighborhoods to create a complete package of crime fighting, policing, human services and economic development. * * * The community leadership development was miraculous and the crime rate decreased.

The consensus of all the law enforcement experts around the country is that youth gangs are a serious problem and a growing problem.

The most recent report on juvenile offenders from the office of juvenile justice and delinquency prevention at the department of justice reports that the number of jurisdictions affected by youth gangs has increased substantially in the last 20 years and that gang-related crime has increased since the late 1980s.

Yet very little is done to directly target youth gangs.

This amendment would boost funds for the two Department of Justice programs that specifically target this problem.

One of these is the gang free schools and communities program, which funds counseling, education, and crisis intervention through coordinated social service, substance abuse treatment and other means.

The other is the community based gang intervention program, which: (1) develops regional task forces of state, local and community organizations to fight gangs; (2) encourages cooperation among local education, juvenile justice, employment, and social service agencies and community based organizations; and (3) funds programs offering effective punishment options, including restitution, community service, home detention, and boot camps.

So this amendment provides an absolutely critical prevention element to our overall anti-crime efforts.

The 1994 crime law provided over $300 million of authorized funding for prevention programs for the next year but the Republican appropriations bill eliminated virtually all of it.

Offset: this amendment would restore $80 million—one quarter of the lost prevention funds—to fund these three programs. The money is taken from a portion of new FBI salaries and expenses that were increased above the president's request.

I urge my colleagues to support this vital amendment.

I will conclude by saying that I have great respect for the abilities of my

friend from Texas. But this is about weed and seed and other good programs, not about midnight basketball. Whenever I debate him on issues relating to guns, he pulls out his mama's gun and says, "You ain't going to take my mama's gun from her." I am not after his mama's gun or midnight basketball.

This works. I challenge anybody in this Chamber to go home and ask 10 police chiefs in your State—10—and I am prepared to bet you that 9 of those 10 will tell you that they desperately need these local prevention programs. The reason they got put in the bill in the first place is because of the cops. Not a single social worker came to me and said: You have to put in prevention when this bill is written. Not one single bleeding heart liberal came to me and said: You have to put in prevention. The cops want the prevention money. Senators COHEN and KOHL are correct.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KOHL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from North Carolina [Mr. HELMS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Alabama [Mr. SHELBY], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

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

The result was announced—yeas 49, nays 41, as follows:

[Rollcall Vote No. 480 Leg.]

YEAS—49

Akaka	Daschle	Inouye
Baucus	DeWine	Jeffords
Biden	Dodd	Kassebaum
Bingaman	Dorgan	Kennedy
Boxer	Exon	Kerry
Bradley	Feingold	Kohl
Breaux	Feinstein	Lautenberg
Bryan	Ford	Leahy
Bumpers	Graham	Levin
Campbell	Harkin	Mikulski
Chafee	Hatfield	Moseley-Braun
Cohen	Heflin	Moynihan
Conrad	Hollings	Murray
Nunn	Robb	Snowe
Pell	Rockefeller	Wellstone
Pryor	Sarbanes	
Reid	Simpson	

NAYS—41

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bond	Gramm	Nickles
Brown	Grams	Packwood
Burns	Grassley	Pressler
Byrd	Gregg	Roth
Coats	Hatch	Santorum
Cochran	Hutchison	Smith
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
Dole	Lugar	Thurmond
Domenici	Mack	Warner
Faircloth	McCain	

NOT VOTING—10

Bennett	Johnston	Simon
Glenn	Kerrey	Specter
Helms	Lieberman	
Inhofe	Shelby	

So the amendment (No. 2843) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. I move to lay that motion on the table was agreed to.

The motion to lay that motion on the table.

Mr. GRAMM. Mr. President, I am trying to work out an agreement here. I do not know that starting a debate on a new amendment moves us toward that objective. I would like to ask unanimous consent that debate on all amendments to this bill end, and that we proceed to third reading by 8:30.

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HOLLINGS. I have to object to the request at this time.

Mr. GRASSLEY addressed the Chair.

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

AMENDMENT NO. 2844

(Purpose: To restrict the location of judicial conferences and meetings, and for other purposes)

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

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

Without objection, it is so ordered.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, and Mr. KYL, proposes an amendment numbered 2844.

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

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

The amendment is as follows:

On page 92, insert between lines 13 and 14 the following new sections:

SEC. 305. (a) Notwithstanding any other provision of law, none of the funds made available under this title shall be used for any conference or meeting authorized under section 333 of title 28, United States Code, if such conference or meeting takes place at a location outside the geographic boundaries of the circuit court of appeals over which the chief judge presides, except in the case of the Court of Appeals for the District of Columbia Circuit, which shall be permitted to host conferences or meetings within a 50-mile radius of the District of Columbia without regard to the geographic boundaries of the circuit.

(b) Of the funds appropriated under this title, no circuit shall receive more than $100,000 for conferences convened under section 333 of title 28, United States Code, during any year.

SEC. 306. (a) Section 333 of title 28, United States Code, is amended—

(1) in the first paragraph, by striking "shall" the first, second, and fourth place it appears and inserting "may"; and

(2) in the second paragraph—

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking ", and unless excused by the chief judge, shall remain throughout the conference".

(b) In the interest of saving taxpayer dollars and reducing the cost of Government, it is the sense of the Senate that the chief judges of the various United States circuit courts should use new communications technologies to conduct judicial conferences.

(c) This section shall apply only to contracts entered into after the date of enactment of this Act.

Mr. GRASSLEY. Mr. President, I rise today to introduce an amendment, on behalf of myself and Senator KYL, that would stop a wasteful Government practice that has received a lot of press attention lately and has drawn sharp criticism from watchdog groups like the National Taxpayers Union. Mr. President, the practice I am talking about is taxpayer-funded travel by Federal judges to so-called judicial conferences. As chairman of the Subcommittee on Administrative Oversight and the Courts, I am concerned about the budgetary propriety of continuing current practice with regard to judicial conferences in this new era of balanced budgets and streamlined Government.

Mr. President, at this time I ask unanimous consent that two newspaper articles be printed in the RECORD at the conclusion of my remarks. The first article is entitled "Taxpayers Foot the Bill for Judges to Meet at Resort" and the second is entitled "Times Are Tight, But Circuit Isn't."

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

(See exhibits 1 and 2.)

Mr. GRASSLEY. Mr. President, I commend these revealing articles to my colleagues.

In the first article, U.S. District Court judge, William Nickerson, is quoted as saying, "As a taxpayer, I would probably complain," when asked about a judicial conference hosted at the five-star Greenbrier resort in West Virginia. The second article recounts that a Federal judge and former Congressman introduced a resolution to reduce the cost of judicial conferences in the ninth circuit by having them less

frequently. Sadly, this responsible and wise proposal was defeated by a vote of 5 to 3. This amendment removes the requirement that conferences be held, giving Federal courts the flexibility to schedule conferences or, if they decide not to schedule them, just to not have a conference.

In brief, Mr. President, the amendment will limit the location of judicial conferences to the geographic boundaries of the circuit to minimize travel costs which obviously come when there is travel outside of the circuit.

It would also amend Federal law so that judicial conferences are no longer mandatory, and express the sense of the Senate that the Federal Judiciary should explore the idea of using new communications technology—teleconferencing, et cetera—to conduct conferences without travel.

I believe the amendment will save money and give new and needed flexibility to the Federal courts.

As I said, Federal judges from around the country are currently compelled by law to attend a conference with other judges at least once every 2 years. So, I cannot fault anyone with scheduling these conferences or attending them since the law requires it.

But I can—and do—find fault with those who choose only the most luxurious hotels and resorts.

I can—and do—find fault with some of the activities at these publicly funded conferences.

According to some press reports, less than a third of the time judges spend at these conferences relates to judicial work. In one case, according to the Cleveland Plain Dealer newspaper, during one 3-day conference at Hilton Head, SC, only 10 hours were set aside for work. The rest of the time was left open so that the attendees could socialize, visit with each other, or do whatever.

Importantly, Federal courts are continuing these expensive conferences at the same time judicial resources are scarce and funds for representing poorer Americans are drying up. I respectfully submit that these are not sound priorities.

The amendment that I and Senator KYL offer today does what even some judges want to do. It would limit the location of judicial conferences to major urban areas—I want to emphasize this—within the circuit court of appeals, not outside. A few circuits, where judges are dissatisfied with the resorts within their circuit boundaries, have been going halfway across the country to attend a judicial conference—at taxpayer expense.

I am not the first to note the extravagance and unnecessary expense associated with these conferences. Fair-minded judges have been complaining about these conferences themselves for years. To name just a few, Circuit Judge Charles Wiggins, of the Ninth Circuit Court of Appeals and U.S. District Court Judge Frederic Smalkin have both complained that these conferences are unjustifiably expensive. A few years ago, a district court judge in Kansas City, like Judge Wiggins in the ninth circuit, was so outraged by the posh, remote resorts where these conferences are hosted that he introduced a resolution to limit the location of conferences. Yet another judge has referred to judicial conferences as a sort of "camp." And U.S. District Court Judge Carl Rubin was quoted by the Cleveland Plain Dealer as saying "there are a lot of things I'd rather see the taxpayers' money spent on than sending me to Hilton Head for 3 days." According to that same article, Pete Seep of the National Taxpayers' Union states his opinion that "Federal taxpayers are paying judges to party."

Mr. President, I ask unanimous consent that two letters written to me by Federal judges—one from Michigan and one from Texas—urging me to trim the excesses associated with judicial conferences be printed in the RECORD.

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

U.S. BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF MICHIGAN,
Flint, MI, July 6, 1995.

Re Travel/Chambers savings.

Senator CHARLES E. GRASSLEY,
Chairman, Senate Judiciary Subcommittee on Administrative Oversight and the Courts, Washington, DC.

DEAR SENATOR GRASSLEY: I read in a recent article in the Wall Street Journal how you were trying to effectuate needed savings in the budget for the federal judiciary. As a member of the lowest rung on the ladder of the federal judiciary, I offer two suggestions for savings within the judicial branch.

I have been a bankruptcy judge for 11 years. As you know, federal judges are required by 28 U.S.C. §333 to attend a judicial conference each year. The first year I attended such a conference, it occurred to me that there was a place where some savings could be effected. In my experience, the judicial conferences are arranged so that the judges travel usually on a Tuesday and return home on a Friday or Saturday. As you are well aware, commercial airlines give tremendous discounts for early booking with a Saturday night stayover. The thought came to mind long ago that if judges were required to attend the conference over a Saturday night, it could save a lot of money. This concept holds true for Federal Judicial Center functions as well.

My suggestion was met with the response that judges prefer to be home with their families on the weekends. While that is obviously true (when I suggested this, I had two small children at home, ages eight and five), I did not think it was too much to ask high government officials to give up a weekend once in a while, especially since such a large savings would be created. Now that funding is much tighter, I repeat this suggestion.

Another suggestion deals with the cost of furnishing chambers. Due to expansion in the district court, I was asked to move my courtrooms and chambers out of the federal buildings in Flint and Bay City. In the process, I was given a budget for furnishing chambers (which included my personal office, my secretary's office and reception area, my law clerk's office, the library, the media room, two attorney conference rooms, and the courtroom waiting area) for $25,000 total. We just about made it for that amount. I do not know for sure, but I have been told that other judges are allowed roughly $50,000 for furnishing a much smaller chambers' unit. Perhaps some uniformity would save some money. While I am in accord with the statements of the federal judge quoted in the Journal article with respect to there being a need for decorum and dignity in a federal courthouse, I also concur in your efforts and those of Senator Baucus to provide that at a lower cost.

By effectuating some reasonable savings in non-essential areas, Congress ought to be able to reinstitute cost of living increases for the judiciary. Without such regular adjustments, of course, Congress is condemning the judiciary to consistent decreases in take-home pay.

Sincerely,

ARTHUR J. SPECTOR,
U.S. Bankruptcy Judge.

U.S. DISTRICT COURT,
WESTERN DISTRICT OF TEXAS,
San Antonio, TX, June 6, 1995.

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

DEAR SENATOR GRASSLEY: At a recent conference of the Fifth Judicial Circuit, we were advised of your efforts to address government expenditures for judicial meetings and conferences. I applaud and encourage such efforts. All branches of government must search for and find ways of reducing government expense. This area can be modified, relatively painlessly, with no loss in the quality of judicial services provided.

Title 28 U.S.C. Section 333 allows an annual circuit conferences and requires that one be held in each circuit no more than every two years. Attendances for judges summoned is mandatory. Perhaps Section 333 could be amended to reduce the number of circuit conferences and/or permit participation to be optional. Once per year, we also hold separate workshops for circuit judges, district judges, magistrate judges, and bankruptcy judges. These instructional meetings address various substantive topics and can be beneficial. However, the information can be provided to us in written form at our offices to avoid the cost of travel, housing, meals, and lectures.

I am sure many more ways of reducing expenses for judicial meetings exist. These meetings can be valuable but are not absolutely necessary to the administration of justice. Particularly in these economic times, their cost is difficult to justify. I wanted you to know that judges will support, and even participate in, efforts to reduce the amount of money allocated to the judiciary's budget.

Sincerly,

JOHN W. PRIMOMO,
U.S. Magistrate Judge.

Mr. GRASSLEY. Mr. President, I believe that the costs of conferences are underestimated. These estimates—which range as high as one-half million dollars per conference—do not take into account lost time on the bench for judges and their support staff, who also attend the conferences at taxpayer expense. And the taxpayers foot these expenses year after year. The party's over, Mr. President.

There is a word for this sort of thing: Boondoggle. I have fought against wasting taxpayer money my whole career in the Senate, and I am committed to fighting unnecessary spending in the judiciary.

Mr. President, under current law, Federal judges are required to host and attend these conferences. This amendment will change that so that judges have the flexibility not to call a judicial conference. This amendment would also give individual Federal judges the option of not attending a conference. This is fair, and permits Federal courts—which I believe will act responsibly in light of the Federal Government's budgetary constraints—to pitch in and tighten belts along with us in Congress and the executive branch.

As I have said, Mr. President, this amendment is about saving taxpayer dollars and priorities. I urge my colleagues to support this amendment.

Finally, I just want to say that this amendment should not be viewed as a general indictment of the Federal judiciary. For the most part, I think that the judiciary has taken responsible and important steps to reduce unnecessary spending. This amendment is simply targeted to a use of Federal funds that, in the opinion of this Senator, should be pruned.

Thank you, Mr. President.

EXHIBIT 1

[From the Baltimore Sun, June 30, 1994]

TAXPAYERS FOOT THE BILL FOR JUDGES TO MEET AT RESORT

(by Marcia Myers)

As the federal judiciary struggles amid hiring freezes and funding shortages for basic services, 150 judges from Maryland and other parts of the Fourth Circuit converged yesterday on the broad verandas, lush fairways and tennis courts of the five-star Greenbrier resort.

Their taxpayer-financed gathering will demand little work in the afternoons and barely any at night—unless you count one banquet and a sing-along led by U.S. Supreme Court Chief Justice William H. Rehnquist. Of course, several hundred lawyers pay their own way, and those who consider schmoozing part of the job might argue that they're working tirelessly.

The cost to taxpayers for the four-day conference: about $200,000.

Even some who appreciate the Greenbrier's pampering question the propriety of the trip to the mountains of White Sulphur Springs, W.Va.

"As a taxpayer, I would probably complain," U.S. District Judge William M. Nickerson said, while adding that the meeting offers a good opportunity to talk informally with other judges. "I think a lot of the judges have some concerns as taxpayers. Some feel it's more of a luxury than it needs to be."

Others are more direct in criticizing the annual conference, for which taxpayers will pay up to $1,000 per judge plus travel expenses. "I don't think the expense is justified on an annual basis," said U.S. District Judge Frederic N. Smalkin.

Consider the schedule for the conference, which includes district, magistrate and bankruptcy judges from Maryland, North and South Carolina, Virginia and West Virginia:

Day 1: Judges arrive—no activities are planned.

Day 2: Judges attend a morning session for about 3 hours to discuss court business. No other activities are planned until the Rehnquist sing-along that evening.

Day 3: A trio of one-hour lectures on ethics is scheduled. At noon, the six new judges in the circuit offer brief remarks. Nothing else is planned until an evening reception and banquet.

Day 4: The morning features a panel discussion reviewing major Supreme Court decisions of the 1993 term. That ends the conference, although judges on committees may attend additional meetings.

Meanwhile, conferees are encouraged to sign up for group activities that include tennis, golf, bridge and hiking. Among the resort's other amenities: three 18-hole championship golf courses, fly fishing, skeet shooting, horseback riding, swimming, and the Greenbrier Spa, Mineral Baths & Salon.

"Personally, I think it's of real value," Senior U.S. District Judge John R. Hargrove said of the conference. "Do we have to cut our own throats just because Congress won't give us more money? We still have to have training. We don't go down there and sit around."

Why not have a shorter meeting, strictly business, at a less luxurious spot?

"We tried that at least once in the 20 years since I came here," said the circuit's Chief Judge, Sam J. Ervin III of North Carolina. "The afternoon sessions were not very productive—nobody much came.

"I think the most important thing about this conference is that lawyers have an opportunity to mingle with the judges and share their problems and difficulties."

That talk could include concerns over the shrinking resources of the federal courts. Amid a hiring freeze in Maryland and across the nation, the courts are at 84 percent of adequate staffing levels—the lowest ever, according to a court official.

And the situation could get worse. Court officials worry about funds for court security, courtroom deputies and computers. Business that used to be done in a day in Baltimore, for example, now can take several days because of staffing shortages.

When asked how much the conference would cost taxpayers, Circuit Executive Samuel W. Phillips said about $55,000. But after acknowledging the $1,000 allowance for each judge, plus travel and administrative expenses, he estimated the cost at $175,000 to $200,000.

Mr. Phillips said he had checked many other hotels for a better rate. But the Greenbrier includes two meals in its room rate, which makes it cheaper, he said. A typical room for two costs $434 a night, although the judges receive a discount that he wouldn't disclose.

It's also one of the few hotels capable of accommodating everybody—judges, spouses and lawyers—under one roof, he said.

The government pays for judges' hotel rooms and meals. The cost of recreation—at the Greenbrier, golf fees are $80 and tennis courts are $23 an hour—comes from each judge's own pocket.

The conference alternates every other year between the Greenbrier and the Homestead, a similar resort in Hot Springs, Va.

The judges are quick to note that attendance is required—by law.

Congress passed a bill in the 1930s requiring judges in each circuit to gather annually to consider court business.

As budget concerns have mounted in recent years, the law was amended to require a meeting only once every two years.

Several circuits have cut back to biennial meetings, but Judge Ervin said the Fourth Circuit had rejected that idea.

[From the Recorder, September 29, 1993]

TIMES ARE TIGHT, BUT CIRCUIT ISN'T

(By Steve Albert)

Soon after money problems forced postponement of pay raises for judicial employees and led federal judges to suspend civil jury trials, the Ninth Circuit U.S. Court of Appeals spent about $600,000 to send 350 judges and lawyers to a four-day conference at a luxury Santa Barbara beach resort.

While other circuits reacted to tight budgets this year by canceling their retreats or deciding to hold them every other year, the Ninth Circuit opted to go forward with its August 1993 conference and continue holding its retreat annually.

Circuit chief Judge J. Clifford Wallace called the conference expenditures "money well spent." Congress mandates that circuits hold conferences, Wallace said, and the retreats provide the only opportunity "to bring together people who have responsibility to improve the administration of justice."

Circuit and district judges, magistrates, bankruptcy judges, U.S. attorneys, federal public defenders and court clerks from nine Western states attend the conference. In addition, the circuit's 27 active judges get together six times a year, hold an annual winter symposium, and meet with different judges once every year or two for continuing education.

Estimates of government expenses for the Santa Barbara conference were released last week shortly before the U.S. House of Representatives appropriated $2.8 billion for the judiciary for fiscal 1994, a 10 percent increase over this year. A House/Senate conference committee is expected to settle on the final number this week or next. The Senate wants to give this judiciary just a 5 percent increase for the new fiscal year, which begins Friday.

The cost estimate of the Ninth Circuit conference, prepared by circuit executives at The Recorder's request, shows that 300 judges, prosecutors, public defenders and clerks traveled to Santa Barbara by air at an average cost of $550 each. Another 50 traveled by car from Los Angeles at an average cost of $50. The attendees spent an average of $250 for room and food each day of the four-day conference and an average of $34 on check-out day. Add in about $27,000 for such items as speakers' travel, printing and audiovisual material, and the total bill for taxpayers was about $556,000. Because judges submit individual expense vouchers, that figure is an estimate only.

The figure does not include the cost of travel during the rest of the year for the 12 judges who meet four times annually to help plan the conference.

About 100 other attendees, mostly lawyers in private practice, paid their own way.

$100 MILLION BAILOUT

The conference came just eight months after the U.S. Judicial Conference—the governing body of the federal courts—imposed a hiring freeze and postponed some pay increases for federal court employees in the Ninth Circuit and around the country. At the same time, the Judicial Conference's executive committee trimmed court operating expenses as well as probation and pretrial services funding, citing a $100 million operating shortfall.

In June, citing a lack of funds to pay jurors, federal trial courts around the country briefly suspended some civil jury trials, Congress passed a $100 million bailout for the courts in early July.

The budget shortfall prompted Wallace in May to propose that many indigents who need court-appointed lawyers be asked to repay the government for the cost of their defense, much as students are required to pay off student loans for college tuition. The savings, he theorized, could be used to avoid funding shortfalls.

But Wallace said Monday that despite budgetary problems, the conference remained an essential expense. He cited the circuit's recently released study of gender bias in the courts and its decision to study bias based on race, religion and ethnicity as examples of the work the conference takes on.

"No one can doubt the importance of those issues," Wallace said. "It would be difficult to cut the conference because of budget difficulty."

Other circuits around the country have cancelled their annual conferences, however. The New York-based Second Circuit and Denver-based Tenth Circuit cancelled their 1993 meetings, and the St. Louis-based Eighth Circuit has cancelled its 1994 conference. Four other circuits have gone to biennial conferences.

A call to cancel future Ninth Circuit conferences was defeated by a 5-3 vote of the circuit's executive committee at its August meeting in Santa Barbara. Circuit Judge Charles Wiggins, a former Republican congressman, warned colleagues then that the cost could engender the wrong "public perception," especially in tight budget times.

Executive committee members voted to go ahead with the circuit's 1994 conference in San Diego and its 1995 conference in Hawaii.

Exactly how much the Ninth Circuit or other circuits spend on annual conferences is difficult to pinpoint, according to circuit executives and a spokesman for the U.S. Administrative Office of the Courts, which disburses money to the federal bench. Judges submit conference expense vouchers and reimbursement checks are issued in Washington. The Ninth Circuit cost estimates were based on average airfare costs calculated by circuit executives and the $250 maximum per day charge judges and other government employees are allowed for lodging and food.

Circuit conference expenses are subtracted from the "Salaries and Expenses" line of the courts' budget. Individual circuit expenses are never set forth in judicial budget requests, said David Sellers, a spokesman for the administrative office of the courts.

"It doesn't get much more specific than that," Sellers said.

New Jersey District Chief Judge John Gerry, who chairs the Judicial Conference's executive committee, said the Ninth Circuit's conference cost estimate was the first such estimate he had ever heard. The executive committee, which holds the Judicial Conference's purse strings, does not take up or examine individual circuit expenditures, he said.

But the conference a year ago asked circuits to evaluate the necessity of retreats and their costs. "There hasn't been any area of court operations we have not looked at to save a buck here and there," Gerry said. His own circuit, the Third, has gone to biennial conferences.

A MODEL CIRCUIT

Wallace said the work of the Ninth Circuit conference has been recognized by other circuits. "Some of us do a better job than others in our efforts to improve the system," Wallace said. If efforts were not made to improve the administration of justice, he added, costs of administering the courts could be higher than they already are.

"The budgeting problem is very complicated," Wallace said. "By singling out one aspect, the overall picture can be blurred. We have thrashed this out. We have been responsible."

But some circuit judges like Wiggins have complained that the conference is not as productive as Wallace or others may think. "We don't talk about much of interest to any of us; our discussions are so broad," Wiggins told his colleagues in Santa Barbara.

At the Santa Barbara meeting, conferees discussed cooperation with the executive and legislative branches and, in addition to passing a resolution calling for a task force to study bias, passed one supporting adequate funding for the courts.

Savings in conference costs would not have offset lack of funds for jury trials or public defender programs because those costs come out of different budget lines than the line used to pay for conferences, said Wallace and court spokesman Sellers.

This year's conference schedule, like those in the past, included such diversions as tennis and golf tournaments, a spouse sightseeing and winery tour and cooking and flower arranging classes.

Wallace confirmed that the Ninth Circuit conference next August will be held at the Loews Coronado Bay Resort on the beach south of San Diego. The resorts offers bayside suites and has three heated pools and a marina. The Taxpayer's Tab

Ninth Circuit Judicial Conference—Santa Barbara—August 16-19

Travel:	
300 travelers at average airfare of $550	$165,000
50 travelers (L.A. area) by car at $50	2,500
Total travel:	167,500
Lodging:	
350 travelers at $250 per day for 4 days	350,000
350 travelers for $34 for last day	11,900
Total lodging:	361,900
Grand Total Travel/Lodging	529,400
Direct Conference Expenses:	
Spakers' travel, printing, audio-visual	27,000
Grant Total for Santa Barbara Conference:	556,400

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. I shall be brief. I assume that this amendment will be adopted on a voice vote, but I do think it is important to just reiterate a couple of points.

I am very pleased to join Senator GRASSLEY, the chairman of the courts subcommittee, in introducing the amendment.

What it does is to require that all circuit court judicial conference meetings must be held within the circuit and that they keep the cost of each of those conferences not to exceed $100,000.

Additionally, the amendment would remove the requirement that a judicial conference be held every 2 years. A circuit may hold a conference but is not required to hold a conference under our amendment.

And the reason is, as was pointed out by Senator GRASSLEY, at a time when judicial resources are precious, money should not be used to fund trips to such faraway places as Maui, Santa Barbara and Sun Valley. The conferences should be held in areas that are easily accessible and within the geographic bounds of the district.

According to a report released last week by the General Accounting Office, the total cost for the circuit judicial conference meetings in 1993 was more than $1 million, and in 1994 it was once again almost $1 million. In both 1993 and 1994, the ninth circuit, which encompasses my State of Arizona, ran up the largest tab, costing the taxpayers more than a quarter of a million dollars each year according to this GAO report.

The estimated cost for this year's ninth circuit conference in Hawaii is more than a half million dollars, according to the Legal Times. Unfortunately, Mr. President, this comes at a time when we have to start counting our pennies here at the Federal Government level, and I am sure that the public is fed up with such waste.

In fact, about a week ago, I received a letter from one of my constituents about the subject. He wrote about what he called, and I am quoting now, "The extravagant conference charges incurred by United States taxpayers to send about 350 Federal judges to Maui, Hawaii this year."

He continued, and I am quoting, "I am outraged by such extravagance. Is it no wonder that the every-day citizens of this Nation are cynical, disappointed and feel totally helpless as this kind of abuse rages in all levels of Government?"

Mr. President, I think he is right. These conferences are an abuse of taxpayers' funds and of the public trust. The ninth circuit usually holds its conferences at a resort in either San Diego, Santa Barbara, Maui or Sun Valley, ID. They are all beautiful places, but the public should not be paying about $1 million each year to fund conferences in such places.

According to an article in the Legal Times, many judges believe that reform is needed. As one ninth circuit judge, Charles Wiggins, noted: "It's an excessive expenditure of public funds." Another judge—Judge Rubin of Cincinnati—commented: "There are a lot of other things I'd rather see the taxpayers' money spent on."

"[The 1993] conference schedule, like those in the past, included such diversions as tennis, golf tournaments, a spouse sightseeing and winery tour and cooking and flower arranging classes," according to an article in the Recorder, a San Francisco-based newspaper affiliated with the Legal Times.

What is particularly galling about the excessive amount spent on these conferences is that the spending comes at a time when the judiciary is so strapped for funds.

For example, the ninth circuit's 1993 conference came just 8 months after the U.S. Judicial Conference, the governing body of the Federal courts, imposed a hiring freeze and postponed some pay increases for Federal court employees in the ninth circuit and around the country.

At the same time, the judicial conference's executive committee trimmed court operating expenses as well as probation and pretrial services funding, citing a $100 million operating shortfall. Additionally, in June 1993, citing a lack of funds to pay jurors, Federal trial courts around the country briefly suspended some civil jury trials. In July, Congress had to pass a $100 million bailout for the courts.

In addition to running up large bills by traveling to out-of-the-way places such as Maui and Sun Valley that are within the geographical boundaries of the circuit, many conferences are held outside of the circuit. For example, in 1993, the sixth circuit, which includes Michigan, Ohio, Tennessee, and Kentucky, held its conference at the seaside resort of Hilton Head in South Carolina.

As the chief judge of the sixth circuit said at the time, "It's not a matter of choice. It's a requirement of the Congress to hold the meeting. They just don't say where."

Well, not anymore, Mr. President. With this amendment, Congress will say where. It is simply limited to some place within the circuit, and certainly in my own case in the ninth circuit there are plenty of nice places such as the seat of the circuit, San Francisco, to hold these conferences. So this will certainly be no imposition on judges.

I support what Senator GRASSLEY has said, and I urge my colleagues to support this amendment and help to put an end to this wasteful spending.

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

The amendment (No. 2844) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I know that this amendment was accepted by voice vote, but I just want to note for the RECORD that I oppose it.

This is not the type of micromanagement that the Senate should be engaged in.

The Judiciary is an independent branch of Government and it should be permitted to make reasonable decisions about how to spend the money that Congress appropriates to it without undue interference.

AMENDMENT NO. 2845

(Purpose: To delete funding for the National Endowment for Democracy)

Mr. BUMPERS. Mr. President, is there a pending committee amendment?

The PRESIDING OFFICER. Yes.

Mr. BUMPERS. Mr. President, I ask unanimous consent the present pending amendment be laid aside so I may call up an amendment.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BROWN, and Mr. DORGAN, proposes an amendment numbered 2845.

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

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

The amendment is as follows:

At page 116, strike lines 3 through 7.

Mr. BUMPERS. Mr. President, I wish to tell my colleagues, No. 1, this will be very short and sweet, and it will not require a rollcall.

I am saying this to the distinguished floor managers on the assumption that the President is going to veto the bill and that the bill is going to come back here at some point in the future, in October or November, and I will have an opportunity to offer this amendment and get a rollcall vote on it.

Now, this amendment deals with the National Endowment for Democracy. A lot of the new Members are not familiar with the National Endowment for Democracy.

Mr. President, Dante Fascell was a beloved House Member. Everybody knew him. He always wanted to do something to enhance democracy when the Communists were riding roughshod on everybody around the world. And when Ronald Reagan came to power, Dante Fascell presented this idea of a privately funded National Endowment for Democracy to President Reagan. President Reagan said he liked the idea of something that would counter communism with democracy.

And here is what Dante Fascell said, "We had found ourselves a powerful ally, the President of the United States. We had a horse and so we rode that horse. Changed the bill around and rammed it through."

And then he said they gave money to the Democratic and Republican parties, to the labor unions, and to the U.S. Chamber of Commerce. "Hell yeah. They were on board," Fascell recalled. "They got a piece of the pie. They got paid off. Democrats and Republicans, the Chamber of Commerce, along with labor." They got paid off.

That was in 1982. It was passed in 1984. It was designed to be matched with private money. Here is what happened. Just like all other Federal programs, look how it started off here in 1983, $18 million. And it was to be matched within a short period of time with private money.

Now, you talk about growing like Topsy—Topsy would blush at the way this program has grown. It started out at $18 million, $18 million, down to $15 million, went to $35 million, and $30 million in this year 1995.

Now, how much would you guess of that budget is private money?

We ought to have a little game show here and let everybody guess. The Senator from New Mexico is indicating he thinks it is 3 percent?

Mr. DOMENICI. Zero.

Mr. BUMPERS. Zero. You are wrong, Senator. It is less than 2 percent.

Here is a program that was going to be matched 50-50 with private money and ultimately be all private money from foundations and individuals. And there you have it, $30 million of the taxpayers' money, and less than 2 percent of it is private. And who gets it? And I do not mind telling you, this is the most offensive part of it to me, just as it would be the most offensive part to any citizen in America if they knew about it. Now, you see most people know about the Agency for International Development because that costs almost a half billion dollars. They know about the U.S. Information Agency because that costs almost a half billion dollars. They know about foreign aid because that is 12 to 15 billion dollars. All of those programs are designed to foment and enhance democracy around the world.

And then we come in with a little piddly amount here. How did we get this thing passed in the first place? It is exactly like Dante Fascell said. "We bought them off." Who did they buy off? You see this CIPE? FTUI? NDI? IRI? You see this "R" right here in IRI. You know what the "R" stands for? Republican. The Republican party gets 11.1 percent of that $30 million I just showed you. And what do you think this big "D" is in NDI? Democrat. That is right. The Democrats get 11.1 percent.

The Democrats used to get quite a bit more. And now they have got us down equal to the Republicans. We both get 11.1 percent.

And who is CIPE? That is a fancy name for the Chamber of Commerce. What is FTUI? Why that is the free trade unions, and who is that? AFL-CIO. Everybody got bought off. And the poor old taxpayers, they was not even consulted.

Now, I want to ask you, in this year 1995, when we are cutting everything under the shining sun, dramatically, we are not just cutting, we are cutting big dollars out of big programs. And

programs like this have a way of being ignored. Nobody even looks at them. Out of the $30 billion, only 30.8 percent is discretionary.

I will tell you what I am going to do. I am going to send a July 1995 article from Harper's Magazine to each one of you, and I hope your staffs will insist you read it. It talks about a meeting of nongovernmental organizations. Where? Zagreb, Croatia. They come to Croatia, to Zagreb. They stay in a fancy hotel. The best was in Zagreb. They watch C-SPAN2. They watch CNN. They watch MTV. They have a nice big opulent dinner.

And then the President of the National Endowment for Democracy gets up and they are all thinking he has a big checkbook in his pocket. He is going to pull that sucker out and he is going to start writing checks to each one of them. What does he do? He gets up and he tells them they have all kinds of data, all kinds of information about the joys of democracy and they are going to put it on the Internet. This guy who wrote the story said you could see their shoulders go slack. People could not believe they had come all that distance to hear somebody say they were going to put a lot of information about democracy on the Internet.

And who do you think is paying for the hotel bill and the opulent dinner? That is right, old Uncle Sucker. I am just saying if you cannot kill this program—if you cannot kill this program—I am not optimistic about balancing the budget in 7 years.

Now, I am offering this amendment on behalf of Senators BROWN and DORGAN. There are all kinds of things I would like to talk about. I know everybody wants to get away, so I am not going to belabor it. But I want to reemphasize the point that I will be back on the floor after the President vetoes this bill for a rollcall vote on this amendment or something similar to it. But anybody who votes to continue this program cannot be serious about deficit reduction.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this will be the ninth time that the Senate—and before that the other body—has taken up this amendment and debated it. I always enjoy and appreciate the eloquent presentation of the Senator from Arkansas. I will not take much time since the Senator from Arkansas has just stated we will revisit this issue again.

So I would only note, Mr. President, and ask unanimous consent to have printed in the RECORD the following letter.

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

SEPTEMBER 29, 1995.

Hon. ROBERT DOLE,
Hon. THOMAS DASCHLE,
U.S. Senate, Washington, DC.
Hon. NEWT GINGRICH,
Hon. RICHARD GEPHARDT,
House of Representatives, Washington, DC.

As former Secretaries of State representing both Democratic and Republican Administrations, we support the continued funding of the National Endowment for Democracy (NED). This viewpoint is based upon the NED's strong track record in assisting *Solidarty* in Poland and other significant democratic movements over the past decade. It is also based upon the NED's important ongoing efforts in helping those engaged in the development of institutions of democracy around the world.

During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but non-governmental contributor to democratic reform and freedom. We consider the nongovernmental character of the NED even more relevant today than it was at NED's founding twelve years ago.

Sincerely,

JAMES BAKER.
LAWRENCE S. EAGLEBURGER.
ALEXANDER M. HAIG, Jr.
HENRY A. KISSINGER.
EDMUND S. MUSKIE.
GEORGE P. SHULTZ.
CYRUS R. VANCE.

Mr. MCCAIN. It is from former Secretaries of State representing both Democratic and Republican administrations.

. . .we support the continued funding of the National Endowment for Democracy (NED). This viewpoint is based upon the NED's strong track record in assisting Solidarity in Poland and other significant democratic movements over the past decade. It is also based upon NED's important ongoing efforts in helping those engaged in the development of institutions of democracy around the world.

During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but non-governmental contributor to democratic reform and freedom. We consider the nongovernmental character of the NED even more relevant today than it was at NED's founding twelve years ago.

Sincerely, James Baker, Lawrence Eagleburger, Alexander Hague, Henry Kissinger, Edmund Muskie, George Schultz, and Cyrus Vance.

So, Mr. President, I urge my colleagues to note with interest the view of seven previous Secretaries of State, both Republican and Democrat, who have taken the time and effort to sign this letter in support of this very important effort to further the cause of freedom and democracy throughout the world.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be mercifully brief. I understand the hour, and people want to leave. We will revisit this and have an aggressive debate at some point.

But I am struck—I am always, of course, respectful of the Senator from Arizona and I respect his opinion—I am struck by the letter put on our desks signed by former Secretaries of State that talk about the nongovernmental character of NED, how relevant the nongovernmental character of NED is.

The governmental character of NED is this is all Government money, it is all the taxpayers' money, divided up four ways: Give some to the Republicans, some to the Democrats, some to the Chamber of Commerce, some to the AFL-CIO and say, "Go do some nice things in support of democracy." The problem is it duplicates what we are doing in half a dozen other programs in the State Department.

In the last election, Republicans won, and I applaud them for that. The score was 20 percent of the American people voted Republican; roughly 19 percent of the American people voted Democrat; and 51 percent of the American people said, "Count me out, it doesn't matter, I'm not going to vote at all." It may be that we ought to talk about promoting a little democracy in this country.

This is not all that much money, but it is enough, and it is one of those programs that simply will not quit. It does not matter that it cannot be justified. It does not matter that it cannot be justified at this point. What matters is that it is a program that is ongoing, it continues, and it is governmental money that they call nongovernmental in character.

I support the Senator from Arkansas. I hope we will have a long debate on this, and I hope one of these days we are going to knock this out. If you care about reducing the deficit, the devil is in the details. The detail here is $32 million that we ought not spend. We ought not spend it. It is waste, in my judgment.

Let us reduce the deficit. Let us zero this out and do the taxpayers of this country a favor.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this is excellent debate, great points have been made, as in all these things. But consider the fact this bill is not going anywhere. What we are doing tonight is like training to fight the Spanish Armada. We ought to put all these speeches in the RECORD. Of course, we will all spend the weekend reading each other's speech with due diligence, but then everybody could go home.

I just remind my colleagues of one thing, maybe the thing that will move us away from these Dracula hours of legislation more than anything else around here if—if—we do not lose our nerve and do apply the laws of this country to the Congress as applied to everywhere else: Starting January 1, paying time and a half for all the staff who have to stay around here when we go through this useless exercise. Instead of costing the taxpayers $15,000

or $20,000 an hour for this, it will start costing $40,000 or $50,000 an hour. Maybe—maybe—we will pass legislation, have debates during the daytime and not do the Dracula hours.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the distinguished Senator from Arizona for his statement and also for printing in the RECORD this joint letter by seven former Secretaries of State.

I say to my colleague that the reason the NED will not go away is because it does good work. That is plain and simple the reason it will not go away. It has done some extremely effective work around the world in strengthening and developing democratic institutions and protecting individual rights and freedoms.

We have had any number of people come through the Halls of the Congress recognized as fighters for human rights, fighters for freedom, fighters for democracy who have manifested their support for NED and the support which gave them and made them possible in their own countries to lead this effort.

So I know a longer debate is coming, and I am prepared and look forward to that debate, but these Secretaries are right when they say "the strong track record in assisting significant democratic movements." It does have a strong track record, and it serves an important role, because it can operate as a nongovernmental entity and support nongovernmental entities which provide opportunities that would not otherwise be available if these activities were undertaken by a governmental agency.

So I strongly support the NED, and I hope when we actually get to the real amendment, the Members of this body will support it as well.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me just conclude by saying the very organization, the National Endowment for Democracy, dooms it. It is self-contradiction to give money to the Republican Party and to the Democratic Party whose views on democracy are quite different.

We all champion democracy, but can you imagine this group in Zagreb allowing me on my side to describe democracy for them, and we will say the Senator from Arizona on his side. We have strong philosophical differences. They would be so confused when we got through, they would not know what democracy is all about. And labor and the Chamber of Commerce, like two hornets in a jug. We give each one of them, look at that, the Chamber of Commerce, 13.6 percent and labor, AFL–CIO 29.4 percent. Do you want the people from the Chamber of Commerce and labor to sit around the same table explaining democracy?

Mr. President, let me repeat, we spend an awful lot of money on foreign aid. Frankly, this year I do not think we spent enough. What is it designed to do? It is designed to help people feed and clothe themselves and to promote democracy. We have the Agency for International Development. I saw their work in Siberia about 2 months ago. Some of the things they are doing are very impressive.

What is the Agency for International Development designed to do? To make them think well of the United States and help them create and maintain democracies. And then the United States Information Agency, a half-billion dollars. What do they do? Why, they broadcast all over the world the joys of democracy.

When you add it all up, it comes to between $13 billion and $15 billion. What is this $30 million doing? I want you to read that Harper's article. When the president, Mr. Gershman, president of the National Endowment for Democracy, gets up, and these people have come from all over thinking that they were going to get a little largess for some of their own programs. They needed computers; they needed printers. And so the president gets up and he says to this crowd in this thick-carpeted ballroom in Zagreb:

> The National Endowment for Democracy is an independent, nongovernmental foundation which receives a grant from the Congress every year for the purpose of strengthening democracy around the world.

First of all, it seems almost an oxymoron to say this is a non-Government foundation operating on a Government grant. But he goes ahead to say:

> We have a journal in which we publish essays and articles on democracy, and we organize research conferences on democracy. We're compiling a database which will soon be available over the Internet. We will hold our fifth World Conference on Democracy in Washington on May 1. We do work in 92 countries around the world. In China, Uzbekistan and, yes, the countries of this region.

The author of this article goes on to say:

> Among the more experienced of the participants, the change in manner is immediately evident. They've stopped taking notes. The 92 countries, the broad friendly smiles, the global visions of building democracy, you can see them adding it all up to conclude there will be no computers, no printing presses, no radio transmitters, no money for paper, no hands-on assistance of the kind the participants are quick to inform you is given to them by the representatives of George Soros, the American financier.

Mr. McCAIN. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. McCAIN. It was my understanding that the Senator from Arkansas said this debate was going to be brief. The Senator is making a lot of charges that I will feel compelled to respond to. The Senator from Arkansas said we are going to revisit this issue again.

Mr. BUMPERS. The Senator is correct. If he will——

Mr. McCAIN. If I could finish the question. If the Senator from Arkansas is going to continue to belabor these organizations, then I will feel compelled to respond, and we will be here for a long period of time.

So I ask the Senator how much longer we are going to debate this particular issue, in light of the fact that the Senator from Arkansas said we are going to do it again some time in the near future?

Mr. BUMPERS. The Senator makes a very good point. I withdraw the amendment.

So the amendment (No. 2845) was withdrawn.

Mr. SMITH. Mr. President, I ask unanimous consent to speak for no longer than 2 minutes as in morning business for the purpose of introducing a bill and an amendment.

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

The Senator from New Hampshire is recognized.

(The remarks of Mr. SMITH and Mr. CHAFEE pertaining to the introduction of S. 1285 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

(The remarks of Mr. SMITH pertaining to the introduction of S. 1286 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I believe that the Presidential candidates are involved in a conflict of interest in New Hampshire, since that State has retroactively asked for same day election day registration. We have an amendment in this bill that would allow them to do that and break the word of what the leadership on the other side said the conference report calls an election day escape hatch. This would encourage States to adopt same day registration procedures as a means of escaping the bill's requirements. That came from the bill's manager on the other side.

Mr. President, what is a Presidential candidate to do if he is on the record opposing an election provision that turns out to be supported by the State where the first primary is held? By the looks of the Commerce/Justice/State

Appropriations bill, you hope like the dickens that nobody notices.

But, Mr. President, I noticed.

This appropriations bill includes a committee amendment to the National Voter Registration Act Of 1993—better known as motor-voter. This committee amendment benefits two States—New Hampshire and Idaho—by changing the effective date of the exemption in the Act of States that had already enacted election day registration or had no registration requirement. That specific date—March 11, 1993—was included to prohibit any other State from avoiding the law. The committee amendment would undo that prohibition for these two States.

New Hampshire and Idaho enacted legislation with retroactive effective dates in an attempt to take advantage of the limited exemption in the act. Because of a court challenge to the New Hampshire retroactive law, we are being asked to adopt an amendment to retroactively change the motor-voter exemption deadline.

So, in the case of these two States we are enacting a retroactive provision to a Federal law that will validate a retroactive provision in a State law that was enacted to avoid that very Federal law. This a curious amendment with a ridiculous result.

It is important to note that this specific date was not only proposed by the Republican floor manager, but both he and the Republican leader and Presidential candidate actively promoted it. In fact, they both cited inclusion of that deadline in the exemption provision as an improvement to the bill.

So while the committee amendment appears to be merely a technical or insignificant change affecting only two States—it is clearly an attack by opponents to weaken the motor-voter law by permitting more States to avoid its implementation. But even worse, it creates an incredible conflict of interest for every one of our many Republican Presidential candidates, because it would directly affect voter registration for the New Hampshire primary.

A similar exemption provision in the bill vetoed by President Bush in the 103d Congress was singled out for criticism in his veto message. President Bush attacked the exemption as an inducement to States to adopt same-day registration laws. I responded to that charge, when it was made by the Republican floor manager during debate on the veto over-ride, by pointing out that the exemption was intended to grandfather only those States that had already adopted such laws. It was not intended as an inducement to other States to adopt election day registration.

To overcome an impasse during our consideration of the motor-voter bill, the Republican floor manager submitted nine amendments to me that the opponents considered to be necessary changes to the bill. The first "must do" change was an amendment to set a date certain, March 11, 1993, as the deadline by which a State must have enacted the required legislation in order to be exempt from the requirements of motor-voter. Because it was consistent with, and reinforced, the original intent of the exemption provision, I included it in the amendment I offered at the conclusion of bill negotiations.

The House bill, H.R. 2, included an exemption without a specific date that was intended as an option to the States. The two Houses were clearly not in agreement regarding the exemption provisions of the two bills. The conference resolved this disagreement by including the Senate date certain deadline version in its report.

When the conference report was taken up in the Senate, the Republican floor manager stated, with regard to the exemption:

> Republicans slammed the escape-hatch shut. No longer is this bill a backdoor means of forcing States into adopting election day registration or no registration whatsoever. . . . Republicans succeeded in grandfathering in the five States that would have qualified for the exemption prior to March 11, 1993.

He then related that officials from Michigan, Illinois, and South Dakota had contacted him to urge that the escape hatch be left open so they could opt out from the law. The Republican floor manager then commented, with regard to these States,

> . . . their constituents are better served by the closing of the escape hatch than if it had been left open.

In remarks regarding the conference report, the Republican leader commented that the conference report was an improvement over the original bill because among other Republican amendments, it included the exemption provision. He stated,

> the conference report closes the so-called election day escape hatch. This loophole would have encouraged States to adopt same-day registration procedures as a means of escaping the bill's requirements.

It was clear that both the Republican floor manager and the Republican leader considered this exemption provision with its date certain deadline to be an important provision because it closed off the exemption for all but the five States that had enacted legislation as of the deadline of March 11, 1993.

The legislative history in the House reflects this as well. A House conferee who supported an open exemption as "a strong incentive for States to move toward . . ." same day registration stated that:

> some Members in the other body voiced strong concerns over this language, and the conference agreed to grandfather this provision, making the exemption apply only to States that had same day registration as of March 11, 1993.

This committee amendment is not only contrary to the law and our intent, it is also bad policy and reeks of Presidential politics. It will undo a clear policy decision of the Congress and invite other States to avoid Federal legislation by revising exemptions. Is it the purpose of the proponents of this amendment to encourage election day registration or the elimination of registration altogether?

I would remind the junior Senator from Kentucky of his comment regarding the requests of officials from Michigan, Illinois and South Dakota to keep the exemption open for future State compliance. If he supports this amendment, may we expect him to extend an invitation to those officials from Michigan, Illinois, and South Dakota to request additional extensions so their States may also be exempted? Or is this amendment only an attempt to accommodate the State election officials of the first Presidential primary State?

The underlying assumption of this amendment appears to be that Congress considered election day registration to be on a par with the requirements of the motor-voter law. Again, a review of the legislative record shows that this is just not the case. Those supporting the closed exemption were opposed to election day registration. The Republican leader attacked it with the comment that:

> In many areas same-day registration is a prescription for fraud and corruption.

House conferees argued for an open exemption that would encourage States to adopt election day registration or no registration. Their position reflects a policy that such provisions are equal to or better than the provisions of the motor-voter law. I would argue that the conference, in refusing to accept that position and in agreeing to the Senate's closed exemption, did not agree.

I am equally concerned that the effect of this amendment is to make moot ongoing litigation. In the case of New Hampshire, the State enacted legislation with a retroactive effective date in an attempt to slip in under the exemption. That action is being appropriately challenged in the courts by State organizations and voters who seek compliance with motor voter. I do not think it is appropriate or good policy for the Senate to directly interfere with ongoing litigation.

It is interesting to note that when the motor-voter bill was under consideration in the Senate, the Republican leader praised the floor manager for closing the election day registration escape hatch. Now, just 2 years later, Republicans propose to open that hatch for two more States and permit those two States to avoid implementing the motor-voter law.

One might reasonably ask, what has happened in the past 2 years to account for this change? Do Republicans now favor election day registration? Or, do

Republicans wish to avoid compliance with the motor-voter law in as many States as possible by whatever means possible?

Recent events support the latter position. Rather than comply, some states led by Republican governors have initiated court challenges to this law. So far none have succeeded. The courts have upheld this law and have ordered the States to comply. As I have already noted, New Hampshire would directly benefit by this amendment. New Hampshire is involved in litigation to compel its compliance—and we are asked to intervene by changing the law to render that litigation moot.

This should be seen for what it clearly is, another attack on the implementation of the motor-voter law and an attempt to curry favor with election officials in the all-important primary State of New Hampshire. My Republican colleagues appear willing to take this route even though it represents a complete about-face from the position they fought for just 2 years ago.

I think it is clear why implementation of the motor-voter law is under such attack. The law is working. And it is working well. Since the law became effective January 1, States that are implementing it are experiencing extraordinary registration activity. The National Association of Secretaries of State recently adopted a resolution that includes the finding:

> Preliminary statistics show the voter registration programs mandated by the Act to be successful at providing citizens access to the voter rolls. In the first six months, over 4 million new voters have been added to voter lists nationwide . . . .

A recent New York Times article noted that more than 5 million Americans have been added to the rolls so far this year. It notes that political experts characterize this registration activity as "the greatest expansion of voter rolls in the Nation's history." The article also states that "Estimates are that by the turn of the century, if the surge generated by the new law continues, at least four of every five adult Americans will be registered to vote, compared with about three of every five now."

The figures cited in the Times article are truly amazing. It states that this year Georgia registered 303,000 new voters between January and June, compared with only 85,000 for all of last year; Alabama registered about 43,000 in the first quarter and only 23,000 during that same period last year; Kentucky added 77,000 the first quarter this year compared with 23,000 in all of 1994 and Indiana added 64,000 new registrations the first quarter this year and only 5,400 during that period last year.

These registration figures for this year show that the law is working, and that it is working very well. I guess that some view the increased voting rolls produced by the States under this act to be a threat. A threat that must be attacked in the States, in the courts and in the Senate. What are they afraid of? More people voting? That is what democracy should be about. I welcome its success. I welcome a registration system that reaches out to all eligible citizens to assure that they are able to cast ballots on election day.

With a veto likely on this bill, now is not the right time to propose an amendment to strike this provision. But in closing, I want to make one thing clear to the proponents of this provision, I will continue to resist this and any other attempt to undo or weaken a law that has directly encouraged 5 million more Americans to become involved in our democratic process.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, it has been a long process in putting this bill together. It represents a dramatic change in public policy. The President has said he is going to veto the bill.

The American Government is about choices. What we have provided here is a bill which dramatically reduces spending below the level proposed by the President. We have provided a bill, despite some modest adjustments that we have made in the amendment process, some of which I have supported, some of which I have not supported, which dramatically changes the way Government does its business.

We have sent forward the strongest crime provisions in an appropriations act in my Senate career. We have a bill that substantially reduces funding in the Department of Commerce. It still remains to be decided by the Senate whether or not we will eliminate that Department.

We have a very tight budget for the State Department, and, under the circumstances, a fair budget. It is clear that there are changes that I, as a Member of the Senate, and others would like to make that cannot be made.

It is clear that the U.S. Senate supports quotas, supports set-asides, and even though the American people in overwhelming numbers reject them, it is clear that there is not support in the U.S. Senate to have a merit-based program for hiring, for promotions and for contracts.

I am confident that some day there will be a majority which will support merit-based selection. That majority, however, does not exist today, we have proven this on many occasions and I do not think we would benefit ourselves by proving it again today.

UNANIMOUS-CONSENT AGREEMENT

Mr. GRAMM. I have a unanimous-consent request that I believe will complete the bill. I would like to read that unanimous-consent request now.

Mr. President, I ask unanimous consent that the following committee amendments be withdrawn—Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, let me begin again on the unanimous-consent request.

I ask unanimous consent that the following committee amendments be withdrawn: the amendment beginning on page 143, line 13 through page 145, line 18; and the amendment beginning on page 151, line 16, through page 159, line 6; and all remaining committee amendments be agreed to en bloc; that there be one amendment to be offered by each manager which will contain the cleared amendments by both sides of the aisle. The bill will be advanced to third reading and final passage occur without any intervening action or debate.

Mr. DASCHLE. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, I renew my unanimous-consent request.

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

Mr. DASCHLE. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. No objection.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, could we have it restated again? I am not sure what we are being asked to consent to.

Mr. GRAMM. Mr. President, I ask unanimous consent that the following committee amendments be withdrawn. The amendment beginning on page 143, line 13 through page 145, line 18, and the amendment beginning on page 151, line 16 through page 156, line 6, and that all remaining committee amendments be agreed to en bloc, that there be one amendment to be offered by each manager which will contain amendments cleared on both sides of the aisle, that the bill be advanced to third reading and final passage occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, you said without any intervening debate? You just got done telling me I was going to have time to debate it.

Mr. GRAMM. Mr. President, I amend the unanimous-consent request to drop the words "or debate."

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

Without objection, it is so ordered.

Mr. GRAMM. Hallelujah.

Mr. DOLE. Mr. President, under the unanimous-consent agreement just adopted, the committee amendment adding the text of the Equal Opportunity Act to the underlying bill has been withdrawn.

After a lengthy process of consultation and drafting, I introduced the Equal Opportunity Act earlier this year. The act has been referred to the Labor Committee. This past June, the Labor Committee held hearings on Executive Order 11246, one of the Federal Government's major affirmative action policies. And I expect the committee to hold hearings on my bill sometime later this year.

The Small Business Committee, at my request, has also held hearings on the SBA's section 8(A) set-aside program. And the Subcommittee on the Constitution, under the leadership of Senator HANK BROWN, intends to convene a general series of hearings on affirmative action as it operates in both the public and private sectors. One hearing has already occurred. The next hearing will probably take place sometime in October.

In my view, inserting the Equal Opportunity Act into this appropriations bill would have short-circuited the hearing process and, in fact, would have harmed the bill's chances for passage in the Senate.

Of course, I strongly support the Equal Opportunity Act because I believe the Federal Government should be in the business of uniting all Americans, not dividing us through the use of quotas, set-asides, and other preferences. In fact I view the Equal Opportunity Act not only as a piece of legislation, But as an opportunity to bring Americans together in a thoughtful, rational discussion about race in America. This discussion is long overdue.

So, Mr. President, I look forward to continued hearings on this important issue. And I fully expect the Senate to consider the Equal Opportunity Act at an appropriate time in the near future.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend. The Senate will please come to order.

Mr. GRASSLEY. Mr. President, in the managers' amendment there is a whole new program for a subsidy for the maritime industry. At 5 minutes to 9 on a Friday night, when we are not normally in session, before we are going to take a week's vacation, it does not seem to me that we should be passing a whole new program without some mention to the taxpayers of this country.

Since January or February the whole approach to this new program has been a very careful one-man show behind the scenes to, in a stealthy way, get this program out of the authorization committee with as little attention as possible, promising as much as you could to keep people quiet.

So, I rise to first of all tell the people of this country about this new program that has operating subsidies and a shipbuilding loan guarantee for the maritime industry. I oppose it because virtually every truly independent analysis of the maritime subsidies and protectionist programs have concluded that they have little or nothing to do with our defense needs. Remember, these programs of subsidies were started in the 1930's, the 1940's, the 1950's, to provide ships for our defense needs. When these programs started we had 1,100, 1,200 ships. Today we have between 250 and 300 ships. So you know the old saying, you subsidize something you get more of it? In this particular case it does not work.

This ends up being a waste of the hard-earned money of America's taxpayers and consumers. In all my years in Congress I fought hard to uncover and eliminate waste, fraud, and abuse within the Federal Government. I fought waste in a wide range of programs. This week we won a victory for the taxpayers by eliminating AmeriCorps. And I fought hard against $1,800 toilet seats and $400 hammers, money squandered by the Pentagon in the name of national defense.

Maritime subsidies are, as well, supposedly for the national defense. Yet, during the last war we were involved in, the Persian Gulf war, 86 percent of the materiel that went by ship was not shipped on commercial American-flagged ships. We do not have the capacity for doing that because we have had a program that was supposed to work for the national defense and it has not worked.

So, maritime subsidies, in the false name of national defense, I think, after four decades, we ought to conclude, squander taxpayers' money as well.

Historically, anyone who has scrutinized maritime programs has come under fierce public attack by the maritime industry's Washington lobby. My motives have been criticized because I come from an agricultural State.

Let me admit, initially my interest in the maritime programs was limited to its impact on agriculture, because our maritime, through its back-door, hidden cargo preference subsidy, not only undercuts our ability to develop and expand overseas agriculture markets but also, and more tragically, cargo preference literally takes food out of the mouths of hungry people and starving people around the world. Simply, the money that otherwise could have gone to send more food to the starving is eaten up by the outrageous rates charged by U.S.-flag maritime companies, sometimes three to four times the world rate.

But it soon became apparent to me that most of the burden of our maritime subsidies and programs is shouldered by the Defense Department in terms of cargo preference and by the American consumers, laborers, and businesses, in terms of the Jones Act.

But one of the fascinating things about my long journey in trying to expose and stop this maritime waste is the type of attack directed at me. It surprises me that the Defense Department and the defense industry has not used this attack—in short, why has not the defense community argued that they are entitled to spend $1,800 on toilet seats? After all, farmers get subsidies. Probably, the fact that this is such a ridiculous argument is the reason that the Defense Department has not used it. But that certainly has not stopped the maritime industry.

Of course there is a big difference. Farm programs are scrutinized publicly and intensely every few years, if not every year during the budget process.

When is the last time we have had full-scale hearings, bringing in supporters and opponents to the maritime programs?

The Commerce Committee held one hearing in July of this year to discuss the so-called Merchant Marine Security Act. Only supporters were invited. Not only were maritime program critics not invited, but their requests to testify were denied as well. Talk about a one-sided story promoted by a committee of the Congress. Then, before the Commerce Committee, written questions were even answered by those testifying, the bill was rushed through by a voice vote.

99-059 O—97 Vol. 141 (Pt. 19) 20

Yesterday, there was considerable discussion about recommitting to a committee a nomination because new information was provided subsequent to committee action. Well, today, I am submitting for the RECORD information directly related to the Merchant Marine Security Act and directly related to the pending amendment that is in the managers' amendment from the other side. I am convinced that my colleagues on the Commerce Committee did not have this information. If they had it, there is no way they could support S. 1139, the Merchant Marine Security Act.

I want my colleagues to know that what I am about to read is not this Senator's opinion. Instead, this information is the culmination of months of work by maritime experts from 16 different Government agencies, executive branch agencies—not a congressional study, not a GAO study, not a private think-tank study, but a study by 16 Government agencies of the executive branch.

This memo I think is explosive and sets a lot straight. This memo is entitled "Memorandum for the President"—meaning memorandum for President Clinton. It is from Robert Rubin. Robert Rubin is now the Secretary of the Treasury, as you know. The subject: Decision memorandum on maritime issues.

It is dated, the White House, Washington, June 30, 1993. Purpose of the memo: This memorandum asks you to decide—meaning asking the President to decide, from the Robert Rubin who is now Secretary of the Treasury—asks you to decide on the level and form of subsidies to be given to various U.S. maritime industries.

So this decision is asked to be played at the highest level of our Government, the President of the United States.

Now, for background, because there are paragraphs here on background.

The U.S.-Flag Fleet. The U.S.-flag fleet is engaged in both domestic and international trade. Ships in domestic trades are permanently protected from foreign-flag competition by the Jones Act. This memorandum describes options to subsidize ships that are employed in international trade and therefore subject to competition. The international trade fleet consists of 95 liners (ships designed principally to carry goods in containers) and 60 bulkers (ships that carry loose cargo such as liquids and ore).

The principal issue in this memorandum is whether expiring direct subsidies should be replaced with new subsidies for U.S.-flag liners. (No agency supports direct subsidies for bulkers). If no new program is announced, most U.S. liners are likely to reflag their vessels. The reflagged ships would still be owned and controlled by U.S. firms; their U.S. crews (about 10,000 seafarers) would be replaced by foreign mariners. A related issue is whether the plethora of indirect subsidies that now support a wide range of maritime interests should be expanded., maintained or phased-out.

Budgetary Context. Option 1 would require DOD to shift defense outlays; it would be deficit neutral. Options 2 and 3 would increase mandatory spending. Under the Budget Resolution, offsets would have to be identified to make the proposals deficit neutral. Options 2 and 3 would also result in savings on the discretionary side of the budget from the phase-out of existing subsidy programs. While these savings could be used for new discretionary outlays, they could not be used as offsets for any new mandatory spending.

Then it goes on in more detail from the Secretary of the Treasury to President Clinton.

Option 1. Require DOD to Support U.S.-Flag Ships Needed for Defense:

Rationale. Subsidies for the U.S. flag fleet have always been justified by their role in providing a sealift capacity for use in military emergencies. With the end of the Cold War DOD's sealift requirements have declined. Although DOD's bottom-up review is not complete, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Commander of the Transportation Command have already concluded that future requirements will not exceed 20-30 liner vessels. DOD will have no need for bulk vessels. All agencies therefore oppose renewal of direct subsidies for bulkers. This option would meet DOD's maximum military requirements.

Description. DOD would be directed to spend $60 million annually on contracts with ship operators to provide DOD with the services of up to 30 U.S.-flag liners in times of military need. New contracts would be phased-in as current subsidies expire or are terminated. If U.S.-flag ships are subsidized through other means, such as Option 2 or Option 3, DOD would be allowed to spend its limited resources meeting more pressing defense requirements.

Under this option, the Administration would oppose the expansion of indirect maritime subsidies. [Alternatively, the Administration could, as many agencies recommend, seek the phase-out of any indirect subsidies not required to meet a specific military need.]

Budget Cost. This option would subsidize U.S.-flag liner ships by reprogramming money already in the DOD budget (DOD plans to obtain the funds by retiring 29 breakbulk ships from the Ready Reserve Fleet). The option would be deficit neutral.

Arguments in favor: These subsidies would provide for genuine defense needs, and therefore would enjoy broad support. By subsidizing 30 of the 52 liners now under contract, this option would sustain 1,500 seafaring jobs and about 750 landside jobs. Indirect subsidies come at the expense of other U.S. industries and hinder the missions of other Executive Branch agencies.

There is one argument that Secretary Rubin gave to the President to be against this.

Provides less support than is sought by the industry and its supporters.

I ask unanimous consent that the rest of the Rubin memo be included in the RECORD.

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

Option 2. Increase Direct and Indirect Subsidies to Maritime Interests:

Rationale. This option is designed to keep most of the existing U.S.-flag liners in foreign trade sailing under the U.S. flag, regardless of defense needs.

Description. The option has four main elements:

(1) Increase to 79 from 52 the number of liner ships receiving direct payments. DOT would be authorized to sign 10-year contracts at $2.5 million per ship per year in the first four years, and $2.0 million per ship per year in the last six years. In the first two years, new contracts would be limited by savings made available from the existing program.

(2) Allow non-subsidized, foreign-built vessels to receive subsidies.

(3) Provide $200 million in FY94-96 for Title XI loan guarantees to U.S. shipyards.

(4) Do not Oppose Congressional efforts to expand indirect maritime subsidies.

Budget cost: Over 10 years, this option would increase mandatory outlays by $1.7 billion, while decreasing domestic discretionary outlays by $567 million.

Arguments in favor:

This option contains subsidies for liners, bulkers, and shipyards in order to win support for the proposal from the widest range of maritime interests.

Subsidizing 79 ships would sustain 4,000 seafaring jobs and about 2,000 landside jobs.

Since foreign-built vessels may be less expensive, this option could reduce carriers' costs.

Arguments against:

Subsidizing 79 vessels is unnecessary. This would be two to three times the maximum number of ships DOD estimates are needed to meet its sealift requirements.

The NEC Principals found no evidence that this segment of the maritime industry was of strategic importance to the economy. The U.S. has no competitive advantage in the industry; the industry neither protects nor enhances U.S. exports. Subsidizing carriers simply to preserve jobs would leave the Administration hard pressed to explain why it should not also subsidize every other industry that suffers job losses.

Immediate funding for Title XI loan guarantees is premature. All agencies, including DOT, support the efforts of the congressionally-mandated Working Group on the U.S. Shipbuilding Industry. The Working Group will present options to assist shipyards to the relevant Cabinet members later this summer (see TAB B).

Greater indirect subsidies would come at the expense of other U.S. industries and hinder the missions of other Executive Branch agencies.

Option 3. Provide Direct Subsidies to a Limited Number of U.S.-Flag Liner Ships:

Rationale. This compromise option is designed to subsidize a U.S.-flag fleet that will meet defense needs and, if desired, keep additional U.S.-flag vessels employed in the international trades. The option would limit the number of liners receiving subsidies to a range that could be more readily justified to critics—between 30 ships (DOD's current estimate of its maximum need) and 52 ships (the number of liners currently under contract).

Description. Provide direct payments to between 30 and 52 liner ships. DOT would be authorized to sign 10-year contingency contracts providing $2.5 million per ship per year in the first four years, and $2.0 million per ship per year in the last six years. New contracts in the first two years would be limited to savings made available from the existing program.

Under this option, the Administration would oppose the expansion of any indirect maritime subsidies. [Alternatively, the Administration could, as many agencies recommend, seek the phase-out of any indirect subsidies not required to meet a specific military need.]

The Administration would oppose—as premature—funding for loan guarantees until NEC Principals consider options developed by the Working Group on U.S. Shipbuilding.

Budget Cost. Over ten years, direct subsidies for 30 ships would increase mandatory outlays by $500 million, while reducing domestic discretionary outlays by $358 million. Direct subsidies for 52 ships would increase mandatory outlays by $975 million and reduce domestic discretionary outlays by $358 million.

Arguments in favor:

Would provide the industry with more money and longer contracts than Option 1.

This option would sustain 1,500–2,500 seafaring jobs and about 750–1,250 landside jobs.

Restricts or eliminates indirect subsidies that come at the expense of other industries or hinder the missions of other Departments.

Arguments against:

Provides less support than sought by industry and its supporters.

RECOMMENDATIONS

Fifteen Executive Branch Agencies support Option 1. The Department of Transportation supports Option 2. A compromise proposal is provided by Option 3. In addition to the strengths and weaknesses of each option, these recommendations reflect different views about the economic and strategic importance of liner ships engaged in international trade, as well as the extent of Congressional support for maritime subsidies. These views are noted in TAB C.

DECISION

_____ Approve Option 1.
_____ Approve Option 1 as amended.
_____ Approve Option 2.
_____ Approve Option 2 as amended.
_____ Approve Option 3.
_____ Approve Option 3 as amended.
_____ Take No Action.
_____ Discuss Further.

Tab A: Background on Current Maritime Subsidies

The federal government now subsidizes ship operators through a variety of programs, including:

(1) Operating Differential Subsidies. Under the ODS program, the federal government entered 20 year contracts with U.S.-flag operators. These contracts provided that the federal government would pay the difference between wages on U.S.-flag ships and wages on their principal competitor's foreign-flag ships; in some cases, the government also undertook to pay the differential on other costs such as maintenance and repair. ODS contracts now cover 52 liner ships and 28 bulk ships. ODS payments in 1993 are expected to total $244 million, for an average per ship subsidy of about $3.0 million.

To qualify for ODS payments, vessels must meet a number of restrictions. ODS liners must: be U.S.-built, U.S.-flag, and at least 51 percent owned by U.S. citizens; provide service on "essential trade routes"; receive approval from the Maritime Administration before: altering trade routes; affiliating with foreign-flag service; or operating in domestic trades.

(2) Ocean Freight Differential (cargo preference) program. Cargo preference laws require certain federal programs to ship between 50 and 100 percent of their cargo on U.S.-flag ships. OMB estimates that in 1993, cargo preference requirements will increase government shipping costs by about $590 million over shipping rates. These costs will be borne by the Department of Defense, Agriculture, Transportation, State, the Agency for International Development, and the Export-Import Bank.

(3) Capital Construction Funds (CCFs). Owners of U.S.-flag, U.S.-built ships may shelter income by placing it in a CCF. Taxes on both the income placed in a CCF and the interest earned by the CCF are deferred indefinitely. CCF balances are now approximately $1.2 billion.

(4) Title XI. Under this program, the federal government guarantees private loans made to the purchasers of U.S.-built ships. Loans were last guaranteed under this program in 1992. In 1993, $48 million was appropriated for the program, but no loans were guaranteed. No funds were requested for this program in the President's FY 1994 Budget. The government's outstanding contingent liability under this program now stands at about $2 billion.

(5) Jones Act. Like most other seafaring nations, the U.S. provides cabotage for its ship operators—all domestic waterborne trade must be carried on U.S.-flag, U.S.-built ships. The Jones Act fleet accounts for about 50 percent of the privately-owned oceangoing U.S.-flag fleet.

(6) The Shipping Act of 1984. Since 1916, the U.S. has allowed U.S. and foreign carriers serving U.S. trades to participate in international shipping cartels known as conferences. The Council of Economic Advisors and the Department of Justice estimate that the Act raises shipping prices at least 10 to 15 percent, providing U.S. and foreign carriers with a subsidy valued at $2–3 billion per year (because of their low market share, U.S. carriers receive only 20 percent of this subsidy). The Federal Maritime Commission disputes these results, and asserts that Conferences have little effect on long-term shipping prices.

Shippers continue to press for relief from strictures imposed by the Act, and are likely to try and block any new subsidies for carriers without some action to address their concerns. The law regulating conferences was last amended in 1984. In 1990, the Advisory Commission on Conferences in Ocean Shipping brought together carriers shippers to seek consensus on further changes to the Act. No agreement was reached.

Tab B: U.S. Shipbuilding and Current Administration Efforts to Assist the Industry

Large U.S. shipyards are now almost completely dependent on the Navy. Of the 87 ships currently on order or under construction, 86 are for the Navy. With the drawdown in defense spending, naval orders are expected to decline substantially. The problems faced by U.S. shipyards are thus similar to those faced by other defense contractors—namely, how to shift from military to civilian production.

The U.S. industry is currently not competitive in the global market. It is less efficient than its foreign competitors and has had little experience in the commercial market since the early 1980s when the U.S. ended construction differential subsidies and increased naval orders. U.S. yards are also disadvantaged by the subsidies granted by foreign governments to their own shipyards. As a result, U.S.—built ships are more expensive than foreign-built ships. According to the ITC, price differentials have reached 100 percent.

The Bureau of Labor Statistics estimates that U.S. shipyards employed 123,900 workers in 1992 (down from 171,600 in 1982). The shipbuilding industry estimates that, absent government assistance, 70,000 more shipbuilding jobs could be lost. Even with government assistance, however, shipbuilders estimate that the transition from military to civilian production will lead to a loss of 20 percent of current employees as some skills will no loner be needed.

ACTIONS CURRENTLY UNDERWAY BY THE ADMINISTRATION

All agencies support the following Administration efforts now underway:

1. Seek to Reinvigorate Negotiations to Eliminate Foreign Shipbuilding Subsidies. U.S. negotiators are currently engaged in efforts to restart negotiations on the elimination of foreign subsidies. The elimination of such subsidies has been one of the key objectives of the U.S. shipbuilding industry.

2. Explore the Possibility of Working with Congress on Legislation to Support this Effort. In the last Congress, bills were introduced in both the House and the Senate providing the means to retaliate against ship carriers who purchased subsidized foreign-built vessels. These measures are intended to speed multinational agreement on the elimination of foreign shipbuilding subsidies. Agencies are exploring the possibility of working with Congress on legislation this year.

3. Prepare Congressionally-Mandated Plan for the U.S. Shipbuilding Industry. The FY 1993 National Defense Authorization Act required the Administration to establish a working group charged with preparing a plan to help U.S. shipbuilding industry become competitive in international commercial markets. The working group is considering a series of measures, including the use of Title XI loan guarantees for ship construction, defense conversion funds, ARPA R&D projects, and Export-Import financing. The group will present its proposals to the relevant Cabinet members this summer, so that the Administration can submit a plan to the Congress by the statutory deadline of October 1, 1993.

Tab C: Differing Views on U.S.-Flag Ships Engaged in Foreign Trade

Political Concerns

(1) Strength of Congressional Support: Secretary Peña believes there to be broad, bipartisan Congressional support for maritime subsidies. The Secretary believes that maritime supporters have enough votes to pass a maximalist package without support from the Administration. If you do not announce such a package now, the Secretary fears that you will lose an opportunity to demonstrate leadership.

The Director of OMB disagrees with this assessment. In the current budget environment, he believes that there will be far less support for direct and indirect maritime subsidies. He argues that Congress might even reduce the level of subsidies, including those indirect subsidies that come at the expense of other industries, such as agriculture and manufacturing.

(2) The Political Cost of Delay: A number of maritime bills have been introduced in Congress. To date, the Administration has delayed taking a position on these bills pending the completion of its review of maritime policies. Secretary Peña believes that further delay will generate ill feelings on the Hill.

(3) Congress will Support Subsidies to Ship Operators Only If Immediate Subsidies Are Provided to Shipyards: Secretary Peña believes that no new direct subsidy program can pass in Congress without including immediate new funding for shipyards.

Economic Concerns

(1) DOT: Without a U.S.-flag fleet engaged in foreign trade, U.S. exporters would be held hostage to the fleet of nations with which we might have trade disputes.

Other Agencies: The worldwide carrier industry is highly competitive, making the possibility of being held hostage highly remote. Moreover, U.S. exporters will always be able to ship cargo on U.S.-owned, foreign-flagged ships (although these ships have foreign crews, they are owned and controlled by U.S. interests).

The Alliance for Competitive Transport, the coalition of major American exporters and importers, has made clear that it does not believe that its interests would be harmed by the reflagging of the Merchant Marine, as long as the ships remained U.S. owned and controlled.

(2) DOT: A new ten-year program will lead to increased efficiencies in the Merchant Marine that will make further subsidies unnecessary.

Other Agencies: Subsidies are needed principally to offset the higher wages of U.S. mariners. DOT has presented no evidence that this program would eliminate the wage differential between U.S. carriers and their foreign competitors.

(3) DOT: The government must subsidize more ships than it needs for defense purposes or risk crippling the commercial shipping industry in times of military emergency.

Other Agencies: U.S. ship operators will enter contingency contracts only if they believe that yielding their ships to the government in times of emergency will not cripple their commercial operations. If their ships were used during emergencies, ship operators would continue operations through their U.S. owned, foreign-flag affiliates, and by contracting out to foreign owned companies.

(4) Department of Transportation: Some maritime supporters will argue that DOD is not meeting its defense needs in the most cost-effective manner. Critics will claim that DOD plans to spend $6–7 billion over the next few years to purchase "roll-on, roll-off" (RORO) ships with a sealift capacity that could be purchased more cheaply through subsidies to maintain a large U.S.-flag Merchant Marine.

Department of Defense: DOD will spend $4.5 billion between now and the year 2000 to acquire RORO ships. However, these ROROs are not available in the current commercial fleet, nor would these ships become available under any new liner subsidy program. ROROs are specialized ships that allow rapid loading/unloading of vehicles and can achieve high speed on the open ocean. Reliance on the Merchant Marine to serve the specialized function of ROROs would seriously compromise DOD's ability to deploy U.S. forces in time to meet anticipated threats overseas.

Mr. GRASSLEY. Mr. President, after reading that memo, I want to tell my colleagues that this option was the overwhelming pick among these agencies. Fifteen executive branch agencies supported the option that I just read from Secretary Rubin to President Clinton. Only one agency objected, and that lone agency was the Department of Transportation.

Now, the Defense Department was willing to pay for this option. Yet, the Transportation Department opposed. Why? Why would the Department of Transportation oppose the Defense Department paying for these maritime subsidies, but subsidies limited to meeting our true defense needs, not one ship more than what the Secretary of Defense said we needed?

Now, of course, we all know that the President of the United States is a busy man. And so, in preparing a decision memo, you want to make certain that you put your absolute most important arguments front and center.

The 15 agencies had a number of important arguments in favor of this option. First and foremost in importance is the fact that the Secretary of Defense, the Chairman of Joint Chiefs of Staff and the Commander of the Transportation Command said the real defense needs could be met with as few as 20 U.S.-flag ships.

Second, it was argued by these 15 agencies that "Option one" would sustain 1,500 seafaring jobs and 750 landside jobs.

And third, they argued against indirect subsidies such as cargo preference by pointing out that "indirect subsidies come at the expense of other U.S. industries and hinder the missions of other executive branch agencies."

Mr. President, surely the Department of Transportation had a number of powerful and persuasive arguments against this cost-effective option supported by 15 agencies. Transportation must have been able to argue to the President important meritorious points that our Defense experts are wrong, that we need to subsidize more U.S.-flag vessels to meet our real defense needs.

But what was Transportation's best arguments? Well, first, it must have been good, because Transportation only offered one argument against it.

And since the lone Transportation Department prevailed over 15 other agencies, it must have been a very good argument, you would surmise. After all, President Clinton was convinced, and he is pushing a Merchant Marine Security Act that funds 52 vessels recommended by the Department of Transportation, not the 20 recommended by the Department of Defense. And it must have been good because a House committee and a Senate committee have both approved these new subsidies for 47 to 52 vessels.

So what then was this powerful argument by the Department of Transportation? And here I wish to read again for my colleagues.

Arguments against. Provides less support than is sought by industry and its supporters.

Mr. President, did my colleagues hear the reason that the President decided to go along with the Department of Transportation as the only one of 16 Government agencies that thought we ought to subsidize 20 ships, and instead the President went along with the agency that wanted to subsidize 52 ships?

The only argument against our top defense officials and 14 other agencies is that the maritime industry—get this—that the maritime industry and its supporters want more.

I will read again from the memo from the Secretary of the Treasury to the President of the United States what these other 15 departments wanted. It says right here, "Provides less support than is sought by the industry and its supporters."

And for no more than these flimsy reasons, Congress within just a few minutes is about to give maritime what it wants. So much then for the revolution that was ushered in in the 1994 elections.

This memo to the President is chock full of amazing arguments. Get this. Transportation Secretary Peña strongly argued for the President to squander tax dollars by subsidizing 79 vessels, two to three times what the Defense Department said it needed for sealift requirements.

If President Clinton did not advocate subsidizing 79 vessels, Secretary Peña "fears that you will lose an opportunity to demonstrate leadership." Peña also argued, "Further delay will generate ill feeling on the Hill."

Now, Secretary Peña is saying to his own President that you better do what I say and recommend, because if you do not, I fear that you are going to lose an opportunity to demonstrate leadership.

I hope the Secretary is listening and watching because I have a message. Forget about generating ill feelings on the Hill. Voters took care of many of those last November, and you can bet your bottom dollar that your idea of "losing an opportunity to demonstrate leadership," is 180 degrees opposite what the voters and overburdened taxpayers expressed in the last election.

So, Mr. President, the military or national defense arguments in favor of this amendment as well as for the so-called Merchant Marine Security Act are simply bogus. This memo that I have been reading from is absolutely clear evidence that the national defense arguments for merchant marine subsidies are a sham.

That is not just the opinion of the military experts who participated in this 16-agency effort, for during the Bush administration these agencies participated in a similar maritime review. The point person for this effort, representing the Defense Department, was former Defense Assistant Secretary Colin McMillan.

I have a copy of his memo to other task force members. In short, he said back during the Bush administration, "The issue of U.S. flag companies reflagging if we don't give them more subsidies is not"—I wish to emphasize is not—"a defense issue."

Assistant Secretary McMillan concluded, "The issue of two U.S.-flag container ship operators disposing of the U.S.-flag fleets is primarily an economic one and should be treated accordingly."

Citizens Against Government Waste—we are all familiar with that

organization—recently contacted Colin McMillan and included his comments in their May 24, 1995 report entitled "Disaster at Sea. It's Time to Deep Six the Maritime Subsidy Programs."

That is the name of their publication.

For my colleagues, if you are interested in this, this publication is an excellent, well-researched report which I am submitting for the record, but let me share with my colleagues what the former defense Assistant Secretary had to say now that he can speak candidly outside of the Bush administration.

McMillan called the subsidy program in the name of national security "a big waste of taxpayers' money. These programs should be clear targets for elimination. Here we are talking about cutting programs for children and we're funding so-called defense programs that add nothing"—I wish to emphasize that add nothing—"to the defense of our country."

Keep in mind that these candid remarks come from the former Defense Department expert on maritime subsidies and sealift needs. He is no longer part of the Defense Department and he is no longer working for an administration. He is not being paid by the maritime lobby, nor is he part of any organization that is being funded by the maritime lobby. So no one can question his motives.

Again, this maritime defense expert concluded that maritime subsidies in the name of national security is a big waste of the taxpayers' money.

He is not the only expert opposing maritime subsidies. I would like to share the "Quote to Note" from the August 3, 1995 Journal of Commerce:

> Nearly 50 years of subsidies have not prevented the demise of the U.S. merchant marine . . . Subsidies do nothing more than cause inefficiency, mediocrity, lack of incentive and a dependence upon Uncle Sam.

Mr. President, that statement was made by Harold E. Shear, who not only served our Nation as a U.S. Navy admiral but also as a Maritime Administrator.

As a memo to President Clinton points out, "Subsidies for the U.S. flag fleet have always been justified by their role in providing sea lift capacity for us in military emergencies. With the end of the cold war DOD's sealift requirements have declined."

So you see, Mr. President, no matter what the U.S.-flag merchant marine fleet may have meant to our Nation in the past to help with our defense, the subsidies have not only been unjustified, they have not worked in providing a strong merchant marine to meet our needs in wartime. I argue that subsidies have even been harmful to our maritime and if they have been harmful to our maritime, they have been harmful to our national security.

Well, then, maritime supporters turn the debate away from the issue of defense to that of economic security. This, too, is nonsense, according to Secretary Rubin's memo to the President. The memo reads as follows.

> The NEC principals found no evidence that this segment of the maritime industry was of strategic importance to the economy. The U.S. has no competitive advantage in the industry. The industry neither protects nor enhances U.S. exports. Subsidizing carriers simply to preserve jobs would leave the administration hard pressed to explain why it should not also subsidize every other industry that suffers job losses.

This is amazing. Why have not the House and the Senate committees been able to pry this truth out of those testifying at their hearings on the maritime?

Not only is it no longer based upon the testimony of military experts that have a military need, but the argument, when that wears out, has turned to economic rationale for our own maritime ships. And even the administration principals argue that there is no economic justification for this program.

Well, I think we all know the answer to why this argument was not able to be made at the committees of the Congress this spring. Those testifying are expected to be team players. They are expected to be team players for the President who decided to throw away taxpayers' dollars for unnecessary subsidies for maritime companies and their high-priced executives and their labor unions.

And let us not kid ourselves. The real reason that we need to subsidize U.S.-flag vessels by the tune of $2 to $2.5 million per year is to cover the high costs of their labor unions.

Again, from the memo to President Clinton. Again, this is Secretary Rubin writing to President Clinton.

He says:

> Subsidies are needed principally to offset the higher wages of U.S. mariners. DOT [the Department of Transportation] has presented no evidence that this program will eliminate the wage differential between U.S. carriers and their foreign competition.

Mr. President, I have been arguing this truth for years. Most of my colleagues except the new Members have heard it on the floor of this Congress almost every year. And now we have proof that the maritime experts in 15 executive branch agencies in a Democratic administration agree with my position wholeheartedly.

But I surely was not the first who recognized this. A dozen years ago, Mr. President, the U.S. Navy Military Sealift Commander, V. Adm. Kent Carroll reported why our merchant marine was sinking.

He said 12 years ago:

> Why are we in such a mess? . . . one of the reasons is that U.S. crew costs continue to be the highest in the world. Monthly crew costs of U.S. flag ships are as much as three times higher than those of countries with comparable standards of living, such as Norway.

He did not say three times higher than poor, Third World seafarers. He said, three times higher than seafarers from countries with comparable standards of living such as Norway.

Now, let me be fair to the unions. In a Journal of Commerce article about an MIT study exposing the high cost of America's subsidized seafarers, union officials fought back.

I want to share what they said.

> Unions representing officers and seafarers on modern containerships have criticized many of the underlying assumptions in the report, saying the authors ignored non-vessel costs such as high management salaries, and corporate overhead.

That is coming from our unions.

Does anyone from the Commerce Committee know how much of this $2.5 million per ship annual subsidy is needed to cover these high management salaries? Because I think that everybody in this body ought to know.

Did the committee study the MIT report entitled "Competitive Manning of U.S.-Flag Vessels" before passing out a $2.5 million per vessel subsidy?

This report shows how these U.S.-flag vessels can get by with as little as $1.1 million in Government subsidies. Let us go over that. MIT says that our U.S.-flagged vessels can get by with as little as $1.1 million subsidies. But our committee votes out a bill that gives $2.5 million per vessel subsidies.

This means, Mr. President, since the Defense Department needs as few as 20 vessels, and since by making some reasonable reforms such as eliminating abusive featherbedding and overtime practices, Government subsidies can be cut to $1.1 million per vessel, the Merchant Marine Security Act of 1995 should authorize then only $22 million per year. What is currently required? Five times that amount every year for 10 years.

My colleagues need to understand then that the cat is out of the bag. No longer are maritime subsidies and programs hidden in the dark of night.

Perhaps you saw last week's front page article in the Washington Post. Other major publications such as the Wall Street Journal have editorialized against these wasteful maritime subsidies. And I submit both of these for the RECORD.

Numerous groups have come out this year in opposition to maritime subsidies. The list is long but my colleagues need to know who they are.

The National Taxpayers Union, Citizens Against Government Waste, Citizens for a Sound Economy, a group formed by consumer activist Ralph Nader called Essential Information, the Progressive Policy Institute sponsored by the Democratic Leadership Conference, the Cato Institute, the Competitive Enterprise Institute, and the Heritage Foundation. And that is just a partial list.

The point, Mr. President, is simple. Too much information exposing the

waste and abuse of maritime programs is out in the public. And the public is demanding the elimination of all this waste.

In fact, a top Transportation Department official, Inspector General Mary Schiavo, has testified that the entire Maritime Administration, together with its programs, including operating subsidies can be eliminated. The Inspector General, Department of Transportation, working for Secretary Pena, who recommended that the President come on board for this fat subsidy, recommends that we can do away with these program operating subsidies entirely.

She is a top transportation official, an expert on all their programs. But she is also an independent voice. And that independent voice does not have to march lockstep with the Clinton administration party line on maritime subsidies.

She has no self-serving motives. She does not have to care about generating ill feelings on the Hill, or about the question of failing to demonstrate leadership that Secretary Rubin said in the memo to the President of the United States if the maritime industry would somehow get less support than sought.

In other words, Mr. President, I think the Inspector General is a credible person. And so is the memo that I have read, supposedly a confidential memo from Secretary Rubin to the President of the United States.

Mr. President, the public knows that maritime subsidies are a waste. There have also been some public reports that show how desperate the merchant marine unions and lobbyists have become. These articles point to the dramatic shift of maritime campaign contributions shifting away from Democrats in the last couple decades to Republicans this year.

And I have seen the reports compiled by some of these public interest groups following closely this shift in campaign spending. I would urge my colleagues to get a copy of an article printed on pages 536 and 537 of the 1977 Congressional Quarterly Almanac. History may very well repeat itself.

Mr. President, it is clear that the amendment offered in this managers' amendment should be defeated. It should not have been sneaked through in this way. I regret that this amendment has been included in the managers' amendment. It should have been withdrawn.

I do not know what sort of deal makings go on to bring this about, but at least I have had an opportunity to tell the public and to tell my colleagues that when this was a debate in the Clinton administration, there were 16 Departments that were asked their opinion. Fifteen of the sixteen said this was a waste of the taxpayers' money, including the Department of Defense. But the Secretary of Transportation, through a memo of Secretary Rubin to the President, said that you better do this because you have to exercise leadership, you have to exercise leadership, not because of the Department of Defense needs, not because of the economic needs, but because the maritime industry and the maritime unions want it.

Mr. President, I ask unanimous consent that the report and articles to which I referred earlier be printed in the RECORD.

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

DISASTER AT SEA!—IT'S TIME TO DEEP SIX THE MARITIME SUBSIDY PROGRAMS—MAY 24, 1995

Congress has set caps on future spending and put the country on a glide path toward a balanced budget in seven years. In doing so, members have set sail into stormy waters. Working out the details will surely be one of the most controversial debates in recent history: a clash over exactly which programs and policies should go, which should stay, and what to do with savings. As congressional observers, political pundits, and arm-chair budgeteers (taxpayers, most of all) observe the debate over the particulars of what should be included, it will be just as important to take note of what they're not arguing about.

Even though there have been calls for the elimination of a variety of corporate subsidy programs—everything from the U.S. Department of Agriculture (USDA) Market Promotion Program to targeted tax credits for corporations with friends in high places—Congress will be missing the boat if it doesn't move to scuttle wasteful maritime subsidy programs, cargo preference laws and operating differential subsidies (ODS), in particular.

Cargo preference laws go way back to the turn of the century and the 1930's. The Jones Act, which governs only domestic waterborne commerce, was enacted in 1920. It mandates that all commercial cargo moving between American ports be carried on U.S.-flag ships.

International cargo preference laws (the subject of this report) dictate that all federal agencies—particularly the Department of Defense (DOD), the USDA, the Department of Energy, the Agency for International Development (AID), and the Export-Import Bank—transport 50 to 100 percent of their international cargo aboard U.S.-flag vessels. In practical terms, these laws force taxpayers to underwrite monopoly shipping rates and protect carrier owners from market competition.

U.S.-flag vessels are those vessels regulated under the laws of the United States. They must be American-built, American-owned, and American-crewed.

According to a November, 1994, General Accounting Office (GAO) report, the DOD alone, which is required by law to ship 100 percent of its goods under the U.S. flag, anted up $350 million a year in additional costs between 1989 and 1993 for the privilege of transporting equipment and materials to points abroad on U.S.-flag vessels. The USDA and AID must transport 75 percent of their international food aid under the U.S. flag, at an additional yearly cost of $200 million and $23 million, respectively. About 120 shipping companies shipped goods under the cargo preference laws in 1993, but the bulk of the subsidies went to a handful of companies.

The Office of Management and Budget (OMB) estimates that international cargo preference laws will cost federal government agencies an additional $600 million in fiscal year (FY) 1996. The November, 1994, GAO report said that cargo preference policies support at most 6,000 of the 21,000 mariners in the U.S. merchant marine industry. That translates into an annual cost of $100,000 per seafarer.

As far back as the 1960's the OMB, the GAO, and the Joint Economic Committee of the Congress tried to do away with these subsidies. In 1984, the Grace Commission also recommended elimination of maritime subsidies.

Historically, proponents of cargo preference laws and other maritime subsidy programs quickly evoke the national security argument when defending the industry's right to continued taxpayer largesse. They claim that a healthy U.S.-flag merchant marine fleet is an essential logistical component during a war. This argument has powerful resonance with members of Congress, who harbor nostalgic memories of the industry's titanic contributions during World War II, orchestrating massive troop movements and dispatching millions of tons of U.S. military equipment and supplies to distant war zones.

The other rationale is that maritime subsidy programs pump desperately needed revenue into an industry which cannot (or hasn't been permitted to, depending upon who you talk to) compete on the global market.

Unfortunately, today's merchant marine bears little resemblance to its romantic image. Though the amount of international ocean borne cargo has risen dramatically since World War II, U.S.-flag vessels carry only four percent of America's international cargo. Most of the increased cargo has been picked up by privately owned foreign-flag carriers, which are not subject to our restrictive "flag" laws and are therefore far more cost-effective. The U.S.-flag fleet has dwindled from a post-W.W.II peak of 2,000 to 371 ships today. Of those 371, only 165 are currently engaged in international trade and, therefore, eligible for either cargo preference or operating subsidies.

Though those 165 vessels benefit from a billion dollars annually in direct and indirect federal government subsidies, the industry continues to sink under the unsustainable weight of government regulation, outdated and protectionist labor and management policies which safeguard the well-being of a small clan of special interest groups, and the fierce onslaught of global competition in the international shipping industry. In characterizing U.S. maritime policies, former U.S. Maritime Commissioner (and outspoken critic of maritime subsidies) Rob Quartel called them "a scam, a taxpayer fraud."

Cargo preference laws provide one kind of indirect subsidy. A separate group of 20 to 30 privately owned shipping companies also get cash subsidies through the Maritime Administration (MARAD). These subsidies, so-called operating differential subsidies (ODS), are meant to compensate private shipping companies for retaining a certain number of their vessels under a U.S.-flag, a decision which effectively prices them right out of the world market.

In fact, keeping a ship under the U.S. flag is an enormously expensive operation. In exchange for ODS, a company must promise to keep certain international shipping lines

open, and—like companies with cargo preference contracts—they must make their vessels available to the DoD in times of national emergency. They must also submit to a suffocating array of government regulations. Their ships must be built in U.S. shipyards where construction costs are two to four times those of foreign shipyards. They must comply with a laundry list of safety codes and detailed technical specifications which far exceed the internationally recognized standards required for comparable foreign-flag vessels. Most importantly, from the taxpayers' point of view, they must also be U.S.-manned, with nearly twice the crew size of comparable foreign vessels.

Ironically, the industry's most stultifying encumbrance, the one most damaging to its competitive edge is a self-imposed one: artificially inflated crew costs. But crew costs are a matter of concern not just for the companies that must pay seafarers' salaries and benefits. These costs are also of paramount importance to taxpayers because the cost of labor is one of the factors which determines the level of the subsidy!

In 1994, MARAD quietly released a long-delayed study by researchers at the Massachusetts Institute of Technology (MIT) on the subject of manning costs abroad U.S.-flag vessels. The report's conclusions were stunning. The industry's labor practices amounted to nothing less than good old-fashioned featherbedding at the taxpayers' expenses.

The report contained billet cost breakdowns for a variety of U.S-flag vessels. A captain's billet cost was $34,000 per month, most of which is covered by taxpayers. (In the U.S. maritime industry, mariners are at sea for six months, and then go on a six-month hiatus). Therefore, for six month's work, a captain's billet costs can be about $204,000. U.S. seafarers are also entitled to and often collect unemployment benefits during their six-month hiatus, which leads to higher unemployment taxes for both American carriers and taxpayers.

Senator Charles Grassley (R–Iowa), outraged at the exorbitant taxpayer-subsidized crew costs, unsuccessfully offered an amendment to the FY 1994 DoD appropriations bill aimed at reducing those costs. In a letter to his Senate colleagues, Grassley wrote:

"Currently taxpayers are forced to support U.S.-flag merchant marine seamen billets at a far higher level of pay and benefits than those provided by billets for the men and women who serve our nation in the Army, Navy, Air Force, and Marine Corps."

Grassley noted that a Navy captain's billet costs $8,422 per month. "In fact," he wrote, "a U.S.-flag cook's billet costs more than that of a Navy captain!"

The November, 1994, GAO report bears out this trend when U.S. crew costs are compared with their European counterparts. In 1993, for example, the daily cost for a 34-person crew were between $12,000 and $13,000 a day. The cost for a 21-person European crew was $2,500 to $4,000 per day.

According to the MIT study, subsidies for U.S.-flag vessels, should they be of importance to the DoD, could be reduced from the current $2.5 million per ship to about $1.1 million per ship by reducing crew sizes and salaries and by allowing crew members to perform duties outside their job classifications.

Shipping company managers have no incentive to negotiate lower labor costs with the powerful mariners' unions because the taxpayers will end up reimbursing them in the end anyway. This arrangement has resulted in an unusually cozy relationship between maritime industry labor and management, who even share a bevy of lobbyists in Washington, D.C.

By brandishing the national security argument, proponents of cargo preference laws and ODS have been very effective at keeping the tide of maritime subsidies flowing in spite of overwhelming evidence that they are a bad deal for taxpayers. Recently, however, that argument has begun to fray.

The Gulf War may be remembered as the catalyst which caused the national security argument to unravel in earnest. It exposed the myth that our current national maritime policy has any real national security rationale.

The Gulf War was the largest movement of military personnel and equipment since World War II. But of the hundreds of ships that delivered supplies and equipment to the theater, only a handful U.S.-flag vessels actually entered the war zone to deliver their freight to American troops. There were about 50 other U.S.-flag merchant ships moving cargo during the war, but most of them delivered their freight to foreign ports where it was transferred to foreign-flag vessels with foreign crews to make the rest of the journey.

In an August, 1991, commentary in Defense News, director of MIT's Defense and Arms Control Studies Institute Harvey Sapolsky characterized the U.S.-Flag merchant marine fleet's Gulf War participation this way:

"Although more three-quarters of the ships chartered during the Gulf War flew foreign flats, only 20 percent of the U.S. military cargo actually rode on these ships. Most of the amount hauled in a crisis is done by government-owned standby and reserve ships. Moreover, there is a ready charter market for commercial cargo vessel when more ships are needed. *The price required for their services in a crisis is cheaper than the cost of maintaining a large subsidized commercial fleet for a mobilization that may not happen again for years. Despite any accompanying rhetoric about national security, subsidies for the Merchant Marine fulfill the commonplace desire for obtaining a livelihood without the burden of having to compete to earn a living*" (emphasis added).

Use of U.S.-flag ships actually hampered the Pentagon during the critical surge stage of the Gulf War. When the Pentagon had to transport cargo quickly, U.S.-flag ships, which were scattered around the world, had to be called back for service.

And, though the Pentagon has the option of commandeering the ships for the war effort, American merchant marine crews are not compelled by law to serve and must be asked to volunteer their services. What's more, taxpayers pay once again because these crews are entitled to hazard pay if they enter a war zone.

In 1992, Colin McMillian, then-assistant secretary of defense for production and logistics, was asked to report to an interagency working group on the impact on military readiness of two major U.S. container companies reflagging under foreign flags. McMillian's memorandum, dated December 10, 1992, stated that "the National Security Sealift Policy does not support a fleet sized to meet military requirements while maintaining its essential commercial operations/commercial viability. *Therefore, the issue of two major U.S.-flag container ship operators disposing of their U.S.-flag fleets is primarily an economic one and should be treated accordingly* (emphasis added)." Contacted recently about the issue, McMillian called the subsidy programs in the name of national security "a big waste of taxpayer money. These programs should be clear targets for elimination. Here we are talking about cutting programs for children, and we're funding so-called defense programs that add nothing to the defense of the country."

There have been a number of opportunities to sink these profligate maritime subsidy programs. The most recent was Vice President Gore's National Performance Review (NPR). There were indications that some members of the NPR's transportation task force, charged with rooting out inefficiency in that area, wanted to deep-six these programs. However, intense political pressure was brought to bear, and the promise of a commission to look into maritime issues was the most that emerged from that effort. Yet, even that has not come to fruition.

Congressional support for maritime subsidies comes from a variety of different, but apparently complementary, political interests. Republicans like Rep. Herb Bateman (R–VA) and Senate Majority Whip Trent Lott (R–MS), who both hail from coastal states, must contend with powerful maritime and shipbuilding constituencies. On the Democratic side of the aisle, Sen. John Breaux (D–LA) also has a strong maritime constituency. Much of the political support from the Democratic members is a natural outgrowth of the party's traditional relationship with labor unions.

The Clinton administration's support for continued maritime subsidies seems to be based upon political concerns rather than sound fiscal policy. In a June 30, 1993, memorandum to the President obtained by Citizens Against Government Waste (CAGW), then-Secretary to the President for Economic Policy Robert Rubin laid out the administration's options on maritime issues. The memo stated that:

The Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Commander of the Transportation Command have already concluded that future requirement will not exceed 20–30 liner vessels. *DoD will have no need for bulk vessels. All agencies therefore oppose renewal of direct subsidies for bulkers* (emphasis added).

Further on, Mr. Rubin once again delineated for the President the arguments against maintaining or increasing direct or indirect subsidies to maritime interest:

There is no evidence that this segment of the maritime industry was of strategic importance to the economy . . . and subsidizing carriers simply to preserve jobs would leave the administration hard pressed to explain why it should not also subsidize every other industry that suffers job losses.

Under the heading "Political Concerns," Mr. Rubin discussed the political climate in Congress and the chances for getting rid of maritime subsidies:

"*Secretary Pena believes there to be broad, bipartisan Congressional support for maritime subsidies. The Secretary believes that maritime supporters have enough votes to pass a maximalist package without support from the Administration. If you do not announce such a package now, the Secretary believes that you will lose an opportunity to demonstrate leadership* (emphasis added).

In other words, if you can't beat them, join them. In the final analysis, and in spite of the well-documented negative impact these policies have on taxpayers and the long-term competitive health of the maritime industry itself, not to mention the federal budget deficit, the Clinton administration chose to renew the operating differential subsidies under a new title, the Maritime Security

Act. While practically every federal government program is coming under congressional scrutiny, very little attention is being paid to this ongoing waste of taxpayer money. This new bill, which is similar to its predecessor, appears to be a politically motivated stop-gap measure designed purely to pacify congressional interests.

It is undeniable that the American merchant marine industry, owing to a complex range of problems, is floundering. In fact, simply scratching the surface of U.S. maritime policies reveals a diabolically complicated system, apparently designed to promote and enrich a handful of privately owned shipping companies, the seafarers unions, the shipbuilding companies, some powerful members of Congress, and the Washington lobbyists who are paid handsomely to keep all these balls in the air. Everyone, that is, except the American taxpayers.

There are some voices of reason on Capitol Hill, and the time may be right to make a serious move to eliminate these costly leviathans. Sen. Grassley, a veteran critic of maritime subsidy programs, collected 23 signatures on a letter to Senate Budget Committee Chairman Pete Domenici (R-N. Mex.) calling for the elimination of "wasteful maritime programs, particularly cargo preference subsidies." Signatories included Senate Majority Leader Bob Dole (R-KS), Sen. Richard Lugar (R-IN), and Sen. Larry Pressler (R-SD), chairman of the Senate Commerce Committee.

Senator Hank Brown (R-CO) has decried the elitist nature of the program, saying: "What we accomplish with cargo preference is to line the pockets of some very wealthy people, but we do not accomplish the goal of expanding the number of U.S.-flag vessels. It has dropped. We do not accomplish the goal of making U.S. ships more competitive." Sen. Brown's office asked the Congressional Budget Office (CBO) to score the potential savings if maritime subsidies were eliminated. The CBO estimated that the elimination of maritime subsidies would save more than $2.8 billion over five years.

Sen. Jesse Helms (R-NC) has also crafted some preliminary legislative language which would effectively eliminate cargo preference laws in relation to foreign aid food shipments.

Several long-term maritime industry observers interviewed for this report have come to a common conclusion. It is no longer a matter of whether the U.S.-flag maritime fleet will implode under its own weight, it's just a matter of when and how much more money the taxpayers will surrender involuntarily in a fruitless endeavor to prop up a failing industry. Members of Congress should move now to stop this maritime madness. It's time to scuttle the maritime subsidy programs.

SUBSIDIES AHOY!

Was there really a revolution in American politics last November? If so, somebody had better notify Congressman Herb Bateman—fast. The Virginia Republican has already persuaded the National Security Committee to approve a new $1 billion subsidy for the U.S. Merchant Marine, and now he's trying to get the rest of the House to go along. If he gets his way, it'll be a strong indication that the Republican tide is breaking up on the special-interest rocks of Washington.

There is no clearer case than shipping of the harm that government "help" can do. During the past 50 years, the government has sunk tens of billions of dollars into protecting commercial shipping. The result? Just in the past 25 years, the U.S. Merchant Marine's share of the U.S. shipping market has declined from 25% to less than 4%.

Federal interference starts with Coast Guard-enforced regulations on staffing and work rules. U.S. mariners earn an average of $125,000 for six months duty, but aren't allowed to do as much work as lower-paid foreign counterparts. No wonder it costs several times more to operate a U.S. ship than a foreign vessel.

To "compensate" for these costly rules, U.S. shipping lines get an annual direct payout of $240 million: this program will expire soon unless it's renewed. Another handout comes from the Defense Department, the Agency for International Development and other government outfits that have to ship goods on costly U.S. vessels. These "cargo preferences" cost $592 million last year—enough money for private charities to feed half a million starving children in Africa for a year.

Throw in millions more for maritime academies that turn out sailors the U.S. fleet can't employ, and what do you get? Roughly $1 billion annually in direct government subsidies to the U.S. Merchant Marine. But that's only part of the maritime boondoggle. Even bigger costs lurk just beneath the surface.

Under the 1920 Jones Act, only U.S.-built, -crewed and -flagged ships can operate between U.S. ports. But since these vessels are so costly, not a single coastal freighter bigger than 1,000 tons runs along the East Coast. One result: Many turkey farmers in North Carolina buy costlier Canadian grain rather than cheaper U.S. varieties. In all, the International Trade Commission estimates, the Jones Act costs consumers up to $10.4 billion a year.

Then there's price fixing. The 1984 Shipping Act gave shipowners complete antitrust immunity and allows the Federal Maritime Commission to enforce international shipping cartels. The excessive charges of these cartels raise prices on most imported and exported goods, costing consumers up to $15 billion annually. Worst of all, 80% of the benefits go to foreign shipping lines.

Rob Quartel, a former FMC member, figures that all maritime subsidies together cost at least $375,000 per seagoing worker. It would be a lot cheaper to pay the sailors not to work. Eliminating these subsidies would not only force the maritime industry to become competitive, but also would contribute to the balanced budget effort. Mr. Quartel figures, based on dynamic scoring, that eliminating subsidies would save $7 billion between 1996 and 2002, and generate new economic activity that would raise an extra $28 billion in tax revenue. Even in Washington terms, $35 billion is real money.

The House budget charts a course toward this destination; it calls for eliminating direct maritime subsidies. But some Republicans haven't gotten the message yet. Majority Whip Trent Lott, who has also blocked complete telecom deregulation, helped keep the Senate Budget Committee from torpedoing maritime handouts as a favor to his maritime industry constituents. And when the Senate recently allowed the export of Alaskan oil, the legislation stipulated that only costly U.S. ships can carry the crude.

In the House, Transportation Committee Chairman Bud Shuster is frustrating deregulation efforts, while Congressman Bateman sails full steam ahead with his subsidies, which he calls "The Maritime Security Act of 1995." (We guess that sounds better than the "Pork Barrel Act of 1995".) The congressman dusts off the hoary old argument that the U.S. needs subsidies to preserve a flag fleet that can carry Pentagon supplies in wartime as his excuse.

But this claim doesn't hold water. The Defense Department already spends billions on transport vessels that are on permanent standby. It doesn't need, and can't use, most of the merchant ships that Mr. Bateman proposes to subsidize. During the Gulf War, only 8% of supplies delivered directly to the Persian Gulf came on U.S. commercial vessels. That's why the Pentagon has consistently opposed paying for maritime subsidies.

Stripped of their military justification, Republican shipping subsidies begin to look a lot like what the Democrats used to hand out: Favors for one set of campaign contributors (shipping companies and sailors' unions) at the expense of the national interest. Mr. Quartel rightly calls this "a fraud and a scam." Unless the GOP quickly deep sixes this outrageous proposal, voters will have cause to wonder whether the Ship of State is being run by the same old crew that was in charge before Nov. 8.

[From the Washington Post, Sept. 18, 1995]

END OF MERCHANT MARINE MAY BE ON THE HORIZON

(By Bill McAllister)

PORTSMOUTH, VA.—It is 9 a.m. on a Sunday, and sweat is trickling down Michael P. Ryan's chest.

The temperature has hit 90 degrees in the mint green engine room of the Sea-Land Performance where Ryan, the 37-year-old first assistant engineer, has been running last-minute maintenance checks since before dawn. Later in the day, the giant commercial ocean liner, three football fields in length, will maneuver out of port on its way to deliver 1,700 containers of chemicals, auto parts, chocolates and other merchandise across the Atlantic.

For the six months at sea he will spend tending the ship's clattering diesel engine, Ryan will earn about $90,000, more than his counterparts on any commercial ocean liner without a U.S. flag on its stern. American ship captains and chief engineers on ships like Ryan's earn even more—as much as $132,000 to $151,000 for a half-year's work. In the months off, crew members of the Performance do everything from collect unemployment to work at a ski resort.

"I'm not going to say that the money's not good, but I earn it," said Ryan, waving a dirty hand in the sultry air. "It's not the life of Riley."

Whether it's a life that taxpayers should subsidize is another question—one the Senate may address as early as today.

Since a fledgling Congress first penalized imports on foreign ships in 1789, the federal government has protected shipping interests on the theory that the military needs American-built, American-manned ships on hand in case of war. It has proven a costly premise that critics claim no longer is valid.

In the name of a strong merchant marine, the government today pays some $214.4 million a year to underwrite the pay of about 9,000 jobs on 75 private ships and cover the cost of abiding by U.S. regulations. Those payments have totaled $10 billion since the first checks went out in 1936.

It pays an additional $578 million a year more than it needs to, by one estimate, to ship millions of tons of military goods and other government cargo solely on U.S.-flagged ships like the Performance, even though foreign vessels are considerably

cheaper. Farm state legislators argue that the government loses millions more each year in sales of farm commodities to foreign governments because of higher transportation costs.

And consumers pay a good deal more money—$10 billion a year, critics charge—for goods that federal law requires be transported on more expensive American-flagged ships. That law, called the Jones Act, bars foreign ships from carrying any cargo shipped between domestic ports.

A SHRINKING FLOTILLA

Whether all this is necessary—indeed, whether it is even good for the industry—has been argued for decades. The raft of subsidies has not saved the U.S. shipping industry from a titanic plunge from the top ranks of world shippers. The number of merchant ships flying the U.S. flag has dropped from 3,644 in 1948 to 351 this year. Their share of the world's ocean-shipping trade has plummeted from 42.6 percent in 1950 to approximately 4 percent today.

Even the industry's military value has vastly diminished. In recent years, the Pentagon acquired its own fleet of fast cargo ships, built specially to transport military equipment and moored more or less permanently in strategic harbors around the globe.

What's left of the American-flagged ships, according to critics, is a tiny and costly flotilla of "welfare queens" that epitomizes the waste that laces the federal budget.

The very obscurity of the subsidies to shipowners is part of the secret of their survival. Many legislators see little percentage in fighting to strike $1 billion or so from a $1.5 trillion federal budget, especially when it might mean forgoing the political contributions of maritime unions and shipowners that comprise one of the most politically active industries in the country.

"This is a big mess, basically $1 billion a year . . . going to less than 10,000 people," said Rob Quartel, who served as a member of the Federal Maritime Commission under President George Bush and has emerged as one of the chief critics of the subsidies. "The problem with this industry is that it has been subsidized and regulated to death."

To the industry, however, the question is not whether Congress wants to give the shipping industry a break, but whether it wants a merchant marine at all. Executives of the few remaining U.S. shipping lines blame their industry's decline on foreign competitors who copied American technology and then undercut American firms with cheaper labor and fewer regulations.

Unless "Uncle Sugar" makes up the difference in costs, as one shipper puts it, shipping companies will demand that the government let them re-register their vessels in foreign countries to take advantage of lower foreign operating costs. "We're fighting for our life," said Mike Sacco, president of the Seafarers International Union.

"America's future as a maritime nation is at stake," Albert J. Herberger, President Clinton's maritime commissioner, recently told Congress. "This year will make or break what remains of our U.S.-flag presence on the high seas."

The issue before Congress is a simple one, said Christopher L. Koch, a senior vice president of Sea-Land: "Give us the dough or let us go."

More and more, letting them go seems a viable option. Groups as diverse as the conservative National Taxpayers Union and Ralph Nader's Essential Information Group are pressing the Republican Congress to untie the shipping industry and see how it floats on its own.

Their champion is a farm-state senator, Charles E. Grassley (R-Iowa), who foresees savings for the Agriculture Department in sales and shipments of surplus food overseas if maritime programs are eliminated. "We're seeing more light at the end of the tunnel, but I don't see victory," he said in a recent interview.

Some of the maritime industry's supporters, sensing trouble at hand, are proposing cutting some of the expense. A coalition of senators from maritime states may ask for a floor vote as early as today on a measure that would extract about $100 million from Radio Free Europe to continue subsidizing the operating costs of a smaller number of U.S. ships and provide some other benefits to the dwindling number of private U.S. shipyards.

"Yes, it is going to cost a little more to ship on an American ship," said Sen. John Breaux (D-La.), one of the measure's supporters, at a recent Senate hearing. But, he said, "it is all a part of being an American."

A CALL FOR ELIMINATION

Early on, it appeared that the Clinton administration might try to toss out maritime subsidies in its drive to streamline government. A task force advising Vice President Gore described the subsidies as "a cancer eating away—unnecessarily—at the general revenues of the U.S. Treasury."

A draft of Gore's report on "reinventing government" called for eliminating the benefits, according to the task force members, but that recommendation was deleted after leaders of the politically powerful maritime unions protested to Clinton. In a 1993 memo to the president, Robert E. Rubin, then the director of Clinton's National Economic Council, noted that maritime benefits already had "broad bipartisan support" on the Hill.

But the support from the Pentagon, which long has provided the rationale for the expenditures, has faded. In the 1980s the military decided it was no longer content with the shipowners' pledges to haul supplies in their vessels in wartime in exchange for ongoing subsidies. Military planners concluded it would take too long to commandeer the civilian ships in a crisis. Besides, most commercial U.S. ships sailing with U.S. flags were designed to carry standardized-sized boxes of food and goods, not helicopters.

So the Pentagon invested in so-called roll-on, roll-off ships—essentially floating garages that can be filled with tanks and military trucks. Since the Persian Gulf War, the military has continued to expand its fleet of "row-rows," as the ships are called, with a $6 billion program. Today it has a reserve fleet of 89 Navy-gray ships, many of them fully loaded and docked around the world.

Should it need more in a time of crisis, the Pentagon would "prefer American ships with American crews," said Margaret B. Holt, a spokeswoman for the Military Sealift Command, the Washington-based Navy command that charters ships for the Pentagon. But that's only if another agency pays the shipowners, said Gen. Robert L. Rutherford, head of the U.S. Transportation Command, in recent testimony before a Senate subcommittee.

During the Gulf War, the military found it could rely on foreign ships to supplement its own fleet. The U.S. Maritime Administration, part of the Transportation Department, estimates that about 20 percent of goods arriving in the war zone came on foreign ships; a Navy estimate places the level closer to 50 percent, noting many military goods were transferred from U.S.-flagged ships to smaller feeder ships at European and Asian ports.

According to Holt, the Sealift command spokeswoman, the lesson is: "If there is money to be made, there are ships to be had."

The maritime programs are a patchwork of direct and indirect subsidies and protections that date back largely to the period between 1904 and 1936.

There are three ways the government subsidizes U.S.-flag vessels: It pays direct subsidies to vessels engaged in international trade to help them compete with foreign-flag vessels. It pays higher rates on shipment of government goods. It also requires goods shipped between U.S. ports to be carried by U.S. vessels.

The requirement that government goods be transported in U.S.-flagged vessels adds $578 million a year to the government's transportation bills, most of it paid by the Pentagon, the government's largest shipper, according to the General Accounting Office. The rule that surplus food be shipped under U.S. flag has cut the amount of farm commodities that foreign governments could buy by $131 million in the past three years, according to a March report by the Agriculture Department's inspector general.

Consumers also pay to protect the industry, according to critics like Quartel, the former Bush administration official. Quartel heads a group backed by farm and minerals interests that hopes to repeal the 1920 Jones Act, the law that restricts domestic cargo to American-flagged ships. He cites a U.S. International Trade Commission study that estimates the law may add as much as $10.4 billion a year to transportation costs, which are then passed along to wholesalers and consumers.

The most obvious cost—and perhaps the most vulnerable to cuts—is the $214.4 million a year the government pays out to the owners of the 75 U.S.-flagged vessels to cover the cost of sailing with a U.S. crew, under U.S. regulations.

Unless Congress acts, these so-called "operating differential" payments will cease when the government's 20-year contracts with the shipowners expire in 1997. Rep. Herbert H. Bateman (R-Va), a strong maritime advocate who chairs a subcommittee of the House National Security Committee, has teamed up with Sen. Trent Lott (R-Miss.) to propose somewhat reduced benefits: an average of about $2.3 million a year each to about 50 ships, rather than the roughly $3 million now paid to 75 vessels. The Clinton administration supports their proposal.

Maritime industry officials say critics exaggerate the indirect costs and underrate the benefits to the country in jobs and national security. Although fewer than 10,000 jobs depend on the direct subsidies, the Jones Act helps protect as many as 200,000 workers, industry supporters say.

They deride foreign ships as unreliable in wartime, citing a half-dozen or more vessels that refused to sail or delayed voyages into the Persian Gulf during the conflict there.

If U.S.-flagged ships are not militarily important, then their crews certainly are, supporters say. "You can always commandeer ships. You can't commandeer people," said Thomas L. Mills, a Washington maritime lawyer and lobbyist.

Sea-Land has been one of the primary beneficiaries of the maritime programs and, in the company's view, a victim as well. The company benefits handsomely by flying the U.S. flag; in fact, its Pentagon contracts make it the country's largest ocean shipper of military goods.

But the American flag raises its operating costs because it must pay its crews the higher U.S. union salaries. The firm is not reimbursed directly for those added costs because it is barred from drawing operating subsidies at the same time it holds government shipping contracts.

FLYING A NEW FLAG

As military shipping declines, Sea-Land wants the option to switch to operating subsidies. Unless Congress continues the subsidies, Sea-Land president John P. Clancey has warned, his company will ask permission to register its remaining 37 U.S.-flagged ships under foreign flags.

It already dropped the Stars and Stripes off five ships in the past year and registered them with the Republic of Marshall Islands. The firm has offered American captains jobs on those ships at a salary of $72,760 for eight months a year. That's roughly 41 percent of what some of them would earn as skippers of U.S.-flag ships.

Offers like that are quite disheartening to seamen like Lawrence R. Swink, of Lake Tahoe, Nev., captain of the Performance. "For those kind of wages they're talking about, I can run a little tour boat and be home with my family every night and watch my children grow up," he said.

From Swink down to the ship's tattooed cook, the 21 crew members of the Performance know their jobs are on the line. "I can't argue that the Filipinos won't do it cheaper than me, but I'll tell you one thing," Ryan said. "They won't do it better than me."

"I can't imagine the U.S. not having a merchant marine," said Baden L. Fitzsimmons, the junior engineer, shaking his head.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I have to respond to some of this, because I think if someone listens to this debate, they get a total misimpression of what we have done in this bill. Let me begin by saying I take a back seat to no one on this planet and nobody in the U.S. Senate in opposing cargo preference. I have fought it from the first day I came here. I am going to fight it from here or elsewhere until it is ultimately eliminated.

Let me review the facts. The facts are as follows:

President Clinton, despite all this wonderful advice, proposed $175 million for operating subsidies for the maritime industry. Our subcommittee and our full committee provided not one red cent. We had an amendment about which we talked to Members on both sides of the aisle. Some 14 Republicans were ready to vote for the amendment. It was obvious to a blind man that we were going to lose on the amendment and, at a late hour, instead of holding the Senate here, we agreed to providing $46 million.

Here is the point: As far as I am aware, that is the lowest level of subsidies for the maritime industry since the Second World War. We have never had an appropriations bill in the U.S. Senate since 1946 that cut maritime subsidies as much as this bill cut maritime subsidies.

I wanted it to be zero. I oppose these subsidies. But, basically, the point I want people to understand is, the President asked for $175 million. While the accounts are not comparable, there was $214 million provided last year. Even with the adoption of this amendment, which I do not support, we are only providing $46 million in new subsidies. So we have cut maritime subsidies more than any appropriations bill since World War II. We have dramatically reduced those subsidies.

I share my colleague's righteous indignation. The problem is I have sat here all day and fought amendments. I wanted to fight this amendment, but not only did I have no votes on my side giving me any chance of a majority, but many of our colleagues were elsewhere in committee. I was here on the floor basically making a decision that we were going to lose, and so this amendment was included.

To conclude, being repetitive one final time, if somebody wants good news about maritime subsidies, the President proposed $175 million of operating subsidies. This final bill provides $46 million, which is a dramatic cut and which, as far as I am aware, is the largest cut in operating subsidies for the maritime industry since the Second World War.

In terms of loan guarantees, the President asked for $52 million, our committee provided $2 million. This amendment that has been adopted adds $25 million to that, providing $27 million. So in an overall request of nearly a quarter of a billion dollars by President Clinton and his administration, after all is said and done, we are providing $73 million. If we do this well next year, there will be no maritime subsidy program. That is my point.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my friend from Texas for providing this clarification. It should be pointed out that the Commerce Committee of the U.S. Senate and the National Security Committee of the House of Representatives, in response to taxpayers' concerns about the high cost of the operation differential subsidy, came forth with the Maritime Security Act. In the Senate, it is S. 1139; in the House, H.R. 1350.

This year, by a unanimous vote in the Senate committee and a unanimous vote in the House committee, this act was passed—unanimous vote. It is a bipartisan measure. In the U.S. Senate, the chairman of the subcommittee is the Senator from Mississippi, Mr. LOTT. I have the great privilege of serving as the senior Democrat on that committee.

As the chairman of the Appropriations Subcommittee on Commerce, Justice and State just noted, the amounts we are requesting are much, much less than what has been requested by the President of the United States or what it has cost the taxpayers in the past. It has been suggested that all we would need is 20 vessels, and in so doing, cite Desert Storm as an example.

We, together with our allies, were exceedingly fortunate because the man in charge of Iraq did not have the good sense to do what any military commander would have done. He gave us over 6 months to prepare ourselves, and that is why we were able to ship goods in a rather leisurely manner to the Persian Gulf. We were lucky.

I think at this juncture I should just briefly point out the history of our merchant marine industry.

At the end of World War II, we controlled the seven seas. The Russian fleet was in the bottom of the ocean. The British fleet did not exist. The German fleet was gone. The Japanese had none. The Chinese had none. No one had ships. We controlled the ocean. If the Japanese wanted to ship anything, it had to be on an American ship. If the British wanted to ship anything, it had to be on an American ship. We controlled the seas. But because of our belief in free trade, because of the massive program we instituted, the Marshall Plan and other programs, we helped to build the economies of other lands, including our former enemies. As a result, at this moment, the U.S. fleet carries less than 4 percent of our foreign cargo. We carried over 90 percent and now we carry less than 4 percent. And if you think that 20 would be enough, may I remind my colleagues about the Yom Kippur war. During the Yom Kippur war, the Egyptians nearly overran the Israeli forces. They were pushed back to their borders across the Sinai. And in 30 days, they used up the ammunition that they had stored for 6 months. We had an agreement with the State of Israel to provide ammunition and supplies. And so we looked around for our ships. Our ships were busy. So we looked to American citizens. There were hundreds of American citizens who owned ships registered in foreign lands, like Liberia and Panama. Most of the ships registered in Liberia and Panama belong to Americans, hundreds of them. So we called upon them to say that we have an emergency and we must supply the Israeli forces, please provide your ships, make them available to our Defense Department.

Mr. President, do you know how many ships responded? Do you know how many loyal American citizens responded? Zero. Zero. As a result, we had to use our C–5 tankers, the new C–5, and flew cargo into Israel. This is not classified now, but two of those C–5s were nearly shot down. Imagine what would have happened if they were shot down.

What I am trying to suggest is that Desert Storm was a good war for us, if

you want to put it in "good and bad." It was easily discerned as to who was bad and who was good. All the allies were with us. Even the Arabs were with us. They made their ships available very happily. Even the Japanese came down to the Persian Gulf to help us. But we may get involved in something that is not popular, that may not be considered a good war. And then what would happen?

Finally, may I say that every country with a fleet would insist that their mail—postage—be carried by their ships. The British carry their mail to the United States. The Germans carry their mail to the United States. The Russians carry their mail to the United States on their fleet. The Japanese insist on that. Even the Arabs insist on carrying their mail on their ships.

We believe in free trade. We put our mail carriage on auction, on bid. Who do you think carries our mail across the Atlantic ocean? The American fleet? The Polish Steamship Company. I hope we are proud of that. One would think that we would be proud enough to insist that our mail with our postage stamps be carried by our fleet. But because we insist upon slowly but surely tearing down our merchant fleet, the day will come when this great and powerful Nation will be blackmailed by all these other countries. The day will come and they will say, sorry, folks, we do not want to get involved in this conflict. See, what happened during the Yom Kippur war, Saudi Arabia sent word to Liberia and Panama and told the Liberian and Panamanian government, "If ships in your register are used to carry cargo to Israel, we will consider this an unfriendly act." That is why zero.

That could happen to us again, Mr. President. This is a small investment.

One part of this is the title I loan guarantee program. A $25 million investment will generate $500 million in ship building. It is about time we revived our ship building industry.

Mr. President, this is a bargain. This has bipartisan support. That is why the chairman of this committee, Mr. GRAMM, wisely counted the votes, because it is a popular program. It is an American program, Mr. President.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NOS. 2847 THROUGH 2878

Mr. GRAMM. Mr. President, I send a group of amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes amendments, en bloc, numbered 2847 through 2878.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2847

(Purpose: To disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.)

At the appropriate place, insert the following new section:

SEC. . DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

AMENDMENT NO. 2848

On the Committee amendment on page 28, line 8, after "for" delete "State and Local Law Enforcement Assistance Block Grants pursuant to Title I of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by Section 114 of this Act);" and insert "Public Safety Partnership and Community Policing pursuant to Title I of the Violent Crime Control and Law Enforcement Act of 1994;".

On the Committee amendment on page 38, line 3, delete all after "SEC. 114." through to "local sources." on page 43, line 20.

AMENDMENT NO. 2849

(Purpose: To reduce the energy costs of Federal facilities for which funds are made available under this Act)

At the appropriate place, insert the following:

SEC. . ENERGY SAVINGS AT FEDERAL FACILITIES.

(a) REDUCTION IN FACILITIES ENERGY COSTS.—

(1) IN GENERAL.—The head of each agency for which funds are made available under this Act shall—

(A) take all actions necessary to achieve during fiscal year 1996 a 5 percent reduction, from fiscal year 1995 levels, in the energy costs of the facilities used by the agency; or

(B) enter into a sufficient number of energy savings performance contracts with private sector energy service companies under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) to achieve during fiscal year 1996 at least a 5 percent reduction, from fiscal year 1995 levels, in the energy use of the facilities used by the agency.

(2) GOAL.—The activities described in paragraph (1) should be a key component of agency programs that will by the year 2000 result in a 20 percent reduction, from fiscal year 1985 levels, in the energy use of the facilities used by the agency, as required by section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8353).

(b) USE OF COST SAVINGS.—An amount equal to the amount of cost savings realized by an agency under subsection (a) shall remain available for obligation through the end of fiscal year 2000, without further authorization or appropriation, as follows:

(1) CONSERVATION MEASURES.—Fifty percent of the amount shall remain available for the implementation of additional energy conservation measures and for water conservation measures at such facilities used by the agency as are designated by the head of the agency.

(2) OTHER PURPOSES.—Fifty percent of the amount shall remain available for use by the agency for such purposes as are designated by the head of the agency, consistent with applicable law.

(c) REPORTS.—

(1) BY AGENCY HEADS.—The head of each agency for which funds are made available under this Act shall include in each report of the agency to the Secretary of Energy under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)) a description of the results of the activities carried out under subsection (a) and recommendations concerning how to further reduce energy costs and energy consumption in the future.

(2) BY SECRETARY OF ENERGY.—The reports required under paragraph (1) shall be included in the annual reports required to be submitted to Congress by the Secretary of Energy under section 548(b) of the Act (42 U.S.C. 8258(b)).

(3) CONTENTS.—With respect to the period since the date of the preceding report, a report under paragraph (1) or (2) shall—

(A) specify the total energy costs of the facilities used by the agency;

(B) identify the reductions achieved;

(C) specify the actions that resulted in the reductions;

(D) with respect to the procurement procedures of the agency, specify what actions have been taken to—

(i) implement the procurement authorities provided by subsections (a) and (c) of section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256); and

(ii) incorporate directly, or by reference, the requirements of the regulations issued by the Secretary of Energy under title VIII of the Act (42 U.S.C. 8287 et seq.); and

(E) specify—

(i) the actions taken by the agency to achieve the goal specified in subsection (a)(2);

(ii) the procurement procedures and methods used by the agency under section 546(a)(2) of the Act (42 U.S.C. 8256(a)(2)); and

(iii) the number of energy savings performance contracts entered into by the agency under title VIII of the Act (42 U.S.C. 8287 et seq.).

Mr. BINGAMAN. Mr. President, I appreciate the managers of the bill agreeing to accept this amendment.

The Competitiveness Policy Council [CPC], for which I am recommending just $100,000 of support in fiscal year 1996, has just published several reports which provide thoughtful commentary on our Nation's economy. These reports include three just recently released and titled "Lifting All Boats: Increasing the Payoff From Private Investment in the American Economy" by Harvard Business School professor, Michael Porter, and Salomon Inc. chairman, Robert E. Denham; "U.S. Technology Policy: The Federal Government's Role" by former Bush administration Under Secretary of Commerce for Technology, Robert White; and "Saving More and Investing Better," which concentrates on raising national savings and improving the way

saving is allocated, or invested, in the private sector.

During a time when we are struggling with important decisions about the role of Government in the economy—about what programs should be cut back, which should be nurtured—it seems to me that a bipartisan Council such as CPC, which produces the sorts of high-intellectual octane material that directly responds to choices we are making in our national economic framework, should receive our support.

The Competitiveness Policy Council, which started operating in 1991, was established as a bipartisan Federal advisory commission. Of the 12 members, of which 6 are Republicans and 6 are Democrats, 4 are appointed by the joint leadership of the House, 4 by the joint leaders of the Senate, and 4 by the President. Business, labor, and Government as well as public interest groups are equally represented, each group having three members representing their interests. And when this commission was initiated, the founders had the wisdom to make it a creature of both the legislative and executive branches.

The CPC's mission is to develop recommendations to Congress and the President to improve the productivity and international competitiveness of the American economy. And importantly, the Commission provides dispassionate analysis of the state of the U.S. international economic competitiveness, providing a report to the President and Congress on an annual basis.

At this time, when CPC is issuing important policy reports and has others in the pipeline, it would not be judicious of this body to force a premature end to the good work and initiatives of this valuable commission. Its capital allocation report, "Lifting all Boats," is ripe with important recommendations for which the American business community will cheer; these recommendations, CPC argues will help businesses truly organize for the long term, which is also very much in the national economic interest. The CPC may also reconstitute its Trade Policy Subcouncil to focus on regional trade agreements within the Western Hemisphere and the Asia Pacific region and the impact of these on both the multilateral trading system and American living standards. The need for trade negotiating authority would make this effort timely.

Furthermore, the Council has begun work in two other areas: regulation and the relationship between Federal and State governments and U.S. competitiveness and living standards. I do not need to tell any of my colleagues here that $100,000 is modest; but this amount will allow the CPC to conclude the important work it has only recently begun to release and distribute. I think that many of my colleagues across the aisle can also attest to the quality and lucidity of CPC policy analysis and recommendations.

As part of this amendment, I suggest that we pare back, just a bit, the increase that the committee bill proposes for the Drug Enforcement Administration [DEA]. The bill provides the DEA with a 12.4 percent increase, $93 million, above the current year; an amount that surpasses the President's request by $40 million. Specifically, the committee bill provides an increase of $10.5 million for Permanent Change of Station moves. Last week, $4 million of fiscal year 1995 funds was reprogrammed for this very same purpose.

Thus, I propose that the $100,000 appropriation for the Competitiveness Policy Council be drawn from the account for Permanent Change of Station Moves in the DEA fiscal year 1996 appropriation.

Support of the Competitiveness Policy Council at this level of funding should be an easy decision to make. I think that the positive contribution of CPC's work will be returned in many multiples as the overall health of our economy benefits from CPC's wise counsel.

Thank you.

ENERGY EFFICIENCY

Mr. BINGAMAN. Mr. President, I would like to take a few moments to discuss an amendment I am offering on this appropriations bill. My amendment encourages agencies funded under the bill to become more energy efficient and directs them to reduce facility energy costs by 5 percent. The agencies will report to the Congress at the end of the year on their efforts to conserve energy and will make recommendations for further conservation efforts. I have offered this amendment to every appropriations bill that has come before the Senate this year, and it has been accepted to each one.

I believe this is a commonsense amendment: The Federal Government spends nearly $4 billion annually to heat, cool, and power its 500,000 buildings. The Office of Technology Assistance and the Alliance to Save Energy, a nonprofit group which I chair with Senator JEFFORDS, estimate that Federal agencies could save $1 billion annually if they would make an effort to become more energy efficient and conserve energy.

Mr. President, I hope this amendment will encourage agencies to use new energy savings technologies when making building improvements in insulation, building controls, lighting, heating, and air conditioning. The Department of Energy has made available for government-wide agency use streamlined "energy saving performance contracts" procedures, modeled after private sector initiatives. Unfortunately, most agencies have made little progress in this area. This amendment is an attempt to get Federal agencies to devote more attention to energy efficiency, with the goal of lowering overall costs and conserving energy.

As I mentioned, Mr. President, this amendment has been accepted to every appropriations bill the Senate has passed this year. I ask that my colleagues support it.

AMENDMENT NO. 2850

(Purpose: To require the State Department to report on cost savings generated by extending foreign service officer tours of duty in nations for which the State Department requires two-year language study program, including China, Korea, Japan)

On page 93, between lines 9 and 10, insert the following:

And also provided, That by May 31, 1996, the State Department will report to the President and to Congress on potential cost savings generated by extending foreign service officer tours of duty in nations for which the State Department requires two year language study programs, but specifically including China, Korea, and Japan. This study should consider extending terms on the following basis: junior officers from the current two year maximum term to a three-year tour, and mid to senior foreign service officers from the current three year minimum term to four year minimum with a possible employee-initiated one year extension.

POTENTIAL COSTS SAVINGS FROM REVISED FOREIGN TOUR OF DUTY GUIDELINES

Mr. BINGAMAN. Mr. President, I have spoken here in the past expressing strong support for the initiative of this Congress to cut our Government's Federal budget deficit. But I feel just as strongly that this effort be undertaken in a sensible way that promotes economic growth where it can, and at all costs, does not actually cause the economic welfare of our citizens to worsen.

One of the steps that our Government can take to both cut spending and promote economic growth would be to better leverage the investment we make in our Foreign Service officers stationed in Embassies and consulates abroad. Presently, all levels of Foreign Service officers receive language training for non-English language speaking posts to which they are sent. Our personnel assigned to nations that use Chinese, Japanese, Korean, and Arabic languages receive, at Government expense, 2 years of language training. All other language programs offered are 1-year programs.

I strongly support the training of our foreign service personnel so that we have a culturally literate team of American representatives pursuing our interests abroad.

But it does seem to me that we could be doing more both to enhance our ability to pursue American political and economic interests abroad and give the taxpayer more return on his investment if we revised our guidelines for the length of assignment for our Foreign Service officers.

Presently, the State Department does not make a distinction between the terms of duty in those nations for

which we provide 2 years of language training as opposed to 1 year. We also don't have a framework that allows us to provide longer term assignments in those nations, particularly in Asia, that are relationship-based and are of significant consequence to America's trade and economic agenda.

Junior Foreign Service officers—regardless of whether they had 1 or 2 years of language training—remain in their foreign assignment just 2 years. Mid- to senior-level Foreign Service officers are assigned for 3 years, and can, at their own initiative, extend their assignment for 1 additional year. I think that we can get more return on our investment by extending the assignments for junior Foreign Service officers, who are assigned to a country for which we require a 2-year program. These countries would include China, Korea, and Japan which, of course, have very high priority on our Nation's economic radar.

I also believe that mid- to senior-level Foreign Officers should have their assignments lengthened from 3 to 4 years in these high-priority nations, and continue to have the personal option of extending an extra year.

I think that this framework makes good common sense and should not be a controversial matter. I would like to request that the State Department study this proposal that I have briefly outlined and report back to the Congress and to the President by May 31, 1996 on the cost savings that such a plan would generate. I also think that America would further its own interests by allowing those who develop good networks and cultural literacy in key nations to remain in place for longer periods of time.

If there was a message that I heard from those staffing our overseas posts it was that we pull our people out just when they were figuring out the lay of the land. I think that the State Department may find that revising their foreign assignment guidelines, particularly in assignments in which our taxpayers have made considerable investments in language training, would make good sense.

AMENDMENT NO. 2851

(Purpose: To require a report to the Congress on the Doppler weather surveillance radar located on Sulphur Mountain in Ventura County, California)

At the appropriate place in the bill, insert the following new section.

SEC. . REPORT ON THE DOPPLER WEATHER SURVEILLANCE RADAR

(a) STUDY REQUIRED.—The Secretary of Commerce shall conduct a study on the Doppler weather surveillance radar (WSR-88D). The study shall include the following elements.:

(1) An analysis of the property value lost by property owners within 5 miles of the weather surveillance radar as a result of the construction of the weather surveillance radar.

(2) A statement of the cost of relocating a weather surveillance radar to another location in any case in which the Dept. has been asked to investigate such a relocation.

(b) REPORT.—The Secretary shall submit to Congress a report on the study required under section (a) not later than 90 days after the date of enactment of this Act.

AMENDMENT NO. 2852

(Purpose: To express the Sense of the Senate concerning book donation programs)

At the appropriate place in the bill, add the following new section—

SEC. . SENSE OF THE SENATE CONCERNING BOOK DONATIONS.

It is the Sense of the Senate that the United States should continue to provide logistic and warehouse support for non-governmental, non-profit organizations undertaking donated book programs abroad, including those organizations utilizing on-line information technologies to complement the traditional hard cover donation program.

AMENDMENT NO. 2853

(Purpose: To prohibit funding of efforts to privatize federal prison facilities at Yazoo City, Mississippi and Forrest City, Arkansas)

At page 22, add the following at the end of line 9: *Provided further*, That no funds appropriated in this Act shall be used to privatize any federal prison facilities located in Forrest City, Arkansas and Yazoo City, Mississippi.

Mr. COCHRAN. Mr. President, my amendment prohibits the authorization of funds to privatize the Federal prison facilities located at Yazoo City, MS, and Forrest City, AR.

Mr. President, recent administration proposals regarding the privatization of Federal prison facilities has created a unique problem for Federal prison facilities located in Yazoo City, MS, and Forrest City, AR. I offer this amendment today as a fair and equitable solution to allow the Federal Government to meet its obligations to two communities while not impeding the policy objectives of the administration.

Quite a few years ago, a small community in my home State, Yazoo City, and a similar community in Arkansas, called Forrest City, competed with many other communities in our region of the country to site Federal prison facilities in their communities. Yazoo City and Forrest City were successful in their efforts. Each community now has a low and minimum security Federal prison facility ready to begin operation in early 1996.

The two facilities are similar in other ways, also. Each site has land and infrastructure in place to accommodate additional medium and high security facilities which the Bureau of Prisons had indicated were a very real possibility for the future. Both communities made substantial financial investments to enhance their respective sites with the understanding that doing so would increase their chances of gaining additional facilities.

The Clinton administration's budget contained a directive that the Bureau of Prisons privatize "the majority of future pretrial detention, minimum and low security Federal prisons." Low and minimum security facilities built on the same site as medium and high security facilities are exempt from this proposal.

Mr. President all of us understand and many of us support the policy objectives of the privatization effort. However, I submit that the facilities located at Yazoo City, MS and Forrest City, AR do not qualify as future facilities and are thus not appropriate candidates for privatization.

First, the administration directed the privatization of future minimum and low security prisons. The facilities in Yazoo City and Forrest City are by no means future facilities. The Federal Government shook hands with the officials in these two communities many years ago. Each of these communities made substantial financial investments and entered contractual obligations based on the Government's agreement to site a federally run facility on their sites. To privatize these facilities at this point would be breaking a commitment to two communities who welcomed and supported the Government's decision to locate facilities among them. The terms of the agreement between the Federal Government and the citizens of these two communities must not be broken at this 11th hour.

Second, privatization of these facilities will preclude these communities from being able to compete on an equal footing with other communities for higher security Federal prison facilities. The policy of the Bureau of Prisons and the administration prohibits the locating of federally run and privately run facilities on the same site. It is also the administration's policy not to allow the privatization of medium and high security Federal prisons because of the concern of maintaining security and safety of the facilities and surrounding communities. The administration's own policy dictates that the privatization of the Yazoo City and Forrest City minimum security facilities will forever preclude the location of higher security facilities on those sites. The environmental studies and improvements necessary to accommodate higher facilities at these sites are already complete. To deny these communities the opportunity to eventually compete for higher facilities would be a disastrous waste of time and money.

Mr. President, these two communities entered a contract with the Federal Government in good faith and have made expenditures to uphold their obligations under that contract. We only ask that the Federal Government do the same. Privatization of these two facilities is a breach of the faith of these communities and violation of a contractual obligation.

I urge my colleagues to accept this amendment as a fair solution to a unique situation.

AMENDMENT NO. 2854

On page 74, 18, after "Fund", strike the period and insert the following: ", and of which $1,200,000 shall be available for continuation of the program to integrate energy efficient building technology with the use of structural materials made from underutilized or waste products."

AMENDMENT NO. 2855

(Purpose: To clarify language for providing funding for the National Maritime Heritage Act)

Page 117, line 5 is amended by inserting after "academies" and before the colon, the following: "and may be transferred to the Secretary of Interior for use as provided in the National Maritime Heritage Act (P.L. 103-451)."

AMENDMENT NO. 2856

(Purpose: To make available funds for the Tenth Paralympiad games for individuals with disabilities)

On page 110, between lines 2 and 3, insert the following:

SEC. 405. FUNDS FOR THE TENTH PARALYMPIAD GAMES.

Of the aggregate amount appropriated under this title for the United States Information Agency under the headings "SALARIES AND EXPENSES", "EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS", AND "INTERNATIONAL BROADCASTING OPERATIONS", $5,000,000 shall be available only for the Tenth Paralympiad games for individuals with disabilities, scheduled to be held in Atlanta, Georgia, in 1996, consistent with section 242 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note).

Mr. COVERDELL. Mr. President, I would like to thank the distinguished managers for their assistance in the adoption of this very important amendment. Next summer, the city of Atlanta will host the Tenth Paralympiad. This event will draw 119 countries and 3,500 world-class athletes with physical disabilities to the United States to complete in the largest global summit on disability. Leaders from the international disability community will observe the progress made in the country on disability policy first hand.

This amendment will allow the Director of the United States Information Agency (USIA) to direct $5 million of the funds appropriated to USIA for the Tenth Paralympiad. Since 1994 USIA has been encouraged to promote events and activities involving individuals with disabilities. The passage of this bi-partisan amendment is in keeping with the purpose of USIA.

With the adoption of this amendment, international awareness will be increased, but more importantly it will be a chance to showcase American leadership in opportunities for people with disabilities.

I strongly encourage the Senate's conferees to retain this amendment during the House Senate conference next month, and I thank the managers once again.

Mr. NUNN. Mr. President, this amendment is important in many ways, and I am proud to join my colleague from Georgia in bringing this matter to the attention of the U.S. Senate. As many Americans know, the Centennial Olympic games will begin in Atlanta on July 19, 1996, and conclude on August 4. Many people do not know, however, that just 12 days after the conclusion of the 1996 Summer Olympics, another sporting event of great magnitude will begin. The Paralympic opening ceremony will be held August 16 and over the next 12 days more than 3,500 athletes from 119 nations will compete in 19 different sports. This will be the largest gathering of people with disabilities ever assembled anywhere in the world.

The origins of the Paralympic movement goes back to 1946 when Sir Ludwig Guttman organized the International Wheelchair Games to coincide with the 1948 London Olympics. Since that time, the official Paralympic organization has been established, and the Paralympic Games have been held nine times in nine countries across the globe. The 1996 Atlanta paralympics will mark the tenth and largest gathering with an expected 1.5 million spectators. Over the years, the Paralympics have expanded from wheelchair athletes to include amputees, the blind, those with cerebral palsy, dwarfs and those with a variety of other physical limitations.

In 1994, Congress expanded the U.S. Information Agency's mission to include direction to promote exchange and training activities on disability matters. This American leadership has helped to create international visibility and awareness of disability concerns and has encouraged and reinforced the provision of opportunity for people with disabilities around the world. The Paralympics gives people with disabilities not only the right, but the opportunity to show what they are able to do.

Consider, for example, Ajibola Adoye, a Nigerian runner who, despite the amputation of one arm, ran faster than the fastest, able-bodied runner in his country in the 1992 Olympic Games. The Paralympics lets athletes like Ajibola Adoye represent their countries in international competition at the Olympic level. While many events have been modified in certain ways to accomodate the disabilities of the participants, amazingly, many Paralympic athletes still remain competitive in standard Olympic events.

In addition to celebrating the outstanding talents and achievements of disabled athletes, next summer's Paralympiad also serves another important function. It will serve as an international forum, bringing leaders in the international disability community to Atlanta to address issues vital to the disabled worldwide. Developments in disability-related technology and public policy in the United States and other nations will be highlighted. The Paralympiad is an unprecedented chance to showcase American leadership in creating opportunities for people with disabilities. The Americans With Disabilities Act is just one example of such leadership.

The United State is a leader in the development of prosthetic equipment and disability health care. U.S. Paralympic athletes will make use of the most state-of-the-art prosthetic equipment when they compete in the games. Regrettably, much of this equipment is unavailable to the developing nations. The experience of many countries torn by war and conflict, where many people, including children, have lost limbs from land mines and other weapons of war, demonstrates the pressing need for advanced prosthetic devices. The Paralympiad brings representatives of those countries to the United States to see our latest developments and fosters their export to the world.

A fundamental goal of U.S. disability-related public policy has been to foster increased economic independence among the disabled. Sport is an established pathway for the disabled to reach self-sufficiency, helping to break the expectation of life-long dependence among the disabled. It is also a powerful tool to change attitudes among the general public. We know that changing attitudes is more effective than mandating behavior. The impact of watching a sprinter run less than two-seconds off Carl Lewis' pace on two prosthetic legs can change the way the world perceives the abilities of people with disabilities.

By bringing many of the disabled from around the world to the United States, this one event will do more to communicate our achievements and commitment to ensuring opportunity than holding a number of smaller-scale individual exchanges, which would be considerably more expensive. I believe the types of exchange activities envisioned by the Paralympic Organizing Committee are perfectly consistent with the USIA mandate.

Last year, the Congress saw fit to appropriate $1.5 million in USIA funding for the Paralympics games. This amendment, if adopted, would reserve $5 million from the USIA's general accounts for the Paralympic Games. It is consistent with the report language adopted by both the House and Senate Appropriations Committees which urged "that support be increased for this program to the maximum extent possible within the resources provided, since this is the year the program will take place."

This funding would help support the international exchange events centered around the competition, including the international forum on disability, adaptive technology displays, as well as follow-through dissemination of materials and information. In addition,

every Federal dollar is expected to attract at least $8 of private support. Let me also add that funding is contingent upon satisfactory compliance with financial oversight and reporting procedures just like any Federal contract. If the Paralympic Organizing Committee does not comply, USIA may exercise its discretion not to release any of this funding.

The 1996 Paralympiad presents an unparalleled opportunity for cultural exchange and education. The Paralympics has never before been hosted by a country with a comprehensive disability rights law, and international expectations could not be higher. Leaders from around the world will be drawn to witness the progress the United States has made in the inclusion of those with physical disabilities. I am pleased to support this measure.

Mr. STEVENS. Mr. President, I urge other Members to vote for this amendment to provide $5 million for cultural and educational exchange activities at the 1996 Paralympics in Georgia.

The Paralympics have grown significantly in size and popularity, yet still do not have the liability to get corporate support that the Olympics have—1996 will be one of the largest gatherings of disabled athletes in history, and the money provided in this amendment will allow for the full and open exchange of ideas and information by disabled persons from around the world.

I believe that our country has been a leader in ensuring access and equality for disabled individuals, and we should capitalize on this important opportunity at the 1996 games to share what we have done and to learn from others.

This appropriation has been authorized by legislation crafted by Senator DOLE, section 242 of the Foreign Relations Authorizations Act (P.L. 103-236), which was passed last year

I strongly support the goals and spirit of the Paralympics and urge my colleagues to do the same by voting for this amendment which I have cosponsored with Senators COVERDELL and NUNN.

AMENDMENT NO. 2857

(Purpose: To provide that voter registration cards may not be used as proof of citizenship. At the appropriate place in the bill, insert the following new section:

SEC. . Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office as evidence to prove United States citizenship.

AMENDMENT NO. 2858

(Purpose: To provide funding for the Ounce of Prevention Council)

On page 29, line 7, strike "$750,000,000" and insert $2,000,000 for the Ounce of Prevention Council pursuant to subtitle A of title III of the Violent Crime Control and Law Enforcement Act (Public Law 103-322); $748,000,000".

On page 102, line 12, strike "$5,550,000" and insert "$5,800,000".

On page 102, line 18, strike "$14,669,000" and insert "$15,119,000".

At the appropriate place in title IV, insert the following new section:

SEC. . GREAT LAKES FISHERY COMMISSION.

Notwithstanding any other provision of law—

(1) the Department of State shall continue to carry out its authority, function, duty, and responsibility in the conduct of foreign affairs of the United States in connection with the Great Lakes Fishery Commission in the same manner as that Department has carried out that function, duty, and responsibility since the Convention on Great Lakes Fisheries between the United States and Canada entered into force on October 11, 1955; and

(2) the authority, function, duty, and responsibility of the Department of State referred to in paragraph (1) shall not be transferred to any other Federal agency or terminated during any fiscal year in which the Convention referred to in paragraph (1) is in force.

AMENDMENT NO. 2859

(Purpose: To make localities eligible for reimbursement of criminal alien incarceration costs)

On page 28, lines 22 and 23, strike "by section 501 of the Immigration Reform and Control Act of 1986" and insert "by section 242(j) of the Immigration and Nationality Act".

On page 64, between lines 22 and 23, insert the following:

SEC. 121. Notwithstanding any other provision of law, amounts appropriated for fiscal year 1996 under this Act to carry out section 242(j) of the Immigration and Nationality Act shall be allocated by the Attorney General in a manner which ensures that each eligible State and political subdivision of a State shall be reimbursed for their total aggregate costs for the incarceration of undocumented criminal aliens during fiscal years 1995 and 1996 at the same pro rata rate.

Mrs. FEINSTEIN. Mr. President, this amendment makes a technical correction to the bill's current language appropriating funds for the State Criminal Alien Assistance Program, known in short as SCAAP.

I was very pleased last year to be part of a bipartisan group of Senators who introduced legislation to establish SCAAP, which was ultimately made part of the crime bill. SCAAP was established in recognition of the burden placed on State and local governments by the Federal Government's failure to control illegal immigration, when State and local governments then find themselves faced with the high cost of incarcerating persons who enter this country illegally and are later convicted of felonies.

Unfortunately, a glitch in the appropriations language prevented SCAAP from completely fulfilling its purpose—contrary to SCAAP, local governments were excluded from reimbursement. Even more unfortunately, this mistake has been replicated in the appropriations bill which we now have before us.

Specifically, this appropriations bill, like last year's appropriations bill, provides that the funds appropriated for SCAAP shall be available as authorized by section 501 of the Immigration Reform and Control Act of 1986 [IRCA], rather than as authorized by SCAAP itself, which was enacted as section 242(j) of the Immigration and Nationality Act, as part of the 1994 Crime Act.

Section 501 of IRCA only provides for reimbursement to States, not to localities. The reference to IRCA, in effect, means that only States and not localities would be reimbursed for their costs from not only the $130 million in fiscal year 1995 SCAAP funds, but also the $300 million in fiscal year 1996 funds that would be appropriated under this bill.

It is important to note that not only is the reference to IRCA inconsistent with SCAAP itself, it is also inconsistent with the committee's own report, which references the Crime Bill, not IRCA.

My amendment would correct this apparent error and eliminate this inconsistency.

It also would ensure that all States and localities would be equitably reimbursed for their combined fiscal years 1995 and 1996 costs at the same percentage rate.

Therefore, it corrects for any inequities in the allocation of fiscal year 1995 SCAAP funds to States as well as to localities. It is noteworthy that, because fiscal year 1995 was the first year of the SCAAP program, there necessarily would be start-up delays in setting up procedures to identify criminal alien inmates whose costs are reimbursable. My amendment would ensure that States which could not identify all, or most, of their allowable costs before fiscal year 1995 allotments were made, would not be penalized.

It is also important to note, Mr. President, that this amendment neither increases nor reduces the amount of money appropriated for SCAAP, but only affects who can access that money.

In expanding access to that money to local governments, we are: First, furthering the goal of Senators who wish to send authority away from the Federal Government, by allowing for direct grants to the level of government closest to the people, local government: and second, removing a level of bureaucracy by not making localities go through State governments.

This amendment has important, real-world consequences. Many localities, especially in California, have been hurt more by illegal immigration than have many States.

In Los Angeles County, for example, based on the preliminary results of a joint county-INS effort to identify deportable criminal aliens in the county's jail system, the percentage of all county jail inmates who are deportable criminal aliens has increased to 17 percent from 11 percent in May 1990.

The growing impact of criminal aliens on the county's criminal justice

system not only imposes a major financial burden on the county, which must finance the costs, but also endangers the public's safety.

Because of the county's major budget problems, which have been worsened by the impact of criminal aliens, the county had to close three of its jail facilities earlier this year. As a result, many criminals, who, otherwise, would be incarcerated, now are on the streets of Los Angeles.

I am pleased to report that this amendment is supported by the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, cities throughout the country, including New York City and Chicago, and by local governments throughout the State of California.

I therefore urge my fellow Senators to support their cities, counties, and towns, and vote in favor of this amendment.

I yield the floor.

AMENDMENT NO. 2860

On page 85, line 14 add the following new section:

SEC. 207. None of the funds appropriated under this Act or any other law shall be used to implement subsections (a), (b), (c), (e), (g), or (i) of section 4 of the Endangered Species Act of 1973, (16 U.S.C. 1533) until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Act.

Mr. GORTON. Mr. President, the amendment I offer today is identical to a provision included in the Senate's fiscal year 1996 Interior appropriations bill. The Senate bill included language that prohibits the U.S. Fish and Wildlife Service from listing species, and designating critical habitat under the Endangered Species Act. Like the Interior provision, the amendment I offer today allows the Secretary to continue to implement recovery plans for listed species, implement 4(d) rules, de-list, downlist, and remove species from the list altogether. In other words, this amendment would place a time out on further listings under the act until a reauthorization is enacted into law, or until the end of fiscal year 1996.

The majority of the Senate voted earlier this year to support a similar amendment to the Department of Defense Supplemental Appropriations bill. The Senate voted 60-to-38 to adopt the Hutchison amendment that effectively placed a moratorium on the listing of species under the act by rescinding funds from the Fish and Wildlife Service listing account.

The House Commerce, State, Justice bill zeroed out the ESA listing account, but did not include bill language backing up its decision not to fund the listing account. I believe that the amendment I offer today, while some Senators may not support it, will give the administration support to fend off potential lawsuits down the road, possibly demanding that it list one species or another.

Unlike the House bill, my amendment does not reduce funds for any of the ESA accounts funded within the Department of Commerce.

This amendment is not an attempt to put off forever the debate on reauthorization of the ESA. To the contrary, this Senator desperately wants to see the ESA reauthorized. Senator JOHNSTON and I have introduced legislation to amend and reauthorize the act, and we hope that the Senate will take up legislation to reauthorize the act sometime this fall. As many of you know, Congressmen YOUNG and POMBO recently introduced legislation in the House of Representatives to reauthorize the act.

What this amendment does is to ensure that both the Secretary of Interior and the Secretary of Commerce—both of whom have jurisdiction over implementation of the ESA—are implementing the law consistently. If the full committee adopts my amendment, both Secretaries will be held to the same standard—to implement a time out on further listings under the act.

The amendment places a prohibition on the use of funds for the implementation of subsections (a), (b), (c), (e), (g), or (i) of section 4 of the Endangered Species Act, until legislation reauthorizing the act is enacted or until the end of fiscal year 1996, whichever comes first. Essentially this provision prohibits the listing of species and the designation of its critical habitat.

This amendment allows funds to be used to determine whether or not a species should be removed from the list, delisted, or downlisted from its current status. (Pursuant to subsections 4(a)(2)(B), 4(c)(B)(i), and 4(c)(2)(B)(ii) of the act.)

These subsections specifically allow for the following actions:

Funds may be used to implement subsection 4(a)(2)(B) that allows the Secretary to remove a species from the list pursuant to subsection (c) (the provisions cited below), or to be changed in status from endangered to threatened.

Funds may be used to implement subsection 4(c)(2)(B)(i) that would allow the Secretary to remove a species from the list. In other words, whether or not a species should be delisted.

Funds may also be used to implement subsection 4(c)(2)(B)(ii) that would allow the Secretary to determine whether a species should be changed in status from an endangered species to a threatened species. In other words, whether or not the species should be down listed.

Funds may be used by the Secretary to implement subsection 4(d) that would allow the Secretary to issue protective regulations for threatened species. This is what is commonly known as a 4(d) rule, which, as many of you may know, has been used by this administration in an attempt to provide protection for threatened species, and a degree of flexibility for landowners.

Funds may be used by the Secretary to implement subsection 4(f) that would allow the Secretary to continue to implement recovery plans for already listed threatened and endangered species.

Funds may be used by the Secretary to implement subsection 4(h) that allows the Secretary to issue agency guidelines, and adhere to notice and public comment requirements.

AMENDMENT NO. 2861

(Purpose: To provide funds for the Community Relations Service)

On page 12, between lines 2 and 3, insert the following:

COMMUNITY RELATIONS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $10,638,000: *Provided*, That such additional funds as may be necessary for the resettlement of Cuban and Haitian entrants shall be available to the Community Relations Service, without fiscal year limitation, to be reimbursed from the Immigration Examinations Fee Account: *Provided further*, That, notwithstanding any other provision of this Act, the funds made available pursuant to this Act under the heading "Federal Bureau of Investigation, Salaries and Expenses," shall be reduced by $11,170,000.

AMENDMENT NO. 2862

Page 19, strike line 7 through line 17 and insert the following: *Provided further*, That the Office of Public Affairs at the Immigration Naturalization Service shall conduct its business in areas only relating to its central mission, including: research, analysis, and dissemination of information, through the media and other communications outlets, relating to the activities of the Immigration Naturalization Service: *Provided further*, That the Office of Congressional Relations at the Immigration and Naturalization Service shall conduct business in areas only relating to its central mission, including: providing services to Members of Congress relating to constituent inquiries and requests for information; and working with the relevant Congressional committees on proposed legislation affecting immigration matters.

AMENDMENT NO. 2863

(Purpose: To make available funds for the International Labor Organization)

Before the period at the end of the paragraph under the heading CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS", insert the following: ": *Provided further*, That funds appropriated or otherwise made available under this heading may be available for the International Labor Organization".

Mr. HATCH. Mr. President, I rise today to offer an amendment that would allow for continued participation by the United States in the International Labor Organization, or the ILO.

The report language for this bill recommends prohibiting the use of appropriated funds to pay for U.S. membership in the ILO. This was the position stated in the State Department authorization bill introduced earlier this year.

Mr. President, I cannot support U.S. withdrawal from what I believe to be one of the more effective specialized agencies of the United Nations, the ILO.

Our amendment is budget neutral—it simply allows that funds appropriated under the international organizations account may be made available for the ILO.

I am honored to be joined in this effort by the distinguished Senator from New York, Senator MOYNIHAN. Senator MOYNIHAN probably knows more of the history of the ILO than any individual in this body. My esteemed colleague wrote his dissertation on the ILO 35 years ago. He was the chairman of the hearings held on the five conventions passed since 1988, and was the floor manager for the ratification debates. I have always been grateful that we could work together to strengthen our Nation's role in the ILO.

I am also pleased to have as cosponsors of this amendment Senators STEVENS, JEFFORDS, PELL, HARKIN, SARBANES.

Because the ILO represents one of the most solid collaborations to address international human rights that has ever been institutionalized, support for it has always been bipartisan.

But today some are reconsidering the utility of the ILO. Perhaps part of the reason is because it is associated with the U.N., which has done much to earn criticism in recent years.

I remind my colleagues, however, that the ILO—and U.S. participation in it—precedes the creation of the United Nations. When the United Nations was formed, the ILO had been around for a quarter of a century. The ILO became the United Nations first specialized agency.

The ILO was founded as an organization that would represent governments, labor, and employers in a mission to improve the working conditions of people worldwide.

This exceptional international organization works to accomplish these goals by, first, setting international standards in the form of conventions and recommendations that it supervises; second, supporting economic development, including employment creation, through technical assistance programs; third, analyzing workplace problems and issues through research; and fourth, highlighting workplace abuses through public criticism.

The ILO is based on a system of compliance: with its conventions, which are similar to treaties, and with its recommendations, which are policy guidelines.

It uses persuasion, not confrontation, to effect the improvement of labor standards worldwide. Where it challenges abuses of men, women, or children in the workplace, it operates with what has been referred to as "the mobilization of shame."

As such, the ILO is as much a human rights organization as it is an organization to promote labor standards.

And this is an important point, Mr. President. It is worthwhile noting that, because it combines technical assistance programs for developing employment and maintaining labor standards with its annual criticisms of abuses of workers, the ILO has been called the most effective human rights organization in the world.

Some have questioned the relevance of the ILO in today's world, questioning its structure and role.

But five former secretaries of labor—3 from Republican administrations, 2 from Democratic administrations—have spoken out recently in favor of continuing support for the ILO. Every secretary of labor has credited the ILO with defending and improving labor conditions worldwide.

I believe that the on-going mission of the ILO is more important today than ever before, and that its tripartite approach—involving private sector business and labor representatives alongside governments—is the strength that makes the ILO extremely relevant around the world.

Throughout central Europe, for example, we are seeing a remarkable transition from centrally planned economies to democratic marketplaces. If the economic transition falters, we know that political stability will be threatened.

But the shift has created an incredible challenge to those societies in terms of accepting new norms of behavior and exchange. We cannot ignore the suspicions that many in the region still hold about capitalism—suspicions driven by old, socialist mentalities or new insecurities as a result of economic dislocation.

The ILO's tripartite structure—demonstrating the compatibility and progress that come when governments, labor, and employers work together—provides the best credibility to societies who have previously held antagonistic views toward such voluntary cooperation.

This credibility allows the ILO to participate in helping to establish the labor standards in countries where governments may be reluctant, businesses may be suspicious and labor may be exploited. This credibility drawn from its tripartite approach helps secure the economic institutions necessary for these countries to succeed as free-market democracies.

In central Europe, the ILO was there during the dark days, and its dedicated support of Solidarity under communism is perhaps its best known case. The historic role the ILO played in supporting Solidarity during its years underground is still credited by international democrats as critical in the triumph of democracy in that country.

But its role continues now that these countries have come into the light of freedom and the ILO works to institutionalize the values we believe make the marketplace fair and benign. President Lech Walesa has appealed to the leaders of the Senate to continue their support for the ILO, which President Walesa says "operates on behalf of all those who have been fighting tyranny around the world." I completely agree with President Walesa when he says that "The future of the ILO without the engagement of your country is difficult to imagine."

The ILO addresses the most driving dynamic within and among nations today: the relentless need for economic development.

Among developing countries in particular, the need for economic development is the single factor that determines whether these countries can maintain social stability and political evolution. And the most important component in economic development is job creation. When nations can't create jobs for their people, poverty and instability result.

Over the past decades, nations around the world have recognized that trade promotes growth and employment.

Mr. President, I am a strong believer in free trade. For developed nations, trade with the less developed world is increasingly a factor that drives our economies. But we know that amidst our debates on free and open trade remains the concern of competing with low-wage economies, where—and we must concur with the critics of free trade here—the lack of labor standards can contribute to unfair advantages.

In this country, we have wrestled and debated over this issue recently during the NAFTA and GATT debates. I am very sympathetic to this criticism, Mr. President. I have always thought that we can take two approaches to this question: We can either restrict our trade with developing nations, which I believe would be extremely counterproductive—both for us and for them. Or we can address the issues of labor practices in a productive way.

In addressing the issue of unfair labor practices, we have two approaches. We can seek to force labor standards on trading partners through unilateral confrontation and linkages, which I believe can be counterproductive and could lead to increases in protectionism.

Or we can work with these nations to raise their standards.

The ILO provides the multilateral forum where we can work with nations to improve labor conditions. It is the

only international organization that can serve this critical challenge.

Since its inception in 1919, the ILO has set international standards for labor conditions. These standards have been incorporated into national legislation throughout the world, including, for example, our Trade Act of 1974, which uses standards defined by the ILO.

I believe that by continuing to support the ILO we have the best mechanism to promote labor standards in the developing world, thereby supporting fair trade. The ILO works for us so that we do not suffer the disadvantages of competing with nations who believe they can continue to abuse their labor populations for profit.

Mr. President, I must stress that the ILO has strong labor and business support in this country.

The U.S Council for International Business, which is an affiliate of the International Chamber of Commerce and represents U.S. business in the ILO, has been very outspoken about the need for our continued support for the ILO: In a letter it has sent to Members of this body, it has argued, and I quote:

"For American businesses, there are three critical reasons why the United States should continue its participation in the ILO:

To support its technical assistance and employment policy activities, which promote job creation, enterprise development, and flexible labor markets, thus reducing protectionism encountered by American companies in developing countries and newly emerging economies.

To ensure that American companies continue to have a voice in setting international labor standards that have an impact on their operations and profitability.

To promote the rights of workers and oversee adherence to good labor practices, which we believe is an acceptable alternative to using trade sanctions to promote these rights.

As the Business Roundtable said in a recent statement to Congress: . . . the United States should upgrade its participation in the ILO . . . rather than seek to address international labor standards in the World Trade Organization.

The ILO plays a role in employment creation, institution building, and the promotion of trade. With its research programs, the ILO provides highly technical information on labor and employment trends and issues. With its many programs of technical assistance, the ILO provides on-the-ground programs to help advance labor law, design social security schemes, establish employer associations, and provide industrial retraining. And by promoting its labor standards, the ILO works to ensure that the labor content of the goods and services flowing within and among nations meets minimum standards.

Some have argued that such programs are just a taxpayer supported means for imposing labor and social policies on other nations that do not even serve low-skilled workers in the United States.

But the ILO does not impose. It offers flexibility in working with other nations under the aim of promoting fully minimally international labor standards. Its goal is to ensure that U.S. industry—and U.S. workers—will not be displaced because other countries gain unfair trade advantages through labor exploitation.

Mr. President, the ILO is the voice for freedom of association, freedom from forced labor, equality of treatment in employment, and the elimination of child labor.

We should speak with this voice, Mr. President, because the ILO represents our values.

We believe in human rights, Mr. President, and we believe that we must work to improve human rights around the world. In promoting human rights, it has always been difficult to achieve the balance between idealistic pronouncements and practical policies. The ILO achieves this balance in practice.

Every year, during its annual conference, the ILO levels its criticism against nations that violate workers' rights. In this year's conference, the governments of Nigeria and Burma were singled out. In the past, Bangladesh, China, Cuba have been criticized for violations. Mr. President, the abuses in these nations are our concerns.

The ILO estimates that as many as 200 million children worldwide are working in jobs that are dangerous, unhealthy, and inhumane. The ILO has responded with its International Program on the Elimination of Child Labor, for which Congress appropriated a $2.1 million grant in 1994. This program has initiated global research to develop a comprehensive statistical rendering of the extent of this problem. But the ILO has gone beyond research to work on implementing solutions: It set standards on minimum age for employment in its Convention No. 138. And it works with other international organizations to address these critical problems.

For example:

In Pakistan, ILO involvement has contributed to that country abolishing its bonded labor system and discharging all bonded labor from any obligation. The ILO continues to monitor the situation of child labor in that country.

In Bangladesh, the ILO recently played a key role in getting government and producers to monitor new regulations limiting the use of children in the carpet industries and providing alternate education programs. This recent development resulted in the U.S. Child Labor Coalition calling off a planned boycott.

Mr. President, the abuse of children in the workplace around the world is a concern to most Americans. The ILO is working on solutions.

Through most of this country's association with the ILO, it has had bipartisan support. It has had the support of all U.S. Secretaries of Labor since our entry in 1934. It has the support of AFL-CIO. It has the support of the U.S. Council for International Business. How much more bipartisan can you get?

Finally, Mr. President, it is important, in this day, to mention budgets. The administration requested $64 million to pay this year's contribution to the ILO.

Every Member in this Congress has had to face unpleasant choices about cutting budgets. I do not believe that our international activities should be immune from such considerations. Our international contributions are going to have to be subject to the same fiscal restraints we will be applying to our domestic programs. Following on last week's foreign operations bill, where we successfully scaled back some of our international obligations, the figures in this bill clearly represent this hard-headed approach.

I am very pleased to note that the ILO has recognized the realities we must face and that, in their June conference, they began to discuss further cost-saving measures to compensate for expected shortfalls.

One last assurance for those who are still reticent to support the ILO. The United States is not bound by any of its conventions unless we choose to ratify them. The United States cedes none of its sovereignty to the ILO. We bow to no decision, pronouncement, or convention with which we disagree or which are not in our country's interests.

But, in fact, the ILO can play a key role in facilitating American values abroad; it is an organization for promoting our values.

Mr. President, infusing all our debates these days is how to participate in a post-cold war world. One of the questions we must face is: How should we work with international organizations? This is an especially critical question, considering the overreliance some hold for multilateral approaches to everything from war-making to peacekeeping.

Mr. President, when I think of which international organizations we should support, the answer is simple: those that promote our values and our goals. The International Labor Organization is such an organization.

It promotes our values of fairness and human rights in the work place. It promotes our goals to improve the economic conditions of nations around the world, because it promotes our belief that economic growth is a positive-sum game, and when workers benefit in one part of the world, we all benefit.

Mr. MOYNIHAN. Mr. President, I am pleased to join the distinguished chairman of the Committee on the Judiciary, Senator HATCH, in offering this hugely important amendment. Senator HATCH and I have worked together on matters related to the International Labor Organization for a decade now, and we believe it would be a serious error for the United States to withdraw from participation in the ILO at this time.

The Senator from Utah does not raise this issue lightly, nor does the Senator from New York. Senator HATCH's concern grows in part from his experience with the ILO during his tenure as chairman of the Committee on Labor and Human Resources in the mid-1980's. In 1985, he held a hearing to consider whether there was a link between the failure of the United States to ratify ILO conventions and our influence within the ILO.

The Senator from New York has also had an abiding interest in the ILO for many years. In 1975, while serving as our Ambassador to the United Nations under President Ford, it fell to me to draft the letter announcing our intention to withdraw from the ILO after a mandatory 2-year notice period. Later, on July 19, 1977, I rose on this floor to announce our intention to do just that. And again on September 25, 1980, after the ILO had met the conditions we laid down, I informed the Senate of our return to the organization.

I would also note that I wrote my doctoral dissertation on the history of U.S. involvement in the ILO from 1889 to 1934.

The Senator from Utah and I have taken the floor to suggest, before the Senate acts to abruptly terminate U.S. participation in the International Labor Organization, that we carefully consider how and why we came to participate in the first place. The history of the ILO goes a long way back in our national life, before it finally came to fruition at the end of the Great War. The premise of the ILO as stated in the preamble to the ILO constitution is that:

> [T]he failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.

If states fail to act together to improve labor practices, an imbalance occurs and an unfair advantage is created. We ought to be taking steps to strengthen our leadership in the ILO. Instead, by prohibiting funding for the ILO, the current bill requires our withdrawal.

One of the primary concerns arising from the situation of workers during World War I was that some attention be paid to the fact that labor standards often fell victim to international trade. At war's end, the opportunity arose to address this problem.

The Western nations, shaken by the revolution that swept Russia in 1917, were inclined to act. Samuel Gompers of the American Federation of Labor was enthusiastically received as he traveled through Europe in the fall of 1918 to speak out against the growing Bolshevik influence in the European labor movement. Creation of an international labor organization became imperative to prevent uprisings like the one in Russia from spreading across Europe. So much so that as the terms of a new international order were being drawn up at the peace conference, a commission headed by Gompers created the ILO. It was much more a part of the campaign for the League of Nations than we might remember.

In 1991, then-Secretary of Labor Lynn Martin testified before the Senate Foreign Relations Committee about the significance of the ILO.

> It was Abraham Lincoln of Illinois who summed up democracy when he said that "working men and women are the basis of all government."
>
> . . . As such, the political structure of the ILO itself illustrates the truth of Lincoln's remarks and, hence, reinforces the linkage between democracy and a free economy, between democratic values, independent trade unions, and free enterprise.

The League of Nations, which was the subject of such fierce debate on the Senate floor in the fall and winter of 1919–20, came to life somewhat furtively in the clock room of the Quai d'Orsay in Paris in January 1920. In point of fact the League system had already begun to work here in Washington in October and November 1919 when the first international labor conference was held pursuant to article 424 of the ILO Constitution, which was signed as part of the Treaty of Versailles on June 28, 1919.

The Washington Conference, held at the Pan American Union Building, turned out to be an almost complete success, despite all the prospects of failure. Six major labor conventions, the first human rights treaties in the history of the world, were adopted, including the 8-hour day convention, and the minimum age convention.

Woodrow Wilson, on his great trip across the Nation campaigning for the United States to join the League, spoke continuously of the International Labor Organization. Indeed, almost the last words he spoke before his stroke, before he collapsed in Pueblo, CO, were about the ILO. He told the people in Colorado about the League covenant and the ILO. But he collapsed, and was prostrate when the International Labor Conference was organizing here in Washington.

His Secretary of Labor, William B. Wilson, did not know what to do. The Senate was caught up in a protracted debate about whether to have anything at all to do with the League. A very distinguished British civil servant, Harold Butler—later Sir Harold Butler—arrived in New York by ship and then came down here, assigned to put in place the new international organization. He found the President prostrate and silent, and the Secretary of Labor unable to take any action without the President.

By sheer chance, Butler dined one evening with the then Assistant Secretary of the Navy, a young, rising New York political figure, Franklin Delano Roosevelt, and his wife Eleanor. Butler recounted his difficulties. "Well, we have to do something about this," said Roosevelt. "I think I can find you some offices at any rate. Look in at the Navy Building tomorrow morning and I will see about it in the meanwhile." Roosevelt was devoted to Wilson. By the next day Roosevelt had 40 rooms cleared of its admirals and captains to make room for the conference.

Harold Butler later became the second director-general of the ILO, serving from 1932 to 1938. Subsequently, he returned to Washington during the second World War and his continued friendship with President Roosevelt made him a hugely influential figure in the wartime alliance.

Just as Roosevelt helped get the ILO off the ground, when he came to the Oval Office, his administration soon laid the groundwork for the United States to join. In June of 1934, the House and Senate both passed a resolution clearing the way for our participation. The ILO is the part of the League system the United States was least likely to join. The League system consisted of the League itself, the Permanent Court of International Justice, and the ILO. In fact, the ILO was the only one we did join and it was the only one to survive the next war. A tribute to its enduring importance.

Last year, Congress approved U.S. participation in the World Trade Organization. This was the culmination of a half century of negotiations to break down trade restrictions. Yet continued progress toward free trade brings with it a danger that labor standards will be threatened. This was the primary motivation for forming the ILO three quarters of a century ago. As trade barriers continue to be broken, labor standards in our country will increasingly be linked to standards in other countries. Maintaining humane, minimum labor standards was the primary motivation for forming the ILO three quarters of a century ago. The first priority of the ILO—which is closely related to encouraging the democratic process—remains the defense of worker rights and the application of international labor standards.

In a recent letter to all Senators, Abraham Katz, President of the U.S. Council for International Business—which includes among its members the U.S. Chamber of Commerce—lists as one of the three critical reasons the United States should continue to participate in the ILO:

> To ensure that American companies continue to have a voice in setting international

labor standards that have an impact on their operations and profitability.

He adds that participation is vital to promote the rights of workers and oversee adherence to good labor practices, which we believe is an acceptable alternative to using trade sanctions to promote these rights. As the Business Roundtable said in a recent statement to Congress: ". . . the United States should upgrade its participation in the ILO . . .," rather than seek to address international labor issues in the World Trade Organization.

The ILO is the place to address human rights as they relate to employment. The ILO was the forum for the first human rights conventions the world has known. Perhaps none is more important than the right of workers to organize and bargain collectively. I recall then Secretary of Labor Elizabeth Dole's testimony before the Committee on Foreign Relations on November 1, 1989:

[T]he International Labor Organization is the United Nations' most effective advocate of human rights.

We are all aware, for example, of the ILO's courageous support of Solidarity during the darkest days, and the critical role it has played in Poland's historic journey to democracy.

The efforts of the ILO on behalf of Solidarity were extraordinary. Poland had ratified ILO Convention 87 on Freedom of Association and Protection of the Right to Organize, and Convention 98 on the Right to Organize and Bargain Collectively. Ratification of these Conventions was a fact Poland could not deny. In 1978, the International Federation of Free Trade Unions charged Poland with violating Convention 87. After repeated requests from the ILO to Poland to comply with Convention 87, Poland's Minister of Labor wrote to the ILO Director General in 1980, stating that Poland officially recognized Solidarity, the first independent trade union to gain national recognition in a Communist country—the first ever. Lech Walesa was allowed to attend the 67th session of the International Labor Conference. A year later, Poland tried to suspend trade unions, but the ILO would not relent. Poland could not deny the basic fact that they were obliged by treaty to recognize Solidarity, and domestic law, even martial law, could not undo those treaty obligations. Repeated criticism from the ILO kept pressure on the Polish government to allow the return of Solidarity. Finally, in April 1989, the legal status of Solidarity was restored by the Polish government and followed quickly by democratic elections. Now President Walesa has written Senator DOLE stating:

The ILO, thanks to the activism of its officials, played a significant role in reminding the world of our existence and our goals. It supported us in the most difficult times of our underground existence. The Committee on Inquiry created by the ILO after the imposition of martial law in my country made significant contributions to the changes which brought democracy to Poland.

Our relations with the ILO have at times been stormy. In the 1970s the ILO came to apply a double standard to the conduct of nations in the West as opposed to the totalitarian block and was being abused as a forum to carry out political agendas unrelated to its legitimate purposes, and thus we withdrew from the ILO in 1977. Our withdrawal had the desired effect: the ILO responded to our concerns and in 1980 we rejoined.

Since then we have increased our engagement with the ILO. For instance, up until 1988, the United States had only ratified 7—6 maritime and 1 technical—of the 176 ILO conventions. However, in 1988 a new era commenced. The United States ratified its first convention in 35 years. At this point I must acknowledge the role in this turnabout played by the sponsor of this amendment, the distinguished Senator from Utah, Senator ORRIN G. HATCH. In 1985, during his tenure as chairman of the Committee on Labor and Human Resources, Senator HATCH recognized that the ILO had put into place a comprehensive set of conventions which protected the human rights of workers around the world. He clearly saw the failure of the United States to ratify these very same conventions weakened our influence within the ILO and limited our ability to use those conventions in pursuing reforms in other nations. Senator HATCH proposed that we again begin ratifying ILO treaties, and we have done.

In all, the Senate has now ratified five conventions since 1988. Most notably in 1991 when the United States for the first time ratified an ILO human rights convention: Convention 105 on the Abolition of Forced Labor, an area where the ILO has made vital contributions.

ILO Convention 105, ratified by the Senate on May 14, 1991 by a vote of 97 to 0 abolishes the use of forced labor in five specific circumstances: First, as a means of political coercion, second, as a method of mobilizing and using labor for purposes of economic development, third, as a means of labor discipline, fourth, as a punishment for having participated in strikes, and fifth, as a means of racial, social, national or religious discrimination. This convention addresses one of the great crimes against humanity that the 20th century has known, the forced labor camps of the totalitarian states. It builds on an earlier ILO Convention, 29 which calls on ratifying nations to suppress forced labor in all its forms. Convention 29 defines forced labor as "all work or service which is exacted from any person under the menace of any penalty and for which that person has not offered himself voluntarily." It goes to the very essence of what civilized conduct is in our age.

The committee hearing on Convention 105 was hugely informative. In particular, I believe that we helped expose some of the atrocious conditions in the prisons of China and the goods for export that prisoners are forced to produce. To this day I have a pair of socks, the product of the Chinese gulag, which Representative WOLF brought back for our hearing. I am proud that we were able to ratify Convention 105. It would not have been possible without the chairman of the Foreign Relations Committee, Senator HELMS.

I would also point out that a current provision of this bill relies on the standards set by the ILO. I speak of Section 611 which requires the Secretary of the Treasury to certify that goods originating in China were not made with forced labor. The definition of forced labor is not random. Section 611(e)(1) defines forced labor as "all work or service which is exacted from any person under the menace of any penalty and for which that person has not offered himself voluntarily." The definition of forced labor in this bill is word-for-word that of ILO Convention 29. As it should be. A primary function of the ILO is to set such labor standards for the world.

That is the record. The ILO has accomplished much in its three-quarters of a century. I urge my colleagues to carefully consider these facts and to not prevent us from participating in this hugely important institution.

A final point I would like to raise is the simple fact that when the United States joined the ILO in 1934 we made a commitment to give an advance notice of two years before we withdrew from the organization. If we are to prohibit funding for the ILO as the current version of this bill does, we are essentially withdrawing from the ILO unannounced, and thus in violation of international law. Such rampant disregard for our legal commitments does not become this body, nor does it serve the interests of this country.

AMENDMENT NO. 2864

At the appropriate place, insert:

SECTION 1. FUNDS TO TRANSPORTATION OF ADMINSITRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION.

Section 1344(b)(6) of title 31, United States Code, is amended to read as follows:

"(6) the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, and the Administrator of the Drug Enforcement Administration;".

AMENDMENT NO. 2865

(Purpose: To Amend the State Department Basic Authorities Act)

Section 36(a)(1) of the State Department Authorities Act of 1956, as amended, (22 U.S.C. 2708), is amended to delete "may pay a reward" and insert in lieu thereof "shall establish and publicize a program under which rewards may be paid".

AMENDMENT NO. 2866

(Purpose: To make certain changes within the National Oceanic and Atmospheric Administration accounts)

On page 76, line 20 strike "$55,500,000" and insert in lieu thereof "$62,000,000"

Mr. HOLLINGS. Mr. President, this amendment acknowledges that the transfer that the National Oceanic and Atmospheric Administration will receive from the Department of Agriculture for fiscal year 1996 for the Saltonstall-Kennedy Program will be $8,128,000 higher than originally estimated. The amendment would adjust the amount used as an offset by the Operations, Research, and Facilities Account within NOAA upward by $6,500,000 to equal $62,000,000. This increase would be reflected within the Operations accounts as follows: $2,202,000 for Marine Services, to ensure that repair and maintenance can be conducted to allow the existing fleet to operate, $558,000 to the Great Lakes Environmental Research Laboratory [GLERL] to freeze that account at current year levels, $911,000 to freeze GLERL zebra mussel research at current year levels, $550,000 to International Fisheries Commissions to be used for the Great Lakes Fisheries Commission to address sea lamprey problems in the Great Lakes and Lake Champlain, and $2,279,000 to Central Administrative Support leaving that account with a significant cut from current year levels. This amendment would leave $1,628,000 of the increased transfer in the Saltonstall-Kennedy Program for a total program level of $10,893,000 for fiscal year 1996. Because this amendment involves changing only the amount used to offset appropriations, it has no budgetary impact on the bill.

RESTORING GREAT LAKES PROGRAM FUNDS

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the Hollings amendment that restores certain Great Lakes program funding to fiscal year 1995 levels. The Hollings amendment incorporates the major components of an amendment that I and several of my Great Lakes colleagues were prepared to offer. Though the amendment does not address all of the items in my original proposal, the remaining matters are addressed in a colloquy between me and Senator HOLLINGS.

The amendment adds money for two very important Great Lakes programs, $1.469 million for NOAA's Great Lakes Environmental Research Laboratory [GLERL] restoring it to fiscal year 1995 levels, and $450,000 for the Great Lakes Fishery Commission [GLFC] also restoring it to fiscal year 1995 levels. The distinguished Democratic manager of the bill and I have also discussed the very likely probability that the conferees will be able to recede to the House marks on the National Sea Grant program for zebra mussel and non-indigenous species research—$2.8 million—and for the International Joint Commission [IJC]—$3.160 million. And, the ranking member has indicated that he will not support conference report language that would transfer funding responsibility for the Great Lakes Fishery Commission from the State Department to the Fish and Wildlife Service.

This amendment does not provide special treatment for Michigan or the Great Lakes region. The amendment merely seeks to address the tremendous problems that face the Great Lakes and allow the implementation of international agreements and treaties. The majority of the restored funding is to be spent on aquatic nuisance species research and control. And, not all of that will be necessarily spent in the Great Lakes.

Non-indigenous species are entering the Great Lakes at a record rate. The sea lamprey entered in force when the Welland Canal was completed. The zebra mussel most likely arrived in the ballast water of a Russian tanker in about 1986. The list goes on to include the gobi, the river ruffe, the spiny water flea, et cetera. Other parts of the country have experienced similar alien species invasions, but the Great Lakes Basin is a particularly vulnerable ecosystem that does not adapt as well as saltwater to such intrusions.

Non-indigenous species have caused and continue to cause major economic havoc in the Great Lakes. Municipal water intake systems, industrial water users, tourism, anglers, recreational boaters, and other sectors of society have suffered tremendously. We need all the available scientific and techncial expertise components in the region working together to understand what needs to be done to manage our precious water and wildlife resources most effectively. Adding this money back to GLERL, and with the understanding that non-indigenous species research supported by Sea Grant will likely continue, restores those main components. It also recognizes the valuable part they play in protecting and preserving the Great Lakes fisheries and the ecosystem.

Under the amendment, the Great Lakes Environmental Research Laboratory [GLERL] will receive $.558 million above the amount proposed in the House and the Senate committee's bill. This brings GLERL back to fiscal year 1995 levels simply for operations and basic research activities. Also, GLERL will have an additional $.911 million to continue more applied research on zebra mussels and other aquatic nuisance species research.

Among other tasks, the add-back will allow GLERL to continue its excellent work in trying to understand and address the aquatic weed problems in Lake St. Clair. GLERL will be able to continue working to implement its storm surge model, which is used by emergency planning personnel to predict and warn riparians of storm-related high water levels, across the Basin. And, retain highly-skilled and experienced personnel to accomplish this goal. Similarly GLERL's research on ecosystem impacts of the zebra mussel will continue, just when it has become apparent that massive blue-green algal blooms sprouting around the basine, particularly in Saginaw Bay and western Lake Erie, are probably a result of the changes to the ecosystem caused by the zebra mussel. These algal blooms are reminiscent of the mid-1960's when many declared Lake Erie dead due to eutrophication. They deplete oxygen in the bottom water, potentially leading to fish kills.

GLERL is a unique combination of scientific expertise in biogeochemical, ecological, hydrological, and physical limnological and oceanographic sciences that is not reproduced at any other Great Lakes institution. It is the only research laboratory with the staff and the equipment necessary to examine physical phenomena, such as currents, ice cover, and water levels, in concert with biogeochemical/ecosystem and water quality studies, in both freshwater and marine ecosystems.

As part of NOAA, GLERL helps the Federal Government meet its scientific, ecosystem-understanding, and management responsibilities under the Great Lakes Water Quality Agreement with Canada, especially under the Research Annex (17). GLERL works with and advises the International Joint Commission [IJC].

GLERL measures and models the role of contaminants in sediments. GLERL develops and improves hydrologic and water resources prediction models that assist the IJC and the Army Corps of Engineers in their lake-level regulation responsibilities.

GLERL has a 21 year history of important scientific contributions to the understanding and management of the Great Lakes Water Quality Agreement [GLWQA] between the United States and Canada. The Lab's work in the Great Lakes has been impeccable and highly useful. Here are some examples of sound scientific information provided by GLERL that has increased safety, protected property, and reduced or eliminated inefficient and costly regulations:

GLERL developed wind-wave models so the National Weather Service could make more accurate forecasts and warnings of weather conditions on the Lakes. This advance helps protect the lives of recreational boaters.

GLERL's scientific know-how transferred to the U.S. Coast Guard helped save the U.S. shipping fleet millions of dollars in lost cargo sweeping time and prevented the finalization of highly restrictive proposed regulations.

GLERL produced a predictive model of the storm surges and wave motion,

or seiches, in the Great Lakes, so local emergency preparedness officials could have advanced warning of shoreline flooding. Now, in seiche conditions, shoreline property owners have time to protect their property and their lives.

GLERL's research on nutrients, especially phosphorous, helped convince USEPA that proposed requirements to further decrease phosphorous levels in treated municipal sewage discharges would be ineffective in lowering phosphorous amounts in the Lakes. This act saved taxpayers in excess of $10 billion.

GLERL developed the PATHFINDER model for oil/chemical spill trajectories, which is used by NOAA and the States for spill response and by the Coast Guard to help guide search and rescue operations.

Also, GLERL has been very active in other parts of the country:

Vermont and New York—Scientists from GLERL worked with academic scientists from the Lake Champlain basin to quantify the causes and effects of high speed bottom currents in the lake. The currents cause sediment resuspension, making toxic contaminants attached to sediment particles repeatedly available in lake water. This is important information for water quality restoration work. GLERL will complete this work in fiscal year 1995.

Carolinas—Last year, a GLERL oceanographer was part of a NOAA and academic scientific team studying the influence of circulation patterns on fishery recruitment off the coasts of the Carolinas.

South Florida—GLERL scientists are part of a multi-agency team conducting research and assessments of both the Everglades and Florida Bay, both of which are experiencing declining ecosystem health. GLERL's expertise on nutrients is being applied to the Bay, while GLERL's sediment core experience is being used to document historical factors affecting freshwater flows in the Everglades.

Louisiana and Texas—GLERL scientists have played a lead role in the nearly-completed 5-year NOAA study of the effects of the Mississippi-Atchafalya River system on the continental shelf waters off Louisiana and Texas. The near-bottom waters there become hypoxic or anoxic—little or no oxygen in the water—each year.

Wyoming—GLERL scientists are collaborating with academic scientists and the National Park Service on an ecological and geochemical study of Yellowstone Lake, the largest alpine lake in North America. The lake is under stress from increasing visitors and the introduction of non-indigenous species.

South Dakota—Lake Oahe is a large reservoir on the upper Missouri River in south central South Dakota. GLERL carried out a joint research project with the USGS to determine reservoir parameters using geochemical tracers.

Iowa, Kansas, and Georgia—GLERL is helping USGS to evaluate where and how much sediments contaminated with toxics, such as herbicides and pesticides, were moved and redeposited during the extensive flooding of the Midwest in 1993.

The amendment provides an additional $.450 million for the Great Lakes Fishery Commission [GLFC], which brings that line item up to the fiscal year 1995 level. The GLFC is a binational organization established by the Convention on Great Lakes Fisheries between Canada and the United States of 1955. The Commission has two major responsibilities; first, develop coordinated programs of research in the Great Lakes and, on the basis of findings, recommend measures which will permit the maximum sustained productivity of stocks of fish of common concern; second, formulate and implement a program to eradicate or minimize sea lamprey populations in the Great Lakes.

The amount proposed in the Senate committee's bill for the GLFC is insufficient because it does not recognize the need to match the increased Canadian contribution to the binational Commission. Last year, the Canadians offered to increase the amount they provide, assuming the United States would maintain its share of payments in the traditional 69:31 ratio. Canada has kept its promise and its payments are on time.

Last year, several Great Lakes colleague joined me in increasing GLFC's appropriations bill to bring the United States contribution up to $8.773 million, reflecting the Canadian increase. I understand that the State Department sought to include this amount in the budget request but was denied by the Office of Management and Budget. I would like to take this opportunity to remind my friends in the administration that the price of the TFM, the only effective lampricide, has continued to increase in price almost annually, while GLFC appropriations have remained level or fallen. Price increases by the world's sole TFM manufacturer, a foreign company, and inflation have steadily eaten into the real money available for stopping the lamprey. And the dollar's decline against the German mark further has further eaten away at the Commission's reserves.

Despite GLFC's ever-increasing efficiency and effort, the sea lamprey population in the Great Lakes continues to grow, particularly in the St. Mary's River and Lake Huron, threatening the world's largest freshwater ecosystem and a multi-billion dollar commercial and recreational fishing industry. This parisitic fish's predation is checked only by the Commission's efforts.

The bulk of the Commission's funds go directly to pay for the lampricide, TFM, which is the only truly effective way to control sea lamprey populations at this time. There is ongoing research into non-chemical means, but the Commission has rarely received adequate funding for such research and inadequate funding in the past has depleted lampricide inventories.

The level of funding proposed in the committee's bill would have forced the Commission to scale-back its lamprey control and assessment efforts in the St. Marys River, where the populations are approaching those of the 1940's. Those levels caused the populations of lake trout and whitefish to collapse then. It would have slowed advances in developing and implementing the sterile-male release program. The Commission traps male sea lampreys, sterilizes them, and releases them back into Great Lakes tributaries. The proposed cut would have reduced the scope of the sea lamprey barrier program and slow research into innovative barrier designs. These barriers are the main non-chemical method to prevent lamprey spawning.

The Great Lakes' $2-to-$4 billion sport and commercial fishery creates jobs and fulfils treaty obligations. The Commission's sea lamprey control program has led to the rehabilitation of lake trout in Lake Superior and has helped facilitate a strong revitalization of lake trout in Lake Ontario. Cutting the U.S. contribution below last year's level would jeopardize this success.

Mr. President, once again, I would like to thank the manager of the bill, the distinquished ranking member and the junior Senator from Michigan for their assistance in gaining approval of this amendment.

Mr. LEVIN. Mr. President, I would like to engage the distinguished manager of the bill in a brief colloquy regarding several matters that are important to the Great Lakes region and elsewhere.

As my colleagues from the Great Lakes know, there are several treaties and agreements between the U.S. and Canada, and between the U.S. and the Tribal nations, that require maintenance and adequate support from the Congress for implementation. Not the least of these are the Boundary Waters Treaty of 1909, the Convention on Great Lakes Fisheries of 1955, the Great Lakes Water Quality Agreement and numerous compacts with the Tribes. These agreements are designed to protect the quality and quantity of our nation's largest supply of fresh water and the abundant aquatic wildlife.

The committee's bill, as reported, would provide less than adequate support for the functions of the American section of the International Joint Commission [IJC], the binational body that implements the Boundary Waters Treaty and oversees the Great Lakes Water Quality Agreement. In fact, both the House mark and the Senate Committee's bill would provide less than the

IJC received in fiscal year 1987. Adjusting for inflation, that is a dramatic and painful cut.

Would the ranking member be able to tell me whether or not he could help increase the IJC's fiscal year 1996 appropriation, at least to the House level, during conference?

Mr. HOLLINGS. Though I cannot guarantee the outcome of the conference, I will strongly urge the Senate conferees to recede to the House position on this point.

Mr. LEVIN. On a related matter of great importance to the Great Lakes, the Senate committee's bill appears to reduce the National Sea Grant appropriations for research into zebra mussels and non-indigenous species. The House bill provides $53.3 million for this program and directs that $2.8 million be spent on this research. The Senate committee's bill proposes $50.4 million and makes no mention of this research.

My colleagues from other regions may not yet be able to appreciate the necessity and benefits of this research into the life-cycle, ecology and control methods of non-indigenous species. Those who live in or have visited the Great Lakes region appreciate it. Zebra mussels, sea lamprey, river ruffe, gobi, spiny water flea, are just a few of the invading species that have caused ecological and economic havoc in the Great Lakes. They are changing the way we live and use our waters. They infest lake water system intakes and hurt the $4 billion Great Lakes fishery. We need to understand how they work and how to stop them from spreading. My friends from other regions should be particularly supportive of our efforts to keep these species out of their areas.

I would ask the distinguished Senator from South Carolina if he would be able to work in conference to get closer to the House mark for the National Sea Grant program and to specify some level of funds be used for zebra mussel and non-indigenous species research performed by National Sea Grant affiliated colleges and universities and NOAA laboratories?

Mr. HOLLINGS. As the Senator has indicated, the House mark for Sea Grant is somewhat higher than has been recommended in the committee's bill. The committee's report silence on non-indigenous species research should not be construed as a lack of support for this important research. I will certainly work in conference to provide adequate funds for the Sea Grant program.

Mr. LEVIN. The distinguished ranking member's assistance in both of these areas will be greatly appreciated. I would like to request his attention to and consideration of one last item.

The committee's report language recommends that responsibility for the fiscal year 1997 budget request for the Great Lakes Fishery Commission be transferred from the State Department to the Fish and Wildlife Service at the Interior Department. I strongly disagree with this suggestion and have opposed efforts to make this transfer in the past.

The Great Lakes Fishery Commission is an effective, neutral, binational forum for coordination of fish management and sea lamprey eradication in the Great Lakes. Transferring the latter responsibility to the Fish and Wildlife Service has been and will continue to be opposed by the Great Lakes States and Tribal governments. Such a transfer would interfere with the institutional structure and direct State and Tribal participation in the Commission's activities, and jeopardize existing delicate relationships among Great Lakes fishery agencies.

I strongly encourage the conferees not to pursue the transfer any further, because it will be met with strong resistance from the region, and I hope, from the administration.

Mr. HOLLINGS. The committee's report language is advisory only to the administration and does not have the force of law. Nonetheless, I will seek a clarification in the conference report that reflects the Senator's concerns.

Mr. LEVIN. I thank the Democratic manager of the bill for his consideration and cooperation.

AMENDMENT NO. 2867

On page 74, 18, after "Fund", strike the period and insert the following: ", and of which $1,200,000 shall be available for continuation of the program to integrate energy efficient building technology with the use of structural materials made from underutilized or waste products."

AMENDMENT NO. 2868

(Purpose: To amend the bill with regard to the transfer of title to the Rutland City Industrial Complex)

At the appropriate place, insert the following new section:

SEC. . TRANSFER OF TITLE TO THE RUTLAND CITY INDUSTRIAL COMPLEX.

Notwithstanding any other provision of law (including any regulation and including the Public Works and Economic Development Act of 1965), the transfer of title to the Rutland City Industrial Complex to Hilinex, Vermont (as related to Economic Development Administration Project Number 01-11-01742) shall not require compensation to the Federal Government for the fair share of the Federal Government of that real property.

AMENDMENT NO. 2869

Notwithstanding any other provision in this Act, the amount for the East-West Center shall be $18,000,000.

On page 116 of the bill, on line 1, strike "$1,000,000" and insert $4,000,000".

AMENDMENT NO. 2870

(Purpose: To restrict the use of funds under this Act for the National Fine Center)

At the appropriate place, insert the following, "*Provided further*, That of the funds made available under this Act or any other Act, no funds shall be expended by the Director of the Administrative Office of the U.S. Courts to implement the National Fine Center prior to March 1, 1996, except for the funds necessary to maintain National Fine Center services at their current level, to complete the conversion of existing cases for the courts participating in the National Fine Center as of the date of enactment of this Act, and to complete the Linked Area Network pilot projects in progress as of the date of enactment of this Act."

Mr. McCAIN. Mr. President, this amendment, which is cosponsored by Senator DORGAN, would prohibit the Administrative Office of the United States Courts to spend additional money to develop the National Fine Center Project prior to March 1, 1996.

The amendment includes three exceptions. The Administrative Office would be permitted to maintain National Fine Center services at their current level, to complete its work on cases for courts currently participating in the project and to proceed with the pilot projects in several judicial districts.

A freeze in funding will give Congress time to address serious questions and problems relating to the status and direction of the project which were highlighted in a July 19, 1995 Governmental Affairs oversight hearing.

Congress tasked the Administrative Office 8 years ago to develop an integrated database to better track and collect Federal criminal debt. As of 2 months ago, the office had spent nearly $10 million on the effort, including over $5 million on an aborted pilot project in Raleigh, NC. today, the prospects of achieving a workable, cost-efficient Fine Center that meets the needs of the Department of Justice and the goals articulated by Congress remain very much in question.

The Department of Justice, the primary customer of the Fine Center, is very concerned about the project, and does not believe that the current system provides the integration needed by the Department to improve debt collection—one of the system's primary goals. In fact, Department of Justice officials believe that if the AO stays its current course, the Department will be required to develop an additional system to access information stored in the Fine Center's database. This is, of course, absurd.

I am particularly troubled that according to the GAO, the Administrative Office has very little documentation to justify its development decisions to date and no detailed plan for completing the project. Moreover, the AO cannot say with any certainty what the final price tag for the project will be.

While I am sure the intentions of the Administrative Office are honorable, the project has a troubled history and confidence that we are on a cost-effective track is not what it should be.

It is important to note that the money being used by Administrative Office for the project comes from the crime victim fund. This account is normally used to finance vital victim assistance programs. We cannot continue

to dedicate valuable resources from this account without absolute assurance that the public, and crime victims are receiving value for their investment.

Freezing the funds will allow Congress the time to take appropriate steps to ensure that this project is on track. In fact, I hope to introduce, with Senator DORGAN, very soon legislation which will help us to achieve that end.

AMENDMENT NO. 2871

(Purpose: To express the sense of the Senate regarding compliance of the Russian Federation with the Treaty on Conventional Armed Forces in Europe)

On page 121, after line 24, add the following:

SEC. . It is the Sense of the Senate that the President of the United States should insist on the full compliance of the Russian Federation with the terms of the Treaty on Conventional Armed Forces in Europe and seek the advice and consent of the Senate for any treaty modifications.

THE CFE TREATY

Mr. McCAIN. President Clinton and our NATO allies have agreed to a major compromise on the CFE treaty in an effort to lay the ground work for the planned October Summit between President Clinton and President Yeltsin. The amendment I am offering today is attempt to put the Administration on notice that the Senate will take a careful look at the agreement recently reached before it is finalized in October.

In November of 1990, Russia agreed to significant limitations on numbers and deployment of its heavy weaponry—battle tanks, artillery, armored combat vehicles, attack helicopters and combat aircraft. There is unanimous agreement that Russia is not currently in compliance with the treaty and, at its current pace, it is not likely to meet the deadline for full compliance.

The treaty changes proposed by NATO—under pressure from the Administration—involve the number of weapons allowable in what is known the flank zone. A compromise has been reached that expands the flank zones to allow an amount of equipment halfway between the treaty requirements and the amount currently in the zone. The treaty sets limits of 1,300 tanks, 1,380 armored combat vehicles, and 1,680 heavy artillery pieces. There are currently 3,000 tanks, 5,500 armored combat vehicles and 3,000 heavy artillery pieces in the flank zone.

The limits in the flank zone are important because it involves Russia's Southwest and Northwest border. It has implications for the situation in Chechnya, Russia's involvement in what it terms its "near abroad" in the Caucuses and the Baltics, and our allies in Turkey.

As with many issues, what causes me the most concern isn't that a compromise on treaty compliance has been reached. If the compromise is consistent with the treaty, I am pleased we were able to avoid a rift with Russia. What concerns me the most is the twist and turns that the Administration has taken to get to this point. The changes in the policy makes one skeptical that treaty compliance is really the administration's aim. Too often in the Administration's Russia policy the aim has been to avoid and paper over disputes. This was the case early on with NATO expansion. It was the case with Chechnya. It is the case with the Russia-Iran nuclear deal.

President Clinton indicated at the Moscow summit in May that "modifications are in order" to the CFE treaty and that he would support modifications at the CFE review conference next year. The President later attempted to clarify the issue by stressing that he would press for Russian compliance with the agreement by the November 1995 deadline. Now that the President has reconsidered his earlier statements and determined that changes are in order to assist the Russians in meeting this year's November 17th deadline, I think it is important that the Senate be heard on the issue prior to the President's meeting next month with President Yeltsin.

The CFE treaty will hopefully become a central element of stability in Europe. It is important that its integrity be preserved and that no party be able to subvert its purposes. I encourage the administration to keep the Senate fully apprised of its attempts to negotiate changes.

AMENDMENT NO. 2872

(Purpose: To provide for a land transfer in Tuscaloosa, Alabama)

At the appropriate place, insert the following:

SEC. . LAND TRANSFER.

(a) IN GENERAL.—The Secretary of Commerce, acting through the Assistant Secretary for Economic Development of the Department of Commerce, shall—

(1) not later than January 1, 1996, commence the demolition of the structures on, and the cleanup and environmental remediation on, the parcel of land described in subsection (b):

(2) not later than March 31, 1996, complete the demolition, cleanup, and environmental remediation under paragraph (1); and

(3) not later than April 1, 1996, convey the parcel of land described in subsection (b), in accordance with the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), to the Tuscaloosa County Industrial Development Authority, on receipt of payment of the fair market value for the parcel by the Authority, as agreed on by the Secretary and the Authority.

(b) LAND PARCEL.—The parcel of land referred to in subsection (a) is the parcel of land consisting of approximately 41 acres in Holt, Alabama (in Tuscaloosa County), that is generally known as the "Central Foundry Property", as depicted on a map, and as described in a legal description, that the Secretary, acting through the Assistant Secretary for Economic Development, determines to be satisfactory.

AMENDMENT NO. 2873

(Purpose: To provide funds for maritime security services)

On page 113, line 24, strike "$330,191,000," and insert "$284,191,000,".

On page 114, line 3, after "exceed" insert "$29,000,000 may be used for necessary expenses of Radio Free Europe/Radio Liberty, of which not more than".

On page 99, line 26, strike $250,000,000 and insert $225,000,000.

On page 116, between lines 12 and 13, insert the following:

MARTITIME SECURITY

For necessary expenses for maritime security services authorized by law, $46,000,000, to remain available until expended.

On page 117, line 5, strike "academies:" and insert "academies and may be transferred to the Secretary of the Interior for use in the National Maritime Heritage Grant Program:".

On page 117, strike lines 12 through 24 and insert the following:

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $25,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $500,000,000.

Mr. LOTT. Mr. President, I rise to support this amendment which is critical to our efforts to reform U.S. maritime policy, maintain a U.S.-flag fleet and merchant marine and serve our national security interests.

Maritime reform is vital to our national and economic security. From our beginning history, America has been a maritime nation reliant on secure ocean passage and transport for commerce and military strength.

From the sea battles of the American Revolution through the Persian Gulf, our seafarers and merchant marine courageously supplied and sustained our troops in combat and conflict.

The U.S.-flag fleet and merchant marine carried our troops and cargo through World War I, II, Korea, Vietnam, and the Persian Gulf.

In World War II, more than 6,000 merchant mariners were killed and thousands more were wounded. After World War II, the Supreme Allied Commander, Dwight D. Eisenhower, declared:

> The officers and men of the merchant marine by their devotion to duty in the face of enemy action, as well as the material dangers of the sea, have brought to us the tools to finish the job. Their contribution to final victory will long be remembered.

Following the Persian Gulf, Chairman of the Joint Chiefs of Staff, Colin Powell, stated:

> Since I became Chairman of the Joint Chiefs of Staff, I have come to appreciate first-hand why our merchant marine has long been called the Nation's fourth arm of defense. The American seafarer provides an essential service to the well-being of the Nation, as was demonstrated so clearly during Operations Desert Shield and Desert Storm.

In relation to our Nation's economic security, Rear Adm. (ret.) Tom Patterson recently wrote in the Journal of Commerce:

Throughout history, the Nation that ruled the seas controlled the world's economy. In their time, Egypt, Greece, Phoenicia, Carthage, and Rome, then Spain, Portugal, and Great Britain, came and went as the leading naval and commercial powers. When they lost their maritime dominance, they quickly became second-rate in terms of economic success and political influence.

The United States is in grave danger of going down that same road if it has not done so already. Our perceived economic decline in recent years has been accompanied by an almost suicidal approach to our maritime policy—and specifically to the future of merchant shipping under the American flag...

Over the last 20 years, Congress has failed to pass an effective maritime policy. As a result, we have seen a dangerous decline of the U.S.-flag fleet, merchant marine, and shipbuilding.

Now, we face a situation where if we fail to act in this Congress, our national security and international competitiveness will be seriously and irreversibly harmed.

We could easily lose our U.S. flag fleet and with it our merchant marine.

If that occurs, our military readiness and our sealift capacity will be dealt a blow.

Numerous jobs would be lost related to the maritime industry and our balance of payments and international competitiveness will suffer.

In times of international crisis or war, our historical and successful reliance on the U.S. flag fleet and merchant marine would come to an end.

Personally, I do not want to be a part of that. This Congress has a sobering opportunity to do something about it.

Secretary Pena, on behalf of the administration, along with General Rutherford and Admiral Herberger strongly support the funding for the Maritime Security Program.

The House National Security Committee and the Senate Commerce Committee have reported out the reform legislation that serves as the basis for the proposed funding contained in this amendment.

I would like to state as simply as possible the objective of this amendment.

It is to maintain and promote a U.S. flag fleet, built in U.S. shipyards and manned by U.S. crews in the most cost effective and flexible manner possible.

When I go home to Pascagoula, I want to see the greatest amount possible of Mississippi agricultural products—rice, cotton, soybeans, catfish, chicken and forest products and other exports moving on U.S. flagged ships built in America.

In times of national emergency or war, I want to know that we will continue the finest tradition of the U.S. flag fleet and merchant marine—secure in the knowledge that our sealift capability is assured and confident that our troops will be supplied.

The maritime reform legislation and proposed funding will help achieve these objectives by establishing a new maritime security program. The bill terminates the previous program, reducing costs by 50%. In its place, a more efficient and flexible program will continue the successful private commercial partnership with the Departments of Transportation and Defense.

A partnership which will help promote and preserve a modern U.S. flag fleet and merchant marine and one that will serve our national security in time of war or emergency.

To promote our Nation's underlying shipbuilding infrastructure and capacity, this amendment funds and reforms the Title XI Loan Guarantee Program. A program which effectively stimulates U.S. shipbuilding, competitiveness and jobs.

Again, this amendment is vital to our national and economic security. I urge my colleagues to join in supporting this amendment and our effort to reform our maritime policy.

Ms. MIKULSKI. Mr. President, I rise today to support the amendment to fund two strategically and economically important maritime programs; the title XI loan guarantee program and the new maritime security fleet.

The title XI program provides loan guarantees for vessels built in American shipyards and for the modernization of those same yards. The maritime security program provides payments to participating vessel operators in exchange for their promising the availability of militarily useful U.S.-flag vessels and trained, loyal American crews.

I believe a viable, active, private-sector U.S. maritime industry is in our national interest. We need a U.S. merchant fleet and U.S. shipyards for military purposes in times of national emergency.

We need a U.S. merchant fleet to preserve our historic presence as a global economic power moving goods on the high seas. We need American men and women to build and run those ships. This amendment is the most cost-effective way to make sure that our merchant marine is there when we need it.

Throughout our Nation's history, it has always made strategic sense to have a strong maritime industry. Policymakers who have come before us have had the sense to realize that we need U.S.-flag ships with American crews to supply our armed forces overseas.

Let me make the significance of this vote perfectly clear: in the absence of a U.S. merchant marine, the Defense Department will have no other option but to subcontract foreign ships and seamen for practically all its sealift needs.

A number of times during the Gulf war foreign-flag ships refused to sail into the war zone. That never happened with a U.S.-flag ship. Our civilian merchant mariners have always been there for us in times of national crisis. They have been true patriots—reliable, consistent, and faithful. Without Americans manning those supply ships, we can't guarantee that the U.S. military will be able to do its job.

I believe in public/private cooperation to encourage government savings. This maritime package does just that. It provides a rainy-day maritime infrastructure for U.S. defense needs while, at the same time, stimulating private sector enterprise. The sealift capability that a U.S. merchant marine provides the Defense Department costs a fraction of what it would cost if they did it "in house".

It also guarantees that loyal American merchant mariners will be available to serve when needed. They won't be there if we betray the U.S. maritime industry.

This amendment is smart, it's strategic, and it makes sense. Our merchant mariners and shipyard laborers when called to serve, never gave up the ship. I hope the U.S. Senate doesn't give up the ship today. Let's stand by these heroes in dungarees and adopt the pending amendment.

Mr. STEVENS. Mr. President, I am pleased to support this amendment, and to join Senators LOTT, INOUYE, BREAUX, and others as a cosponsor, to fund the maritime security program [MSP].

The MSP will replace the existing operating differential subsidy [ODS] program over the next 3 years, and will ensure the continuation of a viable U.S.-flag fleet in our trade with foreign countries.

Statistics show an alarming decline in the size of our domestic commercial fleet, and this amendment will ensure that U.S. defense and economic security needs continue to be met.

The amendment provides $46 million for operating subsidies under the MSP in fiscal year 1996.

When the MSP fully replaces the ODS in 1998, it will cost $100 million per year through the year 2005, providing subsidies to roughly 50 ships at around $2 million per ship.

This annual cost is 50 percent lower than the cost of the existing ODS subsidy program, on which we spent $214 million in fiscal year 1995 alone.

We feel this leaner program is sufficient to sustain a viable U.S.-flag fleet as it competes against carriers from countries with lower labor standards and heavy subsidies.

The amendment also provides $25 million for title XI loan guarantees to build new U.S. vessels.

U.S. shipyards, even more than U.S. carriers, compete against shipyards in other countries that receive subsidies as large as any industry in the world receives.

The $25 million provided in this amendment will allow the Maritime Administration to guarantee loans totaling $250 million in fiscal year 1996.

The Secretary of Transportation has informed the Appropriations Committee that loan guarantee applications totaling $2.8 billion are currently pending before the Maritime Administration.

There is no question that the demand for loan guarantees will meet the supply we provide.

The Secretary additionally tells us that world shipbuilding demand will exceed $350 billion in the next 10 years.

This loan guarantee money will ensure that U.S. shipyards can meet some of that demand for new ships.

The amendment provides $71 million total by reducing the amount provided for Radio Free Europe by $71 million.

While the decision to make this reduction has been difficult, I believe this amendment provides funding that is critical to the United States and U.S.-flag commercial fleet.

In addition to the carrier and shipbuilding provisions, the amendment would also add important bill language to allow proceeds from the sales of National Reserve Defense Fleet vessels to be transferred to the Secretary of the Interior to use for the National Maritime Heritage Grants Program.

This program was created as part of the National Maritime Heritage Act, passed into law last November. That act authorizes the change we are making now to the appropriations bill.

This grants program will allow entities such as the Fairbanks Historical Preservation Foundation in Fairbanks, AK restore vessels that are important relics of our maritime heritage.

The Fairbanks Historical Preservation Foundation has just begun to restore the NENANA, an important riverboat in Alaska's history, and would be eligible to apply for grants under this program.

I urge my colleagues to vote for this amendment.

AMENDMENT NO. 2874

(Purpose: To express the sense of Congress urging the President to provide for unified command and control of Department of Defense counterdrug activities)

On page 110, between lines 2 and 3, insert the following:

SEC. ____. It is the sense of Congress that, in order to facilitate enhanced command and control of Department of Defense counterdrug activities in the Western Hemisphere, the President should designate the commander of one unified combatant command established under chapter 6 of title 10, United States Code, to perform the mission of carrying out all counter-drug operations of the Department of Defense in the areas of the Western Hemisphere that are south of the southern border of the United States, including Mexico, and the areas off the coasts of Central America and South America that are within 300 miles of such coasts. But not to include the Carribean Sea.

Mr. COVERDELL. Mr. President, more Americans die each year from the use of cocaine, heroin, and other illicit drugs than from international terrorism.

One hundred percent of the world's cocaine comes from South America. Realizing this, one can conceptualize possible centers of gravity where we can reach out and disrupt the drug cartel's operations. It is imperative that we take the fight to the drug cartels.

We can target the illicit drug industry itself; drug transshipment areas, airfields, navigational equipment, drug labs, and drug cache sites.

As the Honorable William Perry, Secretary of Defense has been quoted as saying, "Narco-traffickers don't think in terms of borders. Indeed, they take advantage of this mind set. They violate sovereignty. So the only way to deal with the narco-trafficking problem is to treat it as a regional problem . . ."

With this concept in mind, I am concerned that there is a great deal of stratification and duplication of effort within U.S. governmental agencies. On Capitol Hill alone, there are over 74 congressional drug oversight and review committees. To stem the tide of illicit drug trafficking, sale, and use, we must maximize our potential and our limited resources.

As chairman of the Subcommittee on the Western Hemisphere, I feel that a logical place to begin consolidating command and control, to better curb the flow of illicit drugs from the southern portion of the Western Hemisphere, is within the Department of Defense.

The Department of Defense provides support to law enforcement agencies and host nations in creating and strengthening their institutions to defeat the narcotics threat. Currently, each command provides: intelligence support, detection and monitoring (D&M), interdiction, training support, planning assistance, logistics support, and communications support within their respective theaters. It is my intent to consolidate these efforts under one unified command that will handle counternarcotics operations.

This sense of the Congress is designed to put the executive branch on notice that it is time to streamline counternarcotic activities and become more effective interdicting drugs at their point of origin in South America. It is time for tighter command and control regarding counternarcotics operations in the region of the world that is the sole producer of cocaine.

AMENDMENT NO. 2875

(Purpose: To provide for Agricultural Weather Service Centers)

On page 76, line 25, insert before the period the following: ": *Provided further*, That the National Weather Service shall expend not more than $700,000 to operate and maintain Agricultural Weather Service Centers".

Mr. COCHRAN. Mr. President, This amendment provides funding for the Agricultural Weather Service Centers at Stoneville, MS, and Auburn, AL and requires the National Weather Service to continue the operation of these important weather centers.

This bill calls for the privatization of elements of the National Weather Service [NWS], including services for agriculture and forestry. These weather service centers provide several important services to America's farmers. Millions of dollars and hundreds of family farms are at risk without proper weather information.

Many important products and services would be terminated if these centers are closed. Special freeze forecasts, special advisories for extreme weather events, and agricultural weather guidance would all be eliminated. All agricultural climatology services to State and Federal agencies would cease as would all liaison activities with the land grant universities and other agencies. Cooperative research with scientists at all universities would end.

Some argue that farmers can obtain the weather services they require from the private sector from the many commercial weather services that operate around the Nation.

However, none of the commercial weather services provide the kind of agricultural weather information available from these agricultural weather service centers. Additionally, there are only a very small number of companies that could potentially provide some agricultural services.

Commercial operators are generally unwilling to make an investment in developing the kinds of unique products used by agriculture because the market is too small. In areas of concentrated agriculture, such as in California or Florida, the market might be sufficient for the private sector. Markets like Mississippi are too small to support private meteorological services.

Some argue that these services should be done by private sector meteorologists and that the National Weather Service constitutes corporate welfare. Let me bring to the attention of my colleagues that the bulk of agriculture and forestry consists of small family operations, not giant corporations. Large farms already hire private meteorologists and will not be affected by office closings. This is going to affect the small- and medium-sized farmers who do not have the money to get expert help and could not afford to contract for weather information.

Some may argue that this is an unnecessary service that should no longer be funded by taxpayers, that in a time of smaller budgets, we can no longer afford the $2.1 million to operate the National Weather Service agricultural weather program.

However, according to a 1992 study by the National Institute of Standards and Technology, the modernization of the National Weather Service will reduce agricultural losses by $15 billion and increase agricultural output by $117.9 million annually.

This is clearly one of the best bargains in government.

The Stoneville Center is a world renown research center with major activities in cotton, soybeans, rice, catfish, and hardwood forestry. At the Stoneville, MS center, more than 200 farmers have been working with the Stoneville Agricultural Weather Service Center to develop a credible agricultural weather forecast system. This center has the potential of producing data that could save millions of dollars in reduced input costs such as pesticide applications, fertilizer, and harvest potential.

There is clearly a role for the Federal Government in providing these specialized agricultural services. The production of food and fiber is the most critical component of our economy. With so few Americans now directly producing our food and fiber, it is imperative that we maintain the most efficient production possible. The NWS agricultural and forestry weather program contributes to this efficiency at the lowest possible cost.

The roles of the NWS and the private sector are clear. The role of operating and maintaining the agricultural weather data networks is best done by NWS. The same goes for the operations of agricultural weather forecast models. Research and development activities which utilize the observational and forecast data is another primary NWS function. The end result is a great wealth of information. It is the packaging and delivery of this information which can be best done by the private sector. The NWS does not have the resources to produce customized information for each user. This is clearly an important job for the private sector. The NWS and the private sector can work together and share in the provision of weather information to agriculture.

There is a right way and a wrong way to privatize these services. This bill represents the wrong way. These services should not be abruptly ended without careful planning and judicious management of the privatization process.

I urge my colleagues to support my amendment.

Mr. HEFLIN. Mr. President, I rise today in support of the Cochran amendment which would restore funding for the Agricultural Weather Service Centers at Stoneville, MS, and Auburn, AL. The amendment would require the National Weather Service to continue the operation of these important weather centers.

Mr. President, the business of American farmers, ranchers, and foresters is to produce and market the world's safest supply of food and fiber. To do so, they must cope with all of the vagaries of nature. Unlike the vast majority of people in this Nation who cope with everyday weather in the context of a golf game or a picnic, weather is the single most important external element in the production equation. To our Nation's farmers, ranchers, and foresters specific weather information is crucial to the protection of crops, the application of management practices, the timely selection and use of pesticides, the decision to apply expensive freeze protection measures, et cetera.

In my opinion, there is no other organization, business, or institution which is capable of gathering and analyzing data either on the scale or to the degree of reliability which farmers, ranchers, and foresters routinely receive from the National Weather Service. The refinement of the data for their specific needs requires specific analysis and employs special knowledge provided by land grant colleges, the Cooperative Extension Service, and other State and Federal specialists.

I am aware that there are a number of private weather services offered and that some highly specialized and concentrated segments of agriculture employ them. However, I am informed that these rely totally on the data provided by the National Weather Service as the basis for their specialized services. Regardless, farmers are incapable at the present time to assume the functions of government privately even if they could afford the services.

Therefore, I strongly support Senator COCHRAN's attempt to restore funding for the Agricultural Weather Service Centers at Stoneville, MS, and at Auburn, AL. I urge my colleagues to support the Cochran amendment.

AMENDMENT NO. 2876

(Purpose: To restore funding for trade adjustment assistance centers)

On page 68, line 19, insert ", $7,500,000 of which shall be for trade adjustment assistance" after "$89,000,000".

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleagues, Senators LEVIN, from Michigan; D'AMATO, New York; Mrs. HUTCHISON, Texas; MOYNIHAN, LEAHY, GLENN, PELL, MURRAY, and ROCKEFELLER to offer an amendment to restore funding for Trade Adjustment Assistance Centers, or TAAC's as they are called. Our amendment provides that of the $100 million included in the existing bill for the Economic Development Administration, $10 million will be used to fund the 12 regional TAAC's at their fiscal year 1995 level.

Trade adjustment assistance is authorized by the Trade Act of 1974 to help manufacturers who have lost sales and jobs to imports. Once certified as having been hurt by imports, firms receive cost-shared technical assistance to improve their competitive position.

Mr. President, TAAC's work. Looking at TAAC clients a clear pattern emerges. In the 2 years prior to going to a TAAC, a manufacturing firm has seen declining sales and reduced jobs. After receiving TAAC assistance sales go up and employment increases.

In a study of TAAC clients from fiscal year 1990–94, prior to seeking assistance, TAAC clients lost over 10,000 jobs and $630 million in sales. After receiving TAAC assistance, not only had the drop in employment and sales been stemmed, it had been reversed. Some 5,500 jobs were added in addition to the 55,000 jobs that were saved, and client sales increased by $1.1 billion. Most importantly, productivity, as measured by sales per employee, was increased significantly from $82,000 to $94,000.

Productive firms stay open for business; they continue to employ and hire new people. Mr. President, trade adjustment assistance is a good program. For every dollar spent by the Federal Government there is an 800 percent return in terms of Government revenue.

As I mentioned, there are 12 regional TAAC's—Boston, Trenton, Seattle, Boulder, Chicago, Atlanta, Ann Arbor, Binghamton, San Antonio, Los Angeles, Columbia (MO), and Blue Bell, PA. Each of these centers have helped manufacturing firms in every State who have been hurt by imports get back on their feet and remain viable.

TAAC's save private sector jobs, and, as we all know, the best social program is a good paying job, and manufacturing jobs are good paying jobs.

In my home State of Vermont, the TAAC which serves my region, the New England Trade Adjustment Assistance Center [NETAAC] is currently providing or reviewing certification petitions from seven manufacturing firms who combined employ close to 500 people. In a small State like Vermont that is a lot of jobs.

The assistance is cost shared by the client and TAAC contribution can be as little as $25,000. The average NETAAC investment is $684 per job. That is an excellent return on federal investment.

Mr. President, our amendment simply directs that of the $100 million already in the bill for the Economic Development Administration, $10 million be used for TAACs. We have funded this program in the past and the other body has included funding in its fiscal year 1996 Commerce appropriations bill. I should also note that the Ways and Means Committee recently voted to extend authorization for trade adjustment assistance for 2 more years.

TAACs help manufacturing firms that have been hurt by imports. TAAC assistance saves jobs and increases sales. For every dollar we spend on this program, we get eight dollars back. Funding TAACs is a sound investment, and I urge my colleagues to support this amendment.

Mr. MOYNIHAN. Mr. President, I rise to join the Senator from Vermont in his effort to restore funding for the program providing Trade Adjustment Assistance for companies affected by imports.

This has been an enormously effective program for more than 30 years. Under the firm TAA program, we have established a national network of centers that provide technical assistance to trade-impacted companies. These centers, several located in universities, have a remarkable record in improving companies' manufacturing, marketing, and other capabilities in the face of stiffened competition from foreign imports.

This program is a complement to the Trade Adjustment Assistance program for workers, which provides direct benefits to individuals who lose their jobs because of imports. Both are part of an

effort to fulfill a commitment we have made to American workers as we pursue our national trade policy. The notion of Trade Adjustment Assistance was first articulated in 1954 by David MacDonald, President of the United Steel Workers, and the program was later enacted in the Trade Expiration Act of 1962. In 1993, when I last spoke on this floor in support of this program, I cited Luther Hodges' statement to the Senate Finance Committee in 1962 during consideration of that landmark legislation. I find it fitting to bring that statement here again:

Both workers and firms may encounter special difficulties when they feel the adverse effects of import competition. This is import competition caused directly by the Federal Government when it lowers tariffs as part of a trade agreement undertaken for the long-term economic good of the country as a whole. The Federal Government has a special responsibility in this case. When the Government has contributed to economic injuries, it should also contribute to economic adjustments required to repair them.

Our trade policy, which began with Cordell Hull's Reciprocal Trade Agreements Program in 1934 and culminated with the passage last December of the Uruguay Round Trade Agreements Act, results in some winners and some losers. Losers, simply because some American industries have difficulty competing against companies with the advantages afforded to them in other countries. However our winners are plentiful, and expectations are that implementation of the Uruguay Round agreements alone will pump an additional $100 million to $200 million into the American economy. We dare not abandon the policy. We simply must assume responsibility for those whom it may harm.

The Trade Agreement Assistance for Firms program has been enormously effective in assuming that responsibility. In just the past five years, the twelve regional TAA centers have collectively helped 488 companies. Most of those firms were in danger of going out of business prior to the TAA center's assistance, and all were experiencing serious difficulty meeting payroll obligations. In the two years prior to receiving assistance, these 488 manufacturing companies had laid off 10,447 employees. In the two years after TAA help arrived, however, those same companies had hired an additional 5,475 workers. Their sales rose 24.5%, productivity increased 13%, and, as a result, tax revenues are up. Program organizers estimate that more than $7 in federal and state income tax revenue is generated for every $1 spent on the program.

The TAA center at the State University of New York in Binghamton has played no small role in that success, assisting 49 manufacturing companies in my State over those same five years. While those firms experienced a combined drop in sales of $27 million in the two years preceding TAA assistance, they now can boast increases of over $51 million in sales in the subsequent years. These accomplishments preserved employment for many New Yorkers plus generating jobs for 167 more.

I have received numerous letters from these companies, each detailing for me how timely and critical was the TAA center's assistance, and I would like to share with my colleagues some of their compelling stories:

Beldoch Industries Corporation, located in Manhattan, has manufactured ladies' knitwear for over 50 years under three generations of family management. When the company had trouble competing with inexpensive textile imports, Gene Hochfelder, Beldoch's Chairman, sought the help of New York's TAA center. The center's consultants identified strategies under which Beldoch could consolidate operations, provide more prompt service to customers, and successfully compete with foreign imports. Beldoch, with its 260 employees, has kept its manufacturing in the U.S. and is experiencing great success.

The Beach-Russ Company, located in Brooklyn, New York, manufactures vacuum pumps, air compressors, and gas boosters. Charles Beach, President of Beach-Russ, writes "The New York Trade Adjustment Assistance Center facilitated the obtaining of assistance in the development of a New Vacuum Pump to make our company more competitive with low-cost foreign manufacturers."

Michael Hrycelak, Vice President of AJL Manufacturing Inc. in Rochester, writes of how the New York TAA center helped them devise a new marketing plan. He adds, "We strongly support this program, a true example of a government agency adding long term value, with minimal short term cost."

And there are many works in progress as well. Helmel Engineering Products, Inc. is a small machine tool manufacturing company in Niagara Falls with only 26 employees. In the face of stiff competition from overseas, the company has recently completed a two-year diagnostic survey and adjustment project directed by the New York TAA Center. The Center's assistance allowed them to update and improve the marketing of their software, a task which otherwise would have taken closer to five years and may have been altogether unmanageable for the small company. But now, believing that they manufacture the best software their industry can offer, Helmel is optimistic about their new future. Judging by the success of their fellow graduates of the New York TAA program, I think their optimism is well-founded indeed.

Mr. President, this is clearly government money well spent. These are quality companies with capable managers and dedicated workers. The TAA program's modest investment has been sufficient for them to recover from damage done by imports and remain active contributors to our national economy.

Seventy-six of my colleagues in this body, many of whom are still here today, supported our effort to liberalize trade last December. It was good policy. The country is better for it, and we should not regret our decision. But we must also assume responsibility for its consequences. I urge the Senate restore funding for this important and very worthy program.

AMENDMENT NO. 2877

(Purpose: To express the sense of the Congress regarding funding for the Economic Development Administration)

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE CONGRESS ON ECONOMIC DEVELOPMENT ADMINISTRATION.

(a) FINDINGS.—The Congress finds that—

(1) assistance from the Economic Development Administration (hereafter in this section referred to as the "EDA") within the Department of Commerce is an investment in the economic vitality of the United States;

(2) funding for the EDA within the Department of Commerce is reduced by almost 80 percent in this Act;

(3) the EDA serves a unique governmental function by providing grants, which are matched by local funds, to distressed urban and rural areas that would not otherwise receive funding;

(4) every EDA $1 invested generates $3 in outside investments, and during the past 30 years preceding the date of enactment of this Act, the EDA has invested more than $15,600,000,000 in depressed communities, creating 2,800,000 jobs in the United States;

(5) the EDA is one of a very few governmental agencies that assists communities impacted by military base closings and defense downsizing;

(6) the EDA has—

(A) become a more efficient and effective agency by reducing regulations by 60 percent;

(B) trimmed the period for application processing down to a 60-day period; and

(C) reduced its operating expenses; and

(7) the House of Representatives, on July 26, 1995, voiced strong bipartisan support for the EDA by a vote of 315 to 110.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the appropriation for the EDA for fiscal year 1996 should be at the House of Representatives-passed level of $348,500,000.

EDA SENSE-OF-THE-CONGRESS AMENDMENT

Mr. PRYOR. Mr. President, today I have offered a sense-of-the-Congress resolution on behalf of myself and Senator SNOWE and a bipartisan group of 18 cosponsors. I am happy that the managers of the bill have accepted the amendment. Our amendment puts the Senate on record in support of fiscal year 1996, House-passed appropriation level for the Economic Development Administration [EDA].

The House level of $348.5 million dollars is a 25-percent cut from the requested level, but a significant increase from the $100 million passed by

the Senate Appropriations Committee. The $100 million is a 79 percent reduction that would devastate the EDA.

Mr. President, I do want to applaud Chairman HATFIELD for providing the $100 million in his committee, which was an improvement on the zero funding proposed initially.

Before I describe the critical role of EDA and the streamlining that has occurred at EDA, I want to explain the spending dynamic in our amendment. Simply put, the House allocated more funds to the Commerce, State, Justice bill. This permits a higher EDA funding level without cutting other programs within the bill.

Mr. President, the Economic Development Administration has been crucial to rebuilding distressed rural and urban communities in each of our States. Not by providing Government handouts, but by helping communities become economically self-sufficient. EDA's goal is to invest limited Federal dollars so that communities can attract new industry, spur private investment, and encourage business expansion.

EDA gets more bang for the buck by creating partnerships with local, county, and State governments and economic development entities. These partnerships help to provide planning, financial, technical, and specialized assistance to help develop infrastructure and create jobs in these distressed areas.

In fact, for every EDA dollar invested, more than $3 in outside investment has been generated. In the last 30 years, EDA has invested over $15 billion in local communities in need of financial assistance. This investment has resulted in the creation or the retention of more than 2.8 million American jobs.

One of EDA's key functions is to help communities recover from natural disasters. EDA played a pivotal role in the State of Florida after Hurricane Andrew, in South Carolina and North Carolina after Hurricane Hugo, and in Nebraska, Kansas, Missouri, Illinois, Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin after the Midwest flooding of 1992. After the emergency management people leave, EDA is the only governmental agency that remains to help devastated communities rebuild.

Perhaps the largest and best-known mission of EDA is in the field of defense conversion. EDA is life support for base closure towns searching for new direction and new life after the cold war.

In 1988, 1991, and 1993 we closed 250 military bases across America. Just months ago, the 1995 Base Closure Commission recommended the closing or the realignment of another 130 bases. Communities surrounding these bases and defense factories being downsized face massive revenue and job losses. EDA is often the only place cities and towns can turn for help in getting back on their feet.

Since 1992, EDA has provided 173 grants, matched by local funds, totalling almost $288 million to these communities. But the value of EDA's contribution goes well beyond the dollars spent.

A good example of how EDA helps military towns adjust is in my hometown of Camden, AR. In 1957, the Navy shut down Shumaker Naval Ammunition Depot, which was an old research and development facility. After Shumaker closed, Camden was challenged with finding a new direction and source of jobs for our people. Before long, the newly-created Economic Development Administration provided Camden with a $365,000 grant that helped create a new technical college on the old Navy property. Today, I am proud to say that the Southern Arkansas University's Technical Branch in Camden is alive and well, thriving as a national leader in the area of robotics research. It has been a magnet for defense contractor factories that now employ thousands of workers.

Without EDA those thousands of jobs might not be available today.

The Federal Government has a responsibility to step in and provide a helping hand to communities that face the loss of a military base or a defense production facility. Eliminating EDA's funding in the wake of the 1995 base closure round would spell disaster for the people and the businesses that helped us win the cold war but not suffer due to defense downsizing.

Now, Mr. President, I have heard past criticisms about EDA's management and I am sure that some of my colleagues will mention them again today. However, I am here to say that EDA has reinvented itself. It is more effective and more efficient. The EDA has:

First, trimmed application processing down to 60 days.

Second, reduced regulations by 62 percent.

Third, has cut the processing time for grant applications by 50 percent and delegated more decisionmaking responsibility to regional offices.

Fourth, developed a single application form that can be used for all EDA programs.

Fifth, reduced administrative expenses in half from 13.6 percent in fiscal year 1989 to 6.6 percent in fiscal year 1995.

Sixth, in fiscal year 1996, the EDA will further reduce its staff from 350 to 309.

On July 26, 1995, Congressman HEFLEY of Colorado introduced an amendment in the House of Representatives which would have eliminated the funding for EDA. This amendment failed by a vote of 315 to 110. By this vote, both Republicans and Democrats voiced their support for the many successes that the EDA has accomplished in communities across the United States and for EDA's management.

Mr. President, I have letters of support for the Pryor/Snowe amendment from the National Association of Development Organizations and the National Association of Installation Developers that I would like included in the RECORD following my remarks.

Again, I would like to thank the managers for accepting the amendment. It was clear to all that a much higher funding level for EDA is supported by a clear majority of the Senate.

I ask unanimous consent that a list of cosponsors, and relevant letters be printed following my remarks.

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

CURRENT LIST OF COSPONSORS

Senator Baucus.
Senator Warner.
Senator Boxer.
Senator Robb.
Senator Breaux.
Senator Dodd.
Senator Daschle.
Senator Moynihan.
Senator D'Amato.
Senator Bingaman.
Senator Harkin.
Senator Cohen.
Senator Rockefeller.
Senator Bumpers.
Senator Lieberman.
Senator Levin.
Senator Ford.
Senator Lugar.

NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS,
Washington, DC, September 19, 1995.

HON. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the members of the National Association of Development Organizations (NADO), I am writing in support of your Sense of the Congress Amendment urging the Senate to accept the House-passed funding level for the Economic Development Administration (EDA).

As organizations representing local governments that served distressed communities, NADO members understand the importance of EDA assistance—and of an adequately funded EDA. Distressed communities, through help from EDA, have access to the professional capacity and planning capabilities, infrastructure grants, business development programs, and disaster and defense adjustment assistance that they need to battle economic disruption—whether it be chronic or sudden and unexpected. Distressed communities depend on EDA assistance. They need adequate funding for EDA if they are to have any chance to develop economically.

EDA is not a hand-out: EDA is a federal program that attracts local funds—every EDA dollar invested leverages three local dollars; and EDA creates long-term private sector jobs that puts people to work—2.8 million people have been put to work through EDA assistance.

NADO members realize that difficult choices must be made to help balance the budget. As a result, we understand the need for cuts to EDA funding made by the House.

H.R. 2076, as approved by the House of Representatives, cuts EDA funding by 21 percent from current funding levels—a considerable reduction. However, further cuts would significantly inhibit EDA's ability to assist distressed communities. The communities that EDA serves are those that can least afford reductions.

The House of Representatives agrees: by a 315–110 vote, representatives overwhelmingly rejected an attempt to eliminate EDA funding. Voting in support of EDA was a majority of the Republican caucus (including a majority of the freshman Republican class) as well as a majority of the Democratic caucus. We urge senators to join with you, Senator Olympia Snowe and others in showing support of adequate funding for this essential program by cosponsoring your amendment and voting for it on the floor.

NADO members endorse the Pryor/Snowe amendment and urge all senators to vote for it. We appreciate your leadership on this crucial issue.

Sincerely yours,

JAMES C. TONN,
NADO President and Executive Director,
Middle Georgia Regional Development Center, Macon.

NATIONAL ASSOCIATION OF INSTALLATION DEVELOPERS,
Alexandria, VA, September 20, 1995.

Hon. DAVID PRYOR,
U.S. Senator,
Washington, DC.

DEAR SENATOR PRYOR: The National Association of Installation Developers (NAID) supports your efforts to maintain funding for the Economic Development Administration (EDA). As you know, NAID is an organization dedicated to helping communities that have had their local military bases closed or designated for realignment. NAID is comprised of nearly 400 members including representatives from communities and states affected by base closures.

In August NAID had its annual conference in Chicago which was attended by more than 450 delegates. One of the sessions on the program was about EDA's role in base reuse. The membership of our organization understands fully the critical contribution of the EDA's Defense Economic Conversion Program to successful base reuse. The EDA is one of a very few governmental agencies that assists communities impacted by military base closings and defense downsizing.

Senator Pryor, you understand the devastating impact the loss of the EDA's Defense Economic Conversion Program would have on communities seeking to recover from military cutbacks. NAID and its members appreciate your effort to preserve funding for this essential need.

Cordially,

BRAD ARVIN,
President.

Ms. SNOWE. Mr. President, I would first like to thank my colleague from Arkansas, Senator PRYOR, for his continued efforts on issues pertaining to the Economic Development Administration [EDA] and for sponsoring this amendment. And I am pleased to join in this effort. I would also like to thank the bipartisan group of Senators who have joined us in cosponsoring this legislation.

Mr. President, I rise today in strong support of continued funding for the EDA. The EDA is a small but important agency that contributes significantly to economic growth and job expansion. Through its programs, the EDA fulfills a key function in providing State and local governments, nonprofit organizations, and public institutions with vital economic grants and technical assistance.

The House of Representatives clearly recognized the vital role that the EDA plays in communities affected by economic dislocation and included a significant and meaningful level of funding for the agency in fiscal year 1996. And although the House overwhelmingly voted on July 26 to maintain the $348.5 million funding level contained in the Commerce-Justice-State appropriations bill, the Senate Appropriations Committee opted to cut funding for the EDA to $100 million.

I recognize the challenge that we face in balancing the budget over 7 years and believe that all programs should be asked to contribute. However, as we choose those programs that should be either scaled back or eliminated, it is important that we establish priorities. I believe the EDA can and should remain a priority even as it contributes to deficit reduction. The House-passed funding level for EDA is $60 million less than the amount appropriated in fiscal year 1995—which would amount to a 21-percent cut. The amendment we are offering would send a strong message to the soon-to-be-chosen conference committee that, while such a reduction is acceptable, to go further would imperil an agency that has proven to be a valuable source of economic assistance to regions all across the United States.

The debate over EDA funding is hardly a new one in Congress—previous administrations have even proposed the termination of the agency. However, I have consistently fought—and will continue to fight—for meaningful funding because of the critical assistance I have seen the EDA deliver not only in the State of Maine, but across the United States.

Many in Congress know the real value of EDA in distressed communities and support the EDA. We all know that economic distress is not limited to simply a single city or county. Pockets of need exist nationwide in both rural and urban areas. And while some may be concerned that EDA moneys are spent in regions lacking requisite need, 98.8 percent of the 603 EDA projects undertaken between fiscal year 1992 and today were in areas of high economic distress.

For 30 years the EDA has provided grants for infrastructure development, local capacity building, and business incentives that address the debilitating conditions caused by substantial and persistent unemployment in economically distressed areas. Since 1965, the EDA has provided more than $15.6 billion nationally through its programs for initiatives ranging from natural disasters to defense conversion. The partnerships it has forged with local, county, and State economic development organizations have provided invaluable assistance and technical support for regions of high economic distress not only in Maine, but across the United States.

Over this same period of time, the EDA has invested more than $182 million in 570 projects targeted to assist needy communities in Maine. During 1994, more than $14 million in EDA assistance was received by the State. Included in this amount was $6 million in assistance for fishermen coping with the severe economic impacts of the ongoing New England groundfish crisis.

EDA is a true partnership between the Federal Government and local communities that fosters economic growth and stability by promoting sound economic development practices and carefully investing limited Federal dollars. The underlying philosophy of the EDA program is that long-term job opportunities can best be created by providing the infrastructure and other forms of support necessary for private businesses to establish new plants or to expand existing facilities in economically distressed areas. And the programs administered by the EDA put this philosophy into practice.

EDA's Public Works Program is an excellent example of the federal-local partnership that brings this vital assistance to distressed regions. We all recognize that an adequate local infrastructure is critical to the development and expansion of rural and urban economies. By pairing federal grants with matching monies from local communities, the Public Works Program has led to the development of water and sewer systems, industrial access roads, and high-skilled training facilities. All of these services are essential to not only retaining existing businesses, but to attracting new industries to communities. In our increasingly competitive global economy, the importance of developing this infrastructure and attracting new businesses cannot be overstated.

The Title IX Economic Adjustment Assistant Program provides communities with the most flexible tools necessary to develop and implement locally-identified economic development priorities that address changes that are causing—or are threatening to cause—serious structural damage to the underlying economic base. Examples of such economic changes include sudden and severe economic dislocations caused by base closures, reductions in defense contract spending, new Federal laws or requirements, industrial or corporate restructuring, or natural disaster. Structural economic changes may also result from long-term economic deterioration as evidenced by gradual population shifts, depletion of natural

resources, or increased foreign market competition that drains a significant local industry.

Under the Title IX program, communities are provided with the flexibility and tools necessary to organize a local strategy for achieving economic stability and change. Such planning may lead to grants for projects including the construction of public facilities, roads, or industrial parks. In Lewiston, Maine, Title IX monies proved invaluable in renovating the Bates Mill—a textile mill that required massive renovations following its closure.

Finally, the EDA Planning, Technical and Trade Adjustment Assistance Programs are visible examples of local-federal partnerships with academic institutions, communities, and economic development professionals committed to the promotion of our nation's economic well-being.

As cited in a recent issue of Fortune magazine, many firms with strong growth potential have very little in the way of physical assets, but many intangible assets. When these firms seek capital for expansion, their lack of collateral is a significant hindrance. Through the utilization of a small EDA grant, the article demonstrated how a recipient was able to create a formula to help firms calculate the value of these intangible assets—which could thereby be helpful in expanding access to capital. EDA Planning Assistance also supports local economic development planning efforts necessary to respond to local problems and, therefore, help communities take advantage of opportunities at the state, multi-county, and local level.

Through these and other programs, the EDA has proven itself to be an invaluable guide and resource for economically depressed communities. Based on available data, the EDA has created more than 2.8 million jobs of which 1.5 million were the result of public works projects. In addition, through the EDA revolving loan fund program, the agency has created $1.9 billion in private sector capital—which amounts to more than three dollars in outside capital being generated for every federal dollar invested in the program. And don't be mistaken: EDA is not an entitlement program—rather, it is a push in the right direction for our nation's communities.

As Congress begins to make the tough decisions necessary to balance the budget, let us be sure we continue to maintain a program that has proven itself to be both necessary and effective in its broad assistance to distressed communities across America. I urge my colleagues to continue funding the EDA at a responsible level—and support the Pryor-Snowe amendment.

AMENDMENT NO. 2878

(Purpose: To establish conditions for the termination of sanctions against Serbia and Montenegro)

At the appropriate place in the bill, insert the following:

SEC. . RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—Section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended by striking subsection (e) and inserting the following:

"(e) CERTIFICATION.—A certification described in this subsection is a certification by the President to Congress of this determination that:

"(1) the elected Government of Kosova is exercising its legitimate right to democratic self-government, and the political autonomy of Kosova, as exercised prior to 1984 under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia, has been restored;

"(2) systematic violations of the civil and human rights of the people of Kosova, including institutionalized discrimination and structural repression, have ended;

"(3) monitors from the Organization for Security and Cooperation in Europe, other human rights monitors, and United States and international relief officials are free to operate in Kosova and Serbia, including the Sandjak and Vojvodina, and enjoy the full cooperation and support of Serbia and local authorities;

"(4) full civil and human rights have been restored to ethnic non-Serbs in Serbia, including the Sandjak and Vojvodina;

"(5) the Federal Republic of Yugoslavia has halted aggression against the Republic of Bosnia and Herzegovina;

"(6) the Federal Republic of Yugoslavia has terminated all forms of support, including manpower, arms, fuel, financial subsidies, and war material, by land or air, for Serbian separatists and their leaders in the Republic of Bosnia and Herzegovina and the Republic of Croatia;

"(7) the Federal Republic of Yugoslavia has extended full respect for the territorial integrity and independence of the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the former Yugoslav Republic of Macedonia; and

"(8) the Federal Republic of Yugoslavia has cooperated fully with the United Nation war crimes tribunal for the former Yugoslavia, including by surrendering all available and requested evidence and those indicted individuals who are residing in the territory of Serbia and Montenegro.".

(b) FOREIGN ASSISTANCE ACT AMENDMENT.—Section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) is amended by inserting "Serbia and Montenegro," after "Cuba,".

(c) CONFORMING AMENDMENTS.—Section 1511(a) of such Act is amended by striking "subsections (d) and (e)) remain in effect until changed by law" and inserting "subsection (d)) remain in effect until the certification requirements of subsection (e) have been met".

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the conditions specified in section 1511(e) of the National Defense Authorization Act for Fiscal Year 1994, as amended by this section, should also be applied by the United Nations for the termination of sanctions against Serbia and Montenegro.

Mr. DOLE. Mr. President, I rise to offer an amendment, together with the distinguished Senator from South Dakota, Senator PRESSLER, which would require the President to certify that certain conditions have been met before United States sanctions on Serbia can be lifted. These conditions include an end to systematic violations of the civil and human rights of the people of Kosova; the restoration of Kosova's political autonomy as exercised prior to 1984; and an end to the Belgrade regime's support for Serb separatists in Bosnia and Croatia.

In my view this amendment is very important. For all of the administration talk of peace being around the corner, the situation in the former Yugoslavia is hardly peaceful—or stable. We cannot and must not forget that in Kosova, 2 million Albanians are in their 6th year of martial law. Not only are they disenfranchised, unemployed, and living what is at best a subsistence existence, they are victims of brutal and systematic repression. The Serbian Government has deployed thousands of interior police to ensure its regime of terror in Kosova.

Furthermore, despite his image as peacemaker, Serbian President Milosevic continues to support aggression against Bosnia, and the occupation of Croatia. The Yugoslav Army is assisting Bosnian Serb forces—who are still attacking Bosnian towns.

The sanctions imposed on Serbia and Montenegro are essentially the only leverage the United States—and the international community—has chosen to use to influence the behavior of the Milosevic regime. These sanctions should not be lifted until the situation in Kosova is resolved—even if a peace plan is agreed to for Bosnia.

One of America's key objectives should be stability in the region, and this goal cannot be achieved without a military balance in Bosnia and Croatia, and without resolving the question of Kosova. Although originally Kosova was on the agenda of EU and U.N. sponsored talks on the former Yugoslavia, negotiating efforts since 1992 have ignored Kosova. This is short-sighted and a serious error. Both the Bush and Clinton Administrations have publicly recognized that a conflict in Kosova could draw in Albania and our NATO allies.

Therefore, I believe that sanctions should not be lifted on Serbia until a comprehensive settlement which includes Kosova, is not only agreed to, but implemented. We must take a long term view, not a short term view, and pursue policies which can enhance stability.

KOSOVA

Mr. PRESSLER. Mr. President, I am pleased to join with the majority leader to offer this amendment, which would condition the lifting of sanctions against the former Yugoslavia on specific improvements in Kosova. I am concerned deeply with events taking

place in the former Yugoslavia. It is my hope that a workable peace agreement can be reached in the troubled Balkan region. However, I remain concerned with the fragile condition in Kosova. The United States should be resolute in averting an accelerated campaign of ethnic cleansing and Serbian aggression against Kosovar Albanians. I believe the legislation introduced today will ensure United States policy interests in Kosova stand a far better chance to be achieved.

Briefly, our amendment would require specific conditions be met in Kosova before lifting sanctions against the former Yugoslavia. These conditions include: full restoration of all civil and human rights; the return of international observers to monitor the human rights situation in Kosova; permitting the elected Government of Kosova to assemble; and bringing an end to the brutal Serbian-imposed martial law. Last year, President Clinton announced a set of conditions concerning the lifting of sanctions against Serbia. However, these requirements did not include improvements in Kosova. I believe the situation in the former Yugoslavia demands that the plight of Kosovar Albanians be addressed.

Unquestionably, Albanians in Kosova have suffered great hardship. Since the Belgrade government expelled international observers, basic civil and human rights have deteriorated significantly. Currently, Serbian-imposed martial law, institutionalized discrimination, and organized repression characterize daily life for the more than 2 million Albanians living in Kosova. Kosovar Albanians are denied education, employment, and due process of law solely on the basis of their ethnicity. Given these dire circumstances, I believe the termination of sanctions imposed on the former Yugoslavia should be coupled with a successful resolution to the crisis in Kosova.

Mr. President, I have long been an outspoken advocate for Kosovar Albanians. This amendment would help to resolve their current plight. I urge my colleagues to adopt this important legislation.

The PRESIDING OFFICER. The question is on the amendments, en bloc

The amendments (No. 2847 through 2878) were agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, I want to thank several staff members. I thank Scott Gudes, who did an exceptional job in helping us put this together. I thank, from my own staff, David Taylor, who, in my period as chairman of this committee, has done an absolutely great job. I am very proud of him and the work he has done. I thank Scott Corwin, Lula Edwards, Steve McMillin, from my own staff, to the degree to which we have made a small impression on the deficit, to the degree to which we have started to change the way American Government works in this one little appropriations bill. I think nobody deserves more credit than Steve McMillin does. I appreciate his help.

Mr. HOLLINGS. Mr. President, I did not think I would be thanking the Senator from Texas, but I do. We have really cleaned this bill up materially, substantially, and meaningfully. I do thank the distinguished chairman of our subcommittee for his cooperation and assistance in working out a bill that, no doubt, would still be vetoed as inadequate, but certainly by way of balance and maintaining fundamental programs, such as the cops on the beat and Legal Services Corporation, the minority business enterprise, and so forth—you can go down the list—and for saving from very, very severe cuts the Small Business Administration, Federal Trade Commission, SEC, and many, many others.

You can tell by the participation, Mr. President, and the numerous amendments that we have adopted, en bloc, after consideration here for three full days, that it could never have been done without the wonderful work of David Taylor, Scott Corwin, Lula Edwards, Steve McMillin, Scott Gudes, and Keith Kennedy and Jim English of our full Appropriations Committee. They guide us regularly in all of our deliberations here.

So I want to make sure that Mark Van de Water and the rest are acknowledged, because they have been doing it until 2 o'clock this morning and around the clock here this evening.

We are very grateful to the Members for their cooperation and then, of course, most particularly, my good friend, the Senator from Hawaii, who kept us going, the Senator from Kentucky, our leader, along with the distinguished minority leader, the Senator from South Dakota, and most of all, the Senator from Oregon, the principal chairman of the Senate Appropriations Committee. With his guidance within the committee and in the last few days, we have a bill that I intend to vote for.

I thank the Senator from Texas.

Mr. GRAMM. Mr. President, I want to thank Senator HATFIELD, chairman of the full committee. I think it is clear that without his help and guidance and leadership, we would not have passed this bill at this time.

Finally, I want to thank the ranking member of the committee, Senator HOLLINGS. Not only has he done his usual great job, but no one has missed the fact that his eye was operated on. There are very few Members of the Senate who, under the circumstances, would have been here doing their job. I know it has been painful for all of us looking at it, so it has got to be painful to Senator HOLLINGS looking through it. I just want to commend him for the great work he has done.

Finally, before suggesting that we move to third reading, the bill before the Senate has been amended in such a way that funding levels for a number of accounts are set by language contained in two or more places in the text.

Under the standard procedure for conferring with the House on amendments in disagreement, the funding levels for these activities would be determined by the interaction of several amendments in disagreement. This would greatly complicate the resolution of conference on terms favorable to the Senate.

In order to assist the resolution of a conference with the House, I propose that the Senate action on this bill be presented to the House in the form of a substitute.

Therefore, I ask unanimous consent that the amendments of the Senate bill be deemed as one amendment in the nature of a substitute for the House of Representatives-passed bill.

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

ECONOMIC DEVELOPMENT ADMINISTRATION

Mr. BOND. Mr. President, I rise today to engage in a colloquy with my colleague from Texas, Senator PHIL GRAMM, the distinguished chairman of the Commerce, Justice, State Appropriations Subcommittee.

My distinguished colleague from Texas can well understand the ferocity of natural disasters. I know he remembers well the historic "Great Midwest Flood of 1993" that devastated thousands of people's homes, businesses, and lives throughout the Midwest, including my home State of Missouri. Missourians are fighters and survivors and don't accept defeat. After the floods subsided, Missourians picked up the pieces and began rebuilding their lives, only to be hit again this year with near-record flooding.

It is devastating that my fellow Missourians have had to fight and survive natural disasters. But what is even worse and more devastating is that my fellow Missourians are having to fight man-made disasters created by White House policy.

The White House policy that I am referring to was the choosing, by the Administration, of the Economic Development Administration (EDA) to handle part of the levee reconstruction program.

I believe a lot of mistakes were made by bureaucrats during our flood recovery, but one of the biggest blunders was choosing the Economic Development Administration to handle part of the levee reconstruction program. As proof of how ill-equipped the agency was to administer this levee program—only one of the twelve levee projects

awarded nationally was complete two years after the "Great Flood." Out of the eleven incomplete levee projects, most not even begun, six are in my own state of Missouri.

Thanks to the delay of repairing the levees, when the latest flooding occurred, people were evacuated, thousands of acres of farmland flooded, and highways were inundated. Hundreds of thousands of dollars were spent trying to preserve water supplies, and countless hours of backbreaking work literally washed downstream.

The State of Missouri, local residents and cooperative federal agencies have pushed and prodded the EDA into awarding contracts and have even gotten the EDA to start work on our flood control projects. But the EDA is still being difficult. EDA is trying to claim it cannot modify the scope of projects to include damage from this past spring's flooding, even though this Congress has been careful to preserve unobligated funding for contingencies just such as my State is experiencing.

When we did the rescission bill earlier this year we left $2,000,000 in unobligated balances related to emergency supplementals available for projects currently in the funding pipeline such as the flood control projects you have mentioned. I do not understand why the EDA claims it cannot modify the scope of a project, if the project was in the funding pipeline and the reason that it needs to be modified is because of delay of action by the EDA.

I ask the assistance of my good friend in assuring that the EDA will honor its obligations to Missouri by making available quickly the funding necessary to complete projects awarded from the Flood of 1993. I want to emphasize that this assistance would not be necessary if the agency had accomplished this mission before the flooding hit earlier this year. If the matter is not revolved quickly, we risk still more avoidable flooding and the passing of a third construction season. These consequences would be unconscionable.

Mr. GRAMM. It is my view that this situation should be solved and I will work with the Senator to that end.

IMMIGRATION AND NATURALIZATION SERVICE ACCOUNT

Mrs. KASSEBAUM. I had intended to offer an amendment to provide such funds as may be available, but no less than $10 million, for a Central States Support Fund. These funds are needed to provide additional INS offices in the central states. Additional offices are needed to support communities in their efforts to reduce the flow of illegal workers and to assure expeditious deportation. Senator GRASSLEY is a cosponsor of this amendment.

Mr. President, it has been said that the border states are increasingly a pass-through to reach jobs in the interior. My state and others in the central corridor need help in meeting this challenge. But not much help has been forthcoming. There is no INS office in the whole western half of Kansas, where the need is great. In other parts of my state, the INS presence is thin. Local law enforcement, having arrested vans of illegal aliens being smuggled into the country, have been told to send them on their way because INS personnel was not available.

Senator GRASSLEY, if he were not tied up in the Finance Committee, would point out that in the whole state of Iowa there is no INS office, though, again, the need is great.

The efforts of these interior states are critical to the success of national initiatives to control the flow of illegal workers. Areas in the central corridor that are most challenged by the flow of illegal workers must have a day-to-day INS presence—for example, to assist local law enforcement in expeditious deportation of illegal workers who are repeat criminal offenders.

Mr. President, I urge the adoption of this amendment. This amendment would open a separate account, to be called the Central States Support Fund, to assure that these needs are promptly addressed and that the funds are used exclusively for that purpose.

Mr. GRAMM. I understand the concerns of my colleague. The needs of the interior states are great, and it is my belief that these needs will be alleviated by the strong Border Patrol initiative in this bill. However, I would like to be able to assist my colleague from Kansas and Senator GRASSLEY in ensuring a strong INS presence in their states, as well as others in the central corridor.

Mrs. KASSEBAUM. Since funding under this bill is very tight, I agree not to offer the amendment, with the understanding that $10 million in additional funding will be sought in conference with the House for the purpose of establishing this fund. I also understands that the INS will be required in the next two months to provide a plan for deployment of additional personnel and offices in the central states.

LAW ENFORCEMENT SUPPORT CENTER

Mr. LEAHY. Mr. President, I am concerned that the Immigration and Naturalization Service's (INS) continue to develop and implement the Law Enforcement Support Center (LESC). This Center is the only on-line national database available to identify criminal illegal aliens.

The LESC is a valuable asset and essential to our national immigration policy. The Center provides local, state and federal law enforcement agencies with 24-hour access to data on criminal aliens. By identifying these aliens, LESC allows law enforcement agencies to expedite deportation proceedings against them.

The Center was authorized in the 1994 Crime Bill. The first year of operations has been impressive as the 24-hour team identified over 10,000 criminal aliens. After starting up with a link to law enforcement agencies in one county in Arizona, the LESC expanded its coverage to the entire state. In 1996, the LESC is expected to be on-line with California, Florida, Illinois, Iowa, Massachusetts, New Jersey, Texas, and Washington.

The House and Senate Commerce-Justice-State Appropriations bills do not expressly provide funding for the LESC. The LESC is available now and is proving to be an effective resource for law enforcement agencies.

We owe it to states with illegal alien problems to support the only system available to identify criminal aliens. INS Commissioner Doris Meissner supports it. Commissioner Meissner recently wrote to me reaffirming INS' commitment to the LESC. I urge setting aside $3.8 million within the INS budget to allow the LESC to continue its valuable work. Accordingly, I ask the Chairman whether the bill will allow INS to continue to fund the LESC at $3.8 million for fiscal year 1996?

Mr. GRAMM. Yes, it does.

Mr. LEAHY. I thank the Chairman.

BENEFITS REVIEW BOARD

Mr. STEVENS. Mr. President, it has been brought to my attention that there is an excessive backlog of longshore claims at the Department of Labor's Benefits Review Board and that it takes an inordinate amount of time for the Board to process appeals under the Longshore and Harbor Workers' Compensation Act. I would ask the distinguished subcommittee chairman, Mr. SPECTER, if he agrees that the Board should take all steps necessary, including reorganization, to ensure that all appeals, including those now pending before the Board, are acted upon within one year from the date of filing the appeal. If by next year the Board falls short of this one-year standard, I believe we should consider suspension of pay for Board employees who have not acted within one year of an appeal being assigned to them.

Mr. SPECTER. I certainly agree that the Benefits Review Board should take all steps necessary to ensure that all appeals are acted upon within one year from the date of filing the appeal.

ANTI-GOVERNMENT CRIMINAL ACTIVITY FUNDING

Mr. BAUCUS. Mr. President, along with my distinguished colleague, Senator BURNS, I wish to bring to the Senate's attention a serious law enforcement problem facing too many Montana communities.

We both received a letter from Ron Efta from Wibaux, MT. Mr. Efta is president of the Montana County Attorneys Association. The association points to a serious problem with a lack of prosecution resources necessary to deal with cases caused by anti-government criminal activity in our State. The increased demands that these prosecutions create for local prosecutors

99-059 O—97 Vol. 141 (Pt. 19) 21

and law enforcement is well documented in court and law enforcement records and by a letter I received from Montana Attorney General Joe Mazurek.

Fortunately, part of the legislation before us today can help our local law enforcement and Attorney General Mazurek keep pace with these demands. As page 40 of the Committee Report states, the Edward Byrne Memorial State Law Enforcement Assistance Program includes $50 million in funding for discretionary grants to "public and private agencies and nonprofit organizations for educational and training programs, technical assistance, improvement of state criminal justice systems, and demonstration projects of a multijurisdictional nature." I believe a modest investment of these funds, approximately $100,000, should be allocated to the Office of County Prosecution Services of the Attorney General of Montana. And I respectfully ask the support of the distinguished managers of this bill in making this request of the Justice Department.

Mr. BURNS. I share the concern of my colleague from Montana. This is a serious problem for our Montana law enforcement. I believe it is essential that a portion of the Byrne funds be allocated for this purpose. And I join Senator BAUCUS in making this request of the distinguished managers of the bill.

Mr. GRAMM. I thank the Senators from Montana for bringing this concern to the committee's attention. And I will encourage the Attorney General to award this grant if the need exists.

Mr. HOLLINGS. I thank the Senators. I recognize the seriousness of this situation. And I will encourage the Attorney General to award this grant.

FUNDING EARMARKS FOR DARE AMERICA

Mr. HATCH. I share the concerns of other Senators, including Senators D'AMATO and BIDEN, regarding the DARE program. DARE is a well-managed law enforcement program that is run by DARE America. DARE is very popular with citizens and police officers across the country. Salt Lake City police chief Ruben Ortega says DARE officers "may be the most visible symbol of drug prevention in our community."

The DARE program uses police officers to teach students how to resist pressure to experiment with drugs and alcohol. DARE is taught in 60 percent of America's schools, and involves over 20,000 police officers in all 50 States. Unlike some prevention programs, DARE is truly a grassroots program. Most of its assistance comes in the form of in-kind contributions of personnel and supplies. Less than 1 percent of DARE's budget is direct federal money [$1.85 million out of $257 million in fiscal year 1995]. DARE needs that direct support, however, to run its five regional training centers.

DARE has been around for years, but recent headlines make the need for it especially clear. Tuesday we learned that drug use among young people has almost doubled in the past 2 years. According to former HEW Secretary Joseph Califano, more young people know that cigarettes are harmful than think marijuana is harmful. That kind of alarming statistic argues for renewed diligence in this area.

Mr. GRAMM. I also support the DARE program. One reason why prevention programs are so important is that young people are under so much pressure to use drugs. The July 18 New York Times reported that drugs are the greatest problem facing adolescents, "far outranking crime, social pressure, grades or sex," according to a survey released by the Center on Addiction and Substance Abuse at Columbia University.

In fiscal year 1995, the DARE America program received an earmark of $1.75 million out of funds administered by the Bureau of Justice assistance for State and local law enforcement assistance. It is my intention that in fiscal year 1996, the same amount of money, $1.75 million, be available for the DARE program.

Mr. HATCH. That is an appropriate amount, in my judgment. The DARE program will also be eligible, I believe, to receive block grant funding under provisions of the Neighborhood Safety Act. I want to take this opportunity to acknowledge and thank my colleague from Texas for his efforts and leadership on this issue, and for his support for law enforcement as well.

Mr. D'AMATO. I would also like to encourage funding for the DARE program for fiscal year 1996. Drug use is rising among our Nation's youth, not declining as it should be. We have a responsibility to our children to prepare them for the devastation that results from drug habits. If DARE provides our children with such basic skills, it should be continued. It seems to me that having uniformed police officers speak directly to school children could only have beneficial effects.

NATIONAL WEATHER SERVICE

Mr. NICKLES. Mr. President, during the conference with the House, it is my desire that the senior Senator from Texas will defer to the House level on funding for the National Weather Service.

As my colleague is aware, the National Weather Service has been undergoing a complete modernization and restructuring to prepare it to give even better service as the Nation enters the next century. With two-thirds of this modernization complete, it is not time to begin the restructuring—realigning people and consolidating offices to gain the efficiencies and cost savings that modernization promises.

An especially important step in the restructuring will come in fiscal year 1996—the activation of the National Centers for Environmental Prediction. Using the latest in communications and the best weather science, these centers will streamline the way the National Weather Service produces and disseminates forecasts. A good example is the new Storm Prediction Center now being organized in Norman, OK. This will provide detailed guidance and coordination to the Weather Service's new offices around the country on all severe weather except hurricanes.

I believe the proper course is to fund the National Weather Service and its supporting laboratories at the level authorized by the House of Representatives which will allow modernization to continue and restructuring to proceed as planned. Is it the Senator's intention to work toward the end during conference?

Mr. GRAMM. I certainly understand the concern of the Senator from Oklahoma. I strongly support the efforts to modernize and streamline the National Weather Service.

During the conference with the House, it is my intention to support a level of funding that will facilitate this ongoing modernization and streamlining effort at the NWS, including the Storm Prediction Center in Oklahoma.

ON NOAA COASTAL ZONE MANAGEMENT FUND

Mr. HOLLINGS. Mr. President, I would like to engage in a colloquy with the Senator from Texas regarding use of the coastal zone management fund in H.R. 2076. The committee report on page 67 describes using $4,300,000 from this fund to administer the National Estuarine Research Reserve Programs, similar to a House proposal. Because of the need to leave at least $4,000,000 to administer the Coastal Zone Management Act [CZMA], I understood that the committee intended to designate $3,300,000 for national research reserve administration, and $4,000,000 for CZMA administration.

Mr. GRAMM. The Senator is correct. It is the intention of the committee that $4,000,000 be designated in order to fund administration of the CZMA Program, $3,300,000 be used to administer the National Estuarine Research Reserve Program, and $500,000 is left for State program development grants out of the total amount of $7,800,000 in the coastal zone management fund.

RELOCATION OF NATIONAL MARINE FISHERIES SERVICE

Mrs. BOXER. I thank the Chairman of the Appropriations Committee for entering into this colloquy with me regarding the relocation of the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) Laboratory from Tiburon, California to Santa Cruz, California. The purpose of this colloquy is to ensure that this important project be supported in conference.

I cannot overstate the importance of this project to California and to the

marine science community in the Monterey Bay area. The Tiburon research group consists of a core of world class fishery scientists. Relocating the group to the Santa Cruz campus offers the opportunity to establish the University of California system's first PhD level fisheries curriculum. Bringing Tiburon scientists to the Monterey Bay area offers the almost unlimited potential of Federal, State, and private sector collaborative research, a potential that is not even conceivable in most other places in the U.S. or in the world.

Within the NMFS, the relocation of the Tiburon research group remains a top priority. NMFS views the project not as a replacement but as a consolidation initiative consistent with the recent Congressional guidance calling for a NOAA consolidation study. NMFS desperately needs a state-of-the-art research facility in the central California area to maintain and enhance its research activities along the central coast and in the San Francisco Bay area. If Tiburon were to be closed and staff assigned to other NOAA facilities, NMFS would have no research facility between La Jolla, California and Newport, Oregon, a distance of over 1000 miles and an area of critical marine resource problems.

NOAA and the Department of Commerce (DOC) also consider the relocation of the Tiburon research group to Santa Cruz a top priority. Last fall the DOC Deputy Secretary David Barram publicly announced the plan to relocate Tiburon to Santa Cruz. NOAA followed up by setting aside virtually all discretionary funding in the FY 1995 NOAA Construction Account (approximately $10.1 million) for the Tiburon relocation project. When rescission of these funds was proposed, I did not object because it is my understanding that the rescission would not impact, or delay, the project in FY 1995 since sufficient funds would remain to carry out all planned FY 1995 activities, and there was an agreement that the rescinded construction funds would be restored in the FY 1996 appropriations process.

It is critically important to get additional funds for land acquisition and construction in FY 1996. The best current estimates indicate that $10 million is required in FY 1996 for land acquisition and to enable construction to go forward. Even in this budget cutting climate, I believe an investment of $10 million in FY 1996 for a modern, consolidated research facility that ensures wise and sustainable use of California's valuable fishery resources is well justified.

Given that it has not been possible to provide for the full $10 million in FY 1996, I would like to thank the Senator for agreeing to assist me in securing a placeholder amount of dollars in Conference, to the NMFS Construction account in FY 1996, and for agreeing to the extent possible that these dollars will not impact NOAA's budget. I would also like to thank the Senator for agreeing to make every effort to add report language in Conference giving the go-ahead on expenditure of the appropriated Architecture and Engineering funds.

Mr. HATFIELD. We will make every effort to see that this is done in conference.

Mrs. BOXER. I thank the Chairman very much for his help on this important issue.

AMERICAN INSTITUTE OF INDIAN STUDIES

Mr. MOYNIHAN. I rise to stress the importance of continued active participation in the American Institute of Indian Studies (AIIS). AIIS is the preeminent organization funding U.S. scholarship in India. This program operates in conjunction with the Council of American Overseas Research Centers, and is affiliated with Universities across the country.

Is the distinguished Senator from South Carolina aware of the participation of researchers from the University of South Carolina in AIIS?

Mr. HOLLINGS. I thank the Senator for raising this issue and for noting the participation of the University of South Carolina in the program.

Mr. MOYNIHAN. I say to my two colleagues that in 1974 President Nixon asked me to go to New Delhi as Ambassador in his second. At that time relations between our two nations were somewhat strained. The two largest democracies in the world should not have strained relations, but we have experienced such periods in the half-century since independence. One thing that I have noticed as a longtime follower of U.S.-India relations has been that when official contacts between our countries cool, citizen to citizen contacts have successfully carried the weight of the relationship. I would say to my two friends that AIIS is an organization which has played such a role in our relations with India.

Mr. HOLLINGS. I do not disagree that well run exchange programs can help improve relations between our countries.

Mr. MOYNIHAN. I am concerned that the level of funding in the bill for international educational exchanges will seriously impinge on the ability of AIIS to adequately fill the research demands of U.S. scholars in India. I would therefore seek assurance from the Chairman and Ranking Member of the Subcommittee that the statement of managers for the Conference Report of this Bill contain mention of the merits of AIIS and the importance of continued funding for the organization.

Mr. GRAMM. I understand the concerns of the Senator from New York and I will seek to address them in the Conference Report.

Mr. HOLLINGS. The Senator raises an important point and I will be sure that his views are raised at the conference.

Mr. Moynihan. I thank my colleagues for their assistance.

INTERNATIONAL TRADE ADMINISTRATION AND BUREAU OF EXPORT ADMINISTRATION

Mr. HOLLINGS. Mr. President, I would like to comment on the importance of the amendment offered yesterday by the Senator from Oregon, Senator HATFIELD, and myself in terms of its impact on the trade related functions of the Department of Commerce.

Mr. President, over the past few years, Members of the Congress have been deeply divided on certain trade issues such as NAFTA, GATT, and Fast Track. However, almost all the members of Congress agree that there are certain fundamental jobs that the Federal Government must perform to facilitate international trade and to ensure that U.S. companies are competitive in the global marketplace.

We must enforce our trade laws so that U.S. jobs are not lost to foreign competitors who are subsidized by their governments, or who engage in predatory practices.

We must monitor and enforce our trade agreements with other countries.

We must produce detailed industrial sector analysis so that both businesses and the government can make sound policy decisions.

The International Trade Administration within the Department of Commerce is the nerve center of all these activities.

The Committee reported bill gutted our International Trade Administration. It cut the agency $46.5 million below the fiscal year 1995 level and below the level set by the Contract for America House. The Committee report provided no details on how such a large reduction would actually be apportioned within ITA. What Senator HATFIELD and I and others did yesterday was to bring the ITA back to a freeze. This was a bipartisan amendment. And, I should note, support for ITA has always been bipartisan.

Mr. President, the ITA is made up of four separate agencies:

First; the United States Foreign and Commercial Service.

The Foreign Commercial Service officers are our advocates overseas. They operate offices in 69 countries and they have a network of 73 offices across America. Overseas, they serve directly under our Ambassadors. Our Foreign Commercial Officers are the folks who hustle to ensure that U.S. firms get fair treatment while competing for foreign contracts, and who help small- to medium-sized U.S. companies work through the maze of foreign regulations and other barriers. They enable U.S. businesses to gain access to their worldwide network overseas, and they

provide information to business owners concerning various foreign markets. During the past few years, these centers have been collocated with personnel from the Small Business Administration and the Export Import Bank.

Second; trade development.

The Trade Development section of ITA provides analysis and information on industry sectors. It monitors, analyzes, and provides information on hundreds of industries, from the most basic to the emerging high-technology industries. This expertise, which is found nowhere else, inside or outside the Federal Government—is essential to getting U.S. goods and services into foreign markets. The expertise at Trade Development is also critical to the negotiation and enforcement of international trade agreements.

Third; the International Economic Policy Office.

The International Economic Policy office is responsible for trade policy development and trade negotiations. IEP operates regional and country desks. It monitors foreign compliance with bilateral and multilateral trade agreements and intellectual property rights.

Fourth; the Import Administration.

The Import Administration is responsible for carrying out U.S. anti-dumping and countervailing duty laws to provide remedies for U.S. businesses injured by unfair competition. The Import Administration also participates in negotiations to promote fair trade in specific sectors such as steel, aircraft, and shipbuilding.

Mr. President, in 1995, the United States will post a record trade deficit. And since March, the U.S. has lost 188,000 manufacturing jobs. The proposed a $46.5 million cut to the ITA would only add to the deterioration in our balance of trade and the loss of good jobs.

Virtually every industrial nation of the world provides support for exports. To compete, America must do the same. Recognizing this, we have been trying to beef up export promotion, first with the support of President Bush and now with the support of President Clinton. Why? Because at the levels we are now spending, we are way behind the Japanese, Germans, French, and British. We spend less and have less people advancing and advocating U.S. exports than do any of these other competitors.

ITA's export promotion programs return $10.40 to the Treasury for every dollar invested in export promotion. And over the past 2 years, ITA, through its new Advocacy Center, has been cranked up as never before and has helped American companies sell over $24 billion in American goods and services. Through its Big Emerging Markets initiative, ITA has worked hand in hand with the private sector in accessing new markets. And through its toll-free number (1-800-USA-TRADE), ITA has responded to about 60,000 calls per year for export assistance—90-percent from small businesses.

The committee reported bill would have seriously hindered our efforts to promote U.S. exports. The Foreign Commercial Service would have been forced to close offices in States with lower volume of exports, such as Alabama, Alaska, Arizona, Arkansas, Hawaii, Idaho, Iowa, Kansas, Kentucky, Maine, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, Oklahoma, Rhode Island, South Dakota, South Carolina, Utah, Vermont, and West Virginia.

If we had allowed the cut to stand, we would have rolled back the progress that we have made overseas in the last few years. Namely, we would have had to close our new offices in Eastern Europe and in the New Independent States that formerly made up the Soviet Union. The Big Emerging Markets initiative would have been terminated, surrendering growing markets to the French and Japanese in such markets as China, Vietnam, Argentina, and India. I say to my colleagues, go to these countries and look at what our competitors are doing.

In the area of trade negotiations, the proposed reduction would have debilitated our trade negotiators. ITA, and principally its Trade Development Office, serves as staff to the U.S. Trade Representative, and often the ITA itself takes the lead in trade talks. We cannot cut off this critical support at the very time that multilateral and bilateral trade issues with Japan, Europe, Asia, and the Western Hemisphere require increased attention. Absent the Hatfield-Hollings amendment, analytical support and marketing assistance from industry specialists would have been reduced by at least 25 percent under the committee-reported mark, and desk coverage of some thirty countries would have ceased.

Cutting ITA would also cripple our ability to monitor and enforce existing trade agreements. For example, the ITA is the lead agency in monitoring the recently completed United States-Japan auto parts agreement and the medical technology agreement with Japan.

Finally, and of greatest concern to me, is the Import Administration's ability to fulfill statutory obligations. We must not undermines the effectiveness of U.S. antidumping and countervailing duty laws. We must provide ITA with adequate resources to verify foreign producer data, which is so essential to determining whether dumping or foreign subsidies exist. Scaling back the Import Administration only means that foreign producers will find it easier to evade import orders, leading directly to a loss of U.S. jobs.

Mr. President, the amendment passed last night also provides $8.1 million to the Bureau of Export Administration, or BXA, to restore that agency back to a freeze and to the House-passed level. BXA performs the essential task of processing export license applications and enforcing our Nation's export control laws. BXA, in essence, is the cop on the international beat who keeps critical technologies out of the hands of bad actors. As one BXA official noted, "If you wake up and the bomb hasn't been detonated, we've done our job."

The 21-percent cut to BXA in the committee-reported bill would have thrown the brakes on BXA's timely and efficient operation of its mission. Such a large cut would endanger our national security by gutting enforcement and hurt U.S. exporters by slowing down the licensing process.

Specifically, BXA's capacity to investigate national security and nonproliferation cases would have been cut in half, down from 1,600 cases per year to 800 cases. The cut would also have forced BXA to close five of its regional enforcement offices, including those in northern California, the Northwest, the upper Midwest, and the middle Atlantic regions. In addition, BXA would not have had the resources necessary to fully monitor antiboycott regulations such as the regulations to prevent United States companies from cooperating with the Arab League boycott of Israel.

Unnecessary delays in export licensing means that U.S. businesses lose out on sales to foreign competitors. Members of Congress should remember that BXA already took a hefty budget cut in the 1990's, shrinking from over 500 employees down to its current level of 321. BXA has to walk the fine line between promoting U.S. exports and keeping critical technologies out of the hands of madmen. Any further cuts would jeopardize our national security and would lead to unnecessary loss of U.S. jobs.

Mr. President, during debate on the future of the Commerce Department, U.S. businesses have unanimously supported the trade functions performed by the Department. While some business groups favor the establishment of a new international trade agency, they have made clear that the new agency should continue the jobs done now by ITA and BXA.

While their views differ on where the trade functions should be housed, the following business organizations are among those who have expressed strong support for the trade-related activities of the Commerce Department: the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Electronics Association, the Electronics Industries Association, the Aerospace Industries Association, the American Automobile Manufacturers Association, the Recording Industry Association of America, the Semiconductor Industry Association, and

the Automotive Parts and Accessories Association.

In this era of economic competition, the Commerce Department is the arsenal of business. As long as Americans engage in world commerce, we need a Department of Commerce to help level the playing field for these American industries and workers, to give them a fair chance to compete in a world dominated by large foreign companies backed by the full resources of their governments. The Senate made a wise decision last night in restoring the funds to the International Trade Administration and the Bureau of Export Administration.

INTERNATIONAL TRADE ASSOCIATION

Mr. THURMOND. I would like to ask the distinguished sponsor of this amendment, Senator HOLLINGS from South Carolina, if he would yield for a question.

Mr. HOLLINGS. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. The amendment offered last night by the Senator from Oregon and the Senator from South Carolina restores funding for a very important part of the Department of Commerce, the International Trade Administration. The International Trade Administration houses many critical programs that are vital to U.S. companies in the field of global trade and competitiveness. Some of the programs that are of greatest concern to me at the International Trade Administration are those administered by the Office of Textiles & Apparel, including the Textile Clothing Technology Corporation program, known as (TC)2 and the National Textile Center. Am I correct in stating that one of the intentions of this amendment is to ensure that all the existing functions at the Office of Textiles & Apparel, including the operation of the Committee for the Implementation of Textile Agreements, as well as (TC)2 and the National Textile Center, will continue to be funded in fiscal year 1996 at current year levels?

Mr. HOLLINGS. I appreciate the inquiry regarding the textile programs from my colleague from South Carolina. I concur that those programs are critical to the stability and competitiveness of the nearly 2 million U.S. textile and apparel workers nationwide, and I agree that one of the purposes of this amendment is to continue funding the Office of Textiles and Apparel and its specific research programs at the current levels. From their inception, I have supported these programs, which are excellent examples of public-private partnerships which have resulted in tangible improvements in technology for the U.S. textile and apparel industries.

Mr. THURMOND. I thank my distinguished colleague from South Carolina.

CLARIFICATION OF SENATE REPORT LANGUAGE

Mr. DOMENICI. Mr. President, I would like to clarify an issue in this legislation regarding an apparent inconsistency contained in the report accompanying this bill. The bill contains significant reductions in the Account for International Organizations within the Department of State. The administration requested over $923 million for the next fiscal year for the ICE account; this bill reduces that account to $550 million. When the report was filed, language was included that identified eight international organizations to be zeroed out in the next fiscal year. The report specifically references that this action is consistent with S. 908, the Foreign Affairs Revitalization Act of 1995, as reported out of the Foreign Relations Committee. However, one of the eight organizations listed—the International Copper Study Group—was actually not part of S. 908. The other seven organizations were.

The International Copper Study Group has brought representatives of the copper-producing countries together to develop statistical information to better understand the international copper market. In the process, the former eastern block countries are being brought into the mainstream, providing the international community with a much greater understanding of a region that is a major participant in the world copper market. I sponsored the legislation that created the Copper Study Group and know that this information is vital. Last year, the funding of the Group was a mere $65,000. That seems like a small investment for the development, in a cooperative fashion, of such vital information.

Mr. President, I hope that the conferees on the bill will review and correct the matter of the listing of the International Copper Study Group in the report because it is not addressed in S. 908 as the committee report would indicate.

AMENDMENT NO. 2814

Mr. WELLSTONE. Mr. President, I would like to clarify a matter regarding the Hatfield amendment number 2814 that passed by voice vote. The amendment contained a total of $30,000,000 in additional funds for the Small Business Administration. Am I correct in my understanding that this amount includes approximately $15 million for the administration of business loan programs, $1 million for direct loans in the Microloan Program, and nearly $14 million for salaries and expenses.

Mr. HATFIELD. The Senator is correct, that was the effect and the intention of my amendment.

Mr. WELLSTONE. I thank the Senator, and I further note that, with the increased funding in the bill for salaries and expenses, a more adequate amount should be available for Microloan Technical Assistance grants that was envisioned when the committee wrote its report, and that the amount should be increased commensurate with the new funding in the bill for salaries and expenses to ensure that the crucial technical assistance portion of the Microloan program is adequately funded. I note that every hearing we have conducted in the Small Business Committee concerning the Microloan program has emphasized the importance of technical assistance.

Mr. BUMPERS. As ranking minority member of the Small Business Committee, I join with the Senator from Minnesota in support of the crucial importance of the Microloan Program and the technical assistance portion of that program. I think the chairman for his clarification.

Mr. BOND. Mr. President, as chairman of the Committee on Small Business, I would like to confirm our understanding that the additional funding made available to SBA is intended to reduce the impact of SBA's cost of funding staff reductions and terminations contemplated under the committee amendment. A sufficient amount of the additional funding under the Hatfield amendment should be used by SBA to pay these termination costs so the agency can get to a level of FTE's likely to be sustainable next year and thereafter with the further appropriations reductions expected as we move towards a balanced budget. I do not object to the SBA having reasonable managerial discretion on certain items and programs, including those mentioned by my colleagues. But it is our clear intention, is it not, Senator HATFIELD, that funding of these first year termination costs should be taken care of as a priority item for SBA, along with assuring adequate loan administration funding for the volume of the loan programs?

Mr. HATFIELD. The Senator is correct, that was the effect and the intention of my amendment.

Mr. BOND. I thank the Senator, and I appreciate the work of the chairman in recognizing the importance of small business and entrepreneurship in our country, while responding to the wishes of many Americans, including small business owners, that we make the tough decisions required to balance the budget.

AMENDMENT NO. 2815

Mr. GRASSLEY. I want to thank the distinguished Senator from Texas for taking such strong leadership and making tough choices to help balance the budget and streamline government. But I would like to clarify an important point regarding the authority of the judiciary to expend funds to conduct so-called gender and racial bias studies under H.R. 2076. Although the Judiciary requested a specific line item in the appropriations legislation for the coming fiscal year to support such studies, no such line item has been included in H.R. 2076. Furthermore, in the chairman's mark, approximately $700,000 was removed from the Crime

Trust Fund from which the race-gender bias studies could be conducted. Am I correct that these actions indicate an intent on the part of the Appropriations Committee not to fund race-gender bias studies?

Mr. GRAMM. I appreciate those kind words. I would only say that the Senator's interpretation of these removals is correct. It was the intent of the committee to clearly indicate that no funds have been appropriated for race-gender bias studies.

Mr. HATCH. I concur in Senator GRASSLEY's analysis of the actions taken by the Appropriations Committee regarding race and gender bias studies. I rise to add that these studies have been ill-conceived, deeply flawed and divisive. In my view, they threaten the independence of the Federal judiciary. In the D.C. Circuit, for instance, the gender bias study was so controversial, and so poorly carried out, that a majority of judges on the D.C. Circuit have formally disavowed the study. Professor Stephen Thernstrom of Harvard University has investigated these studies and found them to be methodologically biased and flawed. There are to be no funds expended on these studies in the future.

Mr. GRASSLEY. I thank the Senator for clarifying this matter. As Chairman of the Subcommittee on Administrative Oversight and the Courts, I believe that the choices you have made clearly indicate that no bias studies can be supported by Federal funds. I would also like to thank the distinguished Chairman of the Judiciary Committee for his cogent observations on the nature of the race-gender bias studies.

AMENDMENT NO. 2816

Mr. BROWN. I want to congratulate Senator MCCAIN for pursuing the laudable goal of maximizing revenues for the Treasury. I asked for this modification to ensure that Senator MCCAIN's objective is achieved without undue interference with or micro-management of pending Federal Communications Commission proceedings.

The FCC is currently considering an appeal from a decision of its international bureau which denies the request for an extension of the DBS permit held by Advanced Communications Corp. Before the full commission is a proposal which would grant an extension of the permit, subject to the condition that it be assigned to TEMPO DBS, Inc., for use by PRIMESTAR Partners, L.P., which would provide the first competitive high power DBS service.

In addition, the proposed FCC decision would require TEMPO to relinquish its permits for 11 channels at 119°W, 11 channels at 168°W, and 24 channels at 148°W. The decision would also require TEMPO to pay an amount to the Treasury for the 27 channels equal to their fair auction value. Since the FCC compromise could result in payment for 73 channels, in contrast to the 27 channels affected by the McCain Amendment, the FCC approach has the potential to yield greater revenues for the Treasury.

The term "adjudication," which is inherently broad in the regulatory context, is used to encompass the current proceedings at the Federal Communications Commission.

AMENDMENT NO. 2842

Mr. MCCAIN. Mr. President, I voted in favor of the amendment offered by the Senator from New Hampshire, Senator GREGG, but I had reservations about doing so. I have long been troubled by the frequent encroachment of the Congress on the President's authority as Commander in Chief. Had this amendment the force of law I would have opposed it without hesitation.

I also share the concerns of some Senators that the amendment might have an adverse affect on the current negotiations to conclude a peace agreement in Bosnia. I am not as certain as others that this peace agreement, as the probable outlines of that agreement have been explained to me, will achieve a stable resolution of the conflict. However, I think Congress should be reluctant to intrude itself in these difficult negotiations. Let us reserve our judgment until we see what the final product looks like.

Nevertheless, it is clear that this sense of the Senate amendment does not bind the administration to take any action, and should not, therefore, influence the deliberations of any party involved in the peace negotiations.

I should add that my reservations about the amendment are not nearly as serious or as troubling as my reservations about deploying American troops to Bosnia. While I am not prepared to say that the President is obliged to seek congressional authorization for deploying American troops to Bosnia, it would be a profoundly unwise course for him to take without such authorization.

The American people are about to be asked to send as many as 25,000 of their sons and daughters to a very dangerous place. Some of them will not return. That is a sad, but certain fact, Mr. President. The President should want the advice and the support of Congress before he undertakes an initiative as fraught with danger for American troops, for the Atlantic alliance and for is presidency as is his anticipated deployment of American troops in Bosnia.

I cannot tell the President he must seek our support, but I can tell him—in the strongest possible terms—that he should. And when and if he does seek our support he will have some very grave questions to answer. And unless those questions—which will be elaborated in detail in the coming weeks—can be answered fully, and to the satisfaction of a majority of the U.S. Congress and the American people, he should not send a single soldier to Bosnia.

Mr. SARBANES. Mr. President, I rise in strong opposition to the Commerce, Justice, and State Department appropriations bill before the Senate today. This measure eliminates or cuts many programs which help to preserve our natural resource base, promote economic and business development, invest in research and development and protect American consumers. In my view, it fails to provide the resources necessary to meet our National priorities and to enable federal agencies to fulfill their important missions. I want to point out just a few examples where the measure is particularly inadequate, unfair and unbalanced.

First, the bill cuts the Economic Development Administration by $310 million—or 75 percent—below the current funding level and 71 percent below the level recommended by the House. The proposed appropriation would cripple EDA's ability to continue helping communities in Maryland and other States throughout the Nation adjust to severe jobs losses and economic dislocations such as the recent round of base closures, build public facilities essential to commercial and industrial growth, and plan and implement comprehensive economic development programs. In Maryland alone, the agency has pumped $151 million into the economy over the past 30 years, creating thousands of jobs, stimulating local growth and generating revenues from the eastern shore to Western Maryland. Moreover, it is estimated that each EDA dollar invested has generated more than $3 in outside investment. The cuts contained in this bill will deprive our communities and business of this investment potential, and in the long run will exact a painful cost in lost growth and opportunity.

Second, the bill cuts the budget of the National Institute of Standards and Technology [NIST] by $377 million—or more than 50 percent—below current funding levels, and $80.8 million below the level recommended by the House. It drastically reduces—by over 80 percent—NIST's industrial technology services which help develop and commercialize high risk technologies. It also rescinds $153 million in funding appropriated in previous years for the comprehensive, multi-year effort to modernize NIST's laboratory facilities in Gaithersburg and Boulder, CO. These cuts would essentially eliminate all currently planned and future upgrades and construction for NIST laboratory facilities and severely impact upon the agency's ability to perform its important mission. Reports issued by the General Accounting Office,

the National Research Council and others over the past five years have identified an urgent need for repairs and upgrades of NIST's 35 year old lab facilities to meet the measurements and standards requirements of the 21st century. John W. Lyons, the former Director of NIST, perhaps said it best in an April 28, 1992, letter to the Washington Post, laboratory facilities are the infrastructure—the roads and bridges—of science and technology. Funding for science without funding for facilities is a losing game.

Third, while the measure is a vast improvement over the House-recommended funding levels for NOAA, it still cuts the agency's funding by $230 million below the administration's budget request and some $45 million below current levels. It does not provide the resources necessary to meet all the statutory requirements of the Marine Mammal Act or for living marine resources research and protection programs. It cuts NOAA's Chesapeake Bay Program by $390,000 and provides no funding for oyster disease research in Chesapeake Bay—programs which are essential to the efforts to restore the vitality of the Bay.

Mr. President, it is my intention to vote against this bill and I hope my colleagues will join in rejecting this measure and sending it back to committee for substantial rewriting and reordering of priorities.

POST-CONVICTION DEFENDER ORGANIZATIONS

Mr. FEINGOLD. Mr. President, I am deeply concerned about and oppose elimination of the Post-Conviction Defender Organizations.

This debate is not, as some would have you believe, about the death penalty. It is about common sense and fiscal responsibility.

The benefits of eliminating these centers are allegedly two-fold; one, it will save taxpayers $20 million and two, it will sped up executions by eliminating lawyers who, under the guise of providing effective counsel to men sentenced to death, allegedly work only to delay executions.

While these arguments may, on the surface, be appealing to some, they are both inherently flawed. Elimination of these centers will do nothing to expedite the rate of executions in this Nation, nor will the American taxpayers save any money whatsoever.

In fact, the costs of providing these services will increase if these centers are eliminated.

Chief Judge Richard Arnold, of the U.S. Court of Appeals for the Eighth Circuit and chair of the budget committee of the U.S. Judicial Conference has testified before Congress that these centers are the most economical method of providing these essential services.

The attorneys who presently work in the 20 post-conviction defender centers across this Nation do so at substantially less pay per hour than their counterparts in private practice will require to take their place.

Resource center attorneys receive $55 an hour while court-appointed lawyers receive an average hourly rate of $138 an hour. Therefore, private attorneys will increase the costs of these services even if they work exactly the same amount of hours as the current resource center attorneys. However, this is highly unlikely.

The complexity of these cases requires highly specialized skills which, frankly, you will not find in an attorney who does not devote their full-time practice to this area of the law.

Therefore, not only will we be paying private lawyers more per hour, they will have to work additional hours just to get up to the speed of the attorneys who will be displaced when the centers are eliminated.

GAO has reported that the cost of representing men on death row was nearly $20,000 more when a private attorney was used as opposed to a lawyer from the resource centers.

We will be paying private attorneys at a higher rate to work longer hours. This is hardly the formula for saving taxpayer dollars.

Furthermore, under the present system, private attorneys are often assisted by resource center lawyers in preparation for handling these complex cases.

The ability to attract private attorneys to handle these cases cannot conceivably be enhanced by removing the support these resource center lawyers offer.

In short Mr. President, the alleged savings of roughly $20 million will quickly be consumed by the increased cost of attaining private representation.

Furthermore, the argument that eliminating these centers will expedite the imposition of the death penalty is equally without merit.

Our system of justice calls for representation of those sentenced to death. In the absence of this representation, the system is delayed—it does not move ahead.

As was reported recently in the National Law Journal, these centers:

> Came about precisely because delays in finding lawyers for post-conviction appeals delayed executions. Cases could not proceed unless the condemned had representation.

The simple fact of the matter is that it will not be possible to find enough attorneys to handle the post-conviction caseload particularly when one considers the fact that the caseload will increase in coming years rather than decrease. In fact, since these centers were created in 1988, 900 men have been placed on death row.

To suggest that the private sector can fill the void resource center attorneys will leave overlooks the practical realities of what this litigation involves.

Eliminating these centers will not expedite the appeals process nor will it expedite imposition of the death penalty.

Although critics may argue that these resource centers slow the process, the simple fact is that the delays will be worse if these centers are eliminated.

Furthermore, there is also a larger issue. The credibility of our system of criminal justice is imperilled when we apply the sanction of death but at the same time fail to provide adequate representation to those condemned.

Regardless of our respective views on the appropriateness or effectiveness of the death penalty, we should all be offended by even the possibility that death would be administered in anything less than a fair and equitable manner.

Many of the so-called habeas corpus reforms which were pushed through this body earlier this year are predicated upon the presence of competent counsel.

The attorneys who work at the post conviction resource centers embody the competence that our system of justice requires.

The post conviction resource centers provide a vital service and they do so at the most efficient level.

If my colleagues look closely at the practical effects the committee language will have, not only on the efficient administration of justice, but also on the costs that taxpayers will incur, they will see that this effort will not achieve either of its stated goals.

The committee language is ill-conceived and misguided. It will attain neither of its stated goals. We should not eliminate these centers based on a specious premise.

Acting attorney general of Pennsylvania, Walter Cohen recently stated that if these centers are eliminated it will:

> * * * Take away the capability of the system to provide adequate counsel to death row defendants * * * You're not going to have the death penalty carried out. This is one of those cases where Members of Congress can talk tough but end up with a very weak result.

Mr. President, we should avoid such a result, and retain the post-conviction defender organizations.

Mr. KOHL. Mr. President, if anyone wonders why people do not trust Congress, an answer lies in what we have done with the crime issue. What Congress is doing, Mr. President, is worse than nothing. Congress is, in fact, breaking a public promise to the American people.

One year ago last week, the President signed into law a tough, balanced, bipartisan crime bill after years of political infighting. That bill devoted 80 percent of its resources to punishment and 20 percent to prevention, and it reflected a mainstream consensus.

Democrats and Republicans agreed that we need to put more police officers on America's streets.

Democrats and Republicans agreed that we need to build more prisons to house violent criminals.

Democrats and Republicans agreed on the importance of prevention efforts targeted toward at-risk youth.

And Democrats and Republicans agreed that all of this would be financed from a trust fund that dedicated money saved through reductions in Federal personnel.

In just 1 year after that public agreement, the COPS Program has funded more than 25,000 police officers who go after crime where it happens—on our streets. More than 200 communities in Wisconsin alone have received funding and the COPS Program has enjoyed overwhelming bipartisan support among law enforcement in my home State.

But do not take my word for it, Mr. President, ask the police chiefs and sheriff's—mostly Republican—who apply for these grants. My office surveyed these front-line people, and found that 85 percent of Wisconsin law enforcement officers support last year's crime bill. Moreover, almost 80 percent specifically support maintaining the current COPS Program, and oppose turning it into a block grant. This support comes through loud and clear throughout the State. In the words of one Wisconsin police chief:

> This is the first time in my 17 year career that I have seen the Federal Government put together a program that helped small police agencies that did not bury the department in paper work, and had a reasonable turn around period. We have already hired an officer under this program and the results are very noticeable. Our community is glad to have the increased police services and at a cost they can afford.

And this kind of effectiveness has been amazingly inexpensive—less than 1 percent of all COPS funds are spent on administration. How many other organizations—whether public or private—can say that?

And what will happen to this effective and efficient program under the downsized block grant of this appropriations bill? The numbers tell the sad truth:

When State and local matching funds are not spent on cops—but on anything any Governor could arguably label a basic law enforcement function—fewer cops will patrol our streets.

When $200 million is slashed from Federal funding for police officers, fewer cops will patrol our streets.

And when the 14,000 communities that have applied for grants must start over—competing with every imaginable basic law enforcement function—fewer cops will patrol our streets.

Fewer cops on the street—that is not what we promised last year, and it is not what most Americans want. That is why more than three-quarters of the mostly Republican law enforcement officials in my State oppose block granting and want us to preserve the COPS Program.

Mr. President, Americans have every right to feel cheated if this Congress becomes absorbed in Presidential politics and ignores its commitment to safety for the sake of a soundbite. Giving our citizens fewer cops to fight a growing crime problem is not only bad policy—it is also bad politics. Because ultimately our Government depends on the faith of its citizens for support. Reversing ourselves on our commitment to fulfill one of our most basic obligations—to protect the public from crime—only undermines our credibility with the American people. To preserve that credibility, we should all vote in favor of restoring the COPS Program.

Thank you, Mr. President.

Mr. FEINGOLD. Mr. President, I rise today in support of the amendment to restore funding to the Community Policing Program which serves as the cornerstone of the crime law passed last Congress.

Under this program, the Clinton administration has already approved funding to hire and place over 25,000 police officers on American streets. In just over 1 year, they are over a quarter of the way to fulfilling the President's promise of putting 100,000 additional police into cities and towns across this Nation.

It is ironic, and in my estimation, unfortunate, that barely 1 year after President Clinton signed this program into law we are forced to revisit and attempt to preserve a program which the American public, as well as law enforcement across this Nation, strongly support. However, the fact that we must do so, particularly under the guise of an appropriations bill, speaks more clearly about the partisan nature of this debate than it does the merits of community policing.

As has been stated many times previously on this floor, the premise behind community policing is very simple and very sound. When local police agencies increase their physical presence on the streets and in the communities they protect, they not only deter crime, they forge community wide bonds between the police and the citizenry—bonds which will help combat criminal activity.

The Community Policing Program has to date provided funding necessary to place an additional 297 police officers on the streets of cities and towns all across the State of Wisconsin.

The response of Wisconsin law enforcement to this program has not simply come from the large urban centers like Milwaukee, but has also come from rural communities from across the State. In fact, of the 297 additional officers provided to Wisconsin law enforcement a great many, 188 officers, have gone to cities and towns with populations under 50,000.

While the popular misconception may be that crime affects only large inner city neighborhoods, a visit to small towns all across this Nation paints a very different picture. Mr. President, crime does not discriminate based upon population density. It is a problem for everyone in this Nation, regardless of where they live.

The COPS Program recognized the needs of smaller communities and tailored the grant application for communities with populations under 50,000 to one page, so that the limited time and resources of these towns would not be squandered writing grant applications. Doing so is but one example of how the emphasis under this program has, from the very outset, been to get police into communities across this Nation. We should not be too quick to dismiss the value of having a visible law enforcement presence on our streets.

The men and women of law enforcement can and should serve as positive influences, particularly in regard to our young people. The need for this positive voice is even more important than last year at this time, because the legislation we are considering today fails to fund most prevention programs created under the crime bill.

This conscious failure to do so will have, in my opinion, two detrimental effects—one, it will make the job of law enforcement even more difficult than it currently is, and two, it will eliminate many of the positive influences that these prevention programs have on the young people of this Nation.

The failure to fund prevention magnifies the importance of putting the police in the community working to offset the negative influences of drug-dealers and criminals—influences which we all must admit are a day to day part of the lives of many of our young people. To leave these corrupting voices unanswered is a formula for disaster.

As I meet with members of law enforcement from across Wisconsin they repeatedly extol the value and importance of prevention programs—not just in keeping young people out of trouble, but also in making the job of law enforcement easier. The police of this Nation intuitively understand what this legislation chooses to ignore—you cannot fight crime without prevention.

While it is an abdication of our responsibility to defund prevention programs, the failure to do so only serves to heighten the importance of integrating law enforcement into our communities.

However, the bill before us today chooses a different, and in my view ill-conceived, response—a so-called block grant. Unlike the targeted community policing program, the proposal before us does not promise even one additional police officer will be placed on the streets.

The money provided under the block grant may be utilized for any purpose ranging from prosecutors to secretaries to radios. Not one additional police officer is assured under the block grant. There is no guarantee that any of this money will even filter down to the local police department. While prosecutors clearly play an important role in our criminal justice system, and have my support, they cannot help you until you, or your family, have been victimized. The basis of the COPS Program is to attack crime at the source—on the streets. This program does not fund police to answer phones or work at a desk—it funds cops to work the streets.

The Republican proposal we are asked to accept in its place has no focus, no objectives, and apparently no parameters. It simply allocates billions of dollars to be used for any function which is arguably related to fighting crime.

Past history tells us that programs such as are proposed here today will not work. One need look no further than the LEAA, the Law Enforcement Assistance Administration, for evidence of the potential for abuse.

LEAA poured massive amounts of Federal aid into cities and towns to fight crime. These unchecked funds garnered the citizens of this Nation such prudent crime fighting weapons as encyclopedias on law enforcement, tanks, consultants, and land.

I want to be very clear, Mr. President, as I cross the State of Wisconsin and hear from the fine people of my State, I hear about the need for flexibility in fighting crime. I hear about the need for communities to target community specific problems.

I think we should heed the concerns of the people who live with and fight crime everyday across this Nation. But this need for flexibility should not be a pretext for an open-ended, ill-defined block grant offered solely to undermine a successful program administered by a Democratic administration.

If we are truly concerned about flexibility—if we are truly concerned that the needs in places like Woodruff, WI are different than the needs in Milwaukee, we should fund the rural crime component of the crime bill. But this legislation fails to do that. If we are truly concerned, we should fund drug courts and prevention programs. But this legislation also fails to fund those proposals.

The crime law contained many facets which could be used to respond to differing needs. And yet, this legislation fails to fund many of them. Furthermore, it eliminates one of the most successful and popular programs, the COPS Program, despite the fact that response has been overwhelming.

In addition to the 168 Wisconsin jurisdictions which have already received grants, there are over 100 pending applications from Wisconsin communities requesting funding under the COPS Program. These communities have made the conscious decision that they want more police on their streets. If we abandon this program, these communities will be forced to hope that their proportional block grant allocation is sufficient to cover all their law enforcement needs.

Mr. President, the COPS Program is working. Cities and towns have responded and are working with the Federal Government to put more police officers on American streets. They are doing so because they know that it is a far more effective response to try and stop crimes before they occur. And they know that putting police on the streets, working with the community, is the best way to prevent crime and take back our neighborhoods.

The American public cannot be pleased to see that once again this body is debating a policy which took 6 years of partisan wrangling to develop in the first place. The American public wants us to quit talking and start responding to their needs.

The community policing program does just that. Although it might cause some of my colleagues discomfort, the Clinton administration has developed and is implementing a sound anticrime strategy which addresses this Nation's needs from many different perspectives. Although I clearly do not agree with each and every portion of the plan, I do support putting 100,000 additional police on our streets.

The ink is barely dry on the crime law, and today we are asked to repeal most of it. This despite the fact that in only 1 year the COPS Program has provided funding for over 25,000 additional police officers.

Mr. President, the American people support this program. The men and women of law enforcement support this program and so should this body. We should not abandon it for the failed promise of an ill-defined block grant. I urge my colleagues to support putting 100,000 police on the streets of this Nation.

Mr. BIDEN. Mr. President, I rise to point out that the most important change in the Commerce-Justice-State appropriations bill just happened in the most quiet of ways. The Senate has just restored the funding for next year's installment of the 100,000 COPS Program. This important program has already funded 25,891 State and local police officers devoted to community policing. This bill now continues the 100,000 COPS Program.

The program is continued due to the addition of an amendment I offered that eliminated the law enforcement block grant and restored the 100,000 COPS Program. I am gratified that the amendment offered by Senator HOLLINGS and myself has been adopted by the Senate.

Mr. DOMENICI. I rise today in support of the Commerce-Justice-State appropriations bill for fiscal year 1996. The bill is within the subcommittee's 602(b) allocation and is clean of budgetary gimmicks.

The bill provides $26.5 billion in budget authority and $18.7 billion in new outlays for the Departments of Commerce, Justice, State, the Judiciary, and related agencies.

The Senate-reported bill is $1 million below the subcommittee's section 602(b) allocation in budget authority and by $11 million in outlays. It is $4.5 billion in budget authority and $2.8 billion in outlays below the President's request, and is $1.1 billion in budget authority and $739 million in outlays below the House-passed bill.

Under very difficult funding constraints, this is a bill that honestly and straightforwardly sets forth funding priorities, most of which I support, some I may redirect in the form of amendments to this bill.

This bill provides dramatic increases in our front line law enforcement by providing $2.3 billion for State and local law enforcement and $4.6 billion for Federal law enforcement agencies and the border patrol.

Increased flexibility for States in developing their crime fighting strategy is provided through the new State and Local Law Enforcement Assistance Block Grant. A total of $1.7 billion will be provided to States and local governments for the hiring and equipping of law enforcement personnel, updated technology, and crime prevention programs.

As part of the Federal role in ensuring equal justice under law, I have offered an amendment, along with Senator KASSEBAUM and others to retain the Legal Services Corporation as a provider of traditional legal services with a funding level of $340 million for fiscal year 1996, higher than both the Senate-reported and House-passed CJS appropriations bills, and adopting tough new restrictions on its more controversial activities.

I urge my colleagues to support my amendment and adopt this bill.

I ask unanimous consent that a table showing Budget Committee scoring of the bill be printed in the RECORD.

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

COMMERCE–JUSTICE SUBCOMMITTEE—SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1996, dollars in millions]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed		92
H.R. 2076, as reported to the Senate	124	94
Scorekeeping adjustment		
Subtotal defense discretionary	124	185
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed		6,561
H.R. 2076, as reported to the Senate	21,935	16,807

COMMERCE–JUSTICE SUBCOMMITTEE—SPENDING TOTALS—SENATE-REPORTED BILL—Continued

[Fiscal year 1996, dollars in millions]

	Budget authority	Outlays
Scorekeeping adjustment		
Subtotal nondefense discretionary	21,935	23,368
Violent crime reduction trust fund:		
Outlays from prior-year BA and other actions completed		826
H.R. 2076, as reported to the Senate	3,944	1,277
Scorekeeping adjustment		
Subtotal violent crime reduction trust fund	3,944	2,103
Mandatory:		
Outlays from prior-year BA and other actions completed	2	20
H.R. 2076, as reported to the Senate		
Adjustment to conform mandatory programs with Budget Resolution assumptions	530	505
Subtotal mandatory	532	525
Adjusted bill total	26,535	26,182
Senate Subcommittee 602(b) allocation:		
Defense discretionary	124	188
Nondefense discretionary	21,936	23,373
Violent crime reduction trust fund	3,944	2,107
Mandatory	532	525
Total allocation	26,536	26,193
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary		−3
Nondefense discretionary	−1	−5
Violent crime reduction trust fund		−4
Mandatory		
Total allocation	−1	−11

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

SBA MICROLOAN PROGRAM

Mr. WELLSTONE. Mr. President, as a member of the Small Business Committee, I thank the managers and Chairman HATFIELD for improving the Small Business Administration portion of this bill. I would like to talk briefly about the SBA Microloan Program.

The Microloan Program has been a remarkable success in its short existence. It was the first small-business bill I cosponsored when I got to the Senate, and I am very proud to have worked on it with Senator BUMPERS, who authored the legislation, from the beginning. As a member of the Senate Small Business Committee, and in the course of a number of visits with program participants in Minnesota, I have been extremely impressed by the first-hand accounts I have heard. The program is working, and the owners of the very small businesses which are its beneficiaries in many cases have absolutely inspiring stories to tell.

SBA's Microloan Program assists women, low-income, and minority small business owners with very small loans—loans averaging just over $10,000. These are generally very small businesses, and they are very small loans. In many cases, these loans actually have helped individuals to leave welfare, to start their own small businesses, and to make a full economic contribution to their communities. I am sure that many of my colleagues have heard from or visited with participants in this program from their States.

In my State of Minnesota, for example, we have four intermediary lending organizations making small loans to small businesses and providing technical assistance.

The Northeast Entrepreneur Fund of Virginia, MN, has made approximately $218,000 in loans to 56 very small entrepreneurs. That's an average loan size of less than $4,000. In many cases, that's all people need to get on their feet, to start or expand their very small business and allow it to succeed.

The Northwest Minnesota Initiative Fund in Bemidji, MN, assists mainly rural small businesses. Average loan size is just over $5,000, and the default rate is about 10 percent. Staff from the initiative fund point out that their default rate would be even lower, but in many cases they provide technical assistance to the point where the small business clients can get bank financing. The fund then ends up financing some of the riskier operations. Still, the program has helped start 56 new businesses, with a success rate of about 90 percent.

Women Venture of St. Paul, MN, was one of the models for this legislation. They have made loans to 55 small businesses in the amount of $581,000. Eighty-seven percent of the businesses served by Women Venture are owned by women. Twenty-five percent are owned by people of color.

Finally, the Minneapolis Consortium of Community Developers has helped 32 very small businesses with loans in amounts ranging from $4,000 to $25,000. I have visited with some of these business owners in their places of business. It is a remarkable program. Staff from the consortium have pointed out to me that they provide an average of about 26 hours of technical assistance to each small business client.

I would like at this time to enter into a colloquy with a number of my colleagues concerning the Microloan Program.

Mr. HARKIN. Mr. President, I thank Senator WELLSTONE for his leadership in this area. The SBA Microloan Program really works. It's the most effective welfare to work program we've got. It turns welfare dependents into taxpaying small business people.

The Institute for Social and Economic Development in my State of Iowa has been a pioneer in promoting microloans. This organization headed by John Else works with individuals, helping them establish their own businesses. The institute works with them to determine if a concept to establish a business is sound. If so, they help the client establish a sound business plan, teaching them the many skills that are necessary to be successful in a small business. And, they work with the person to secure a loan through a bank or other financial institution. This is time intensive work. But, without this technical assistance, there is no way microloans will produce significant success. Most microloan intermediaries use SBA financing to provide direct loans. In either case, the program really works.

I have personally met with a number of people who have used the program. In many cases, they were on AFDC, food stamps, and other Federal assistance when they started. Now, they are operating successful businesses, making a decent living and paying taxes rather than receiving welfare benefits. Through this program, they have been able to turn their lives around. When we talk about helping people get off welfare, this is a mechanism that really works.

I believe that technical assistance for this program deserves to be fully funded.

EDA AND THE PRIVATE SECTOR: PUTTING AMERICA TO WORK

Mr. DASCHLE. Mr. President, I strongly support the amendment that has been offered by Senator PRYOR. Like Arkansas, South Dakota is a rural State that has faced the challenge of rebuilding distressed communities and stemming the tide of outward migration. I support the Pryor amendment for a number of reasons.

Senator PRYOR's amendment is reasonable and prudent. We recognize the need for spending cuts to meet deficit reduction targets. Senator PRYOR's amendment simply asks the Senate to support the House's funding level of $348.5 million, a 22 percent cut from fiscal year 1995.

Second, EDA has proven to be a solid investment over the years. EDA grants have resulted in the creation or retention of 2.8 million jobs in the Nation's most distressed areas, areas where, quite frankly, the private sector was not creating jobs.

In fact, EDA resources are used as a catalyst to leverage private sector investments, which turn into long-term growth. EDA has demonstrated a remarkable ability to attract private sector capital. In the last 30 years, for every Federal dollar invested, more than $3 in outside investment has been leveraged.

The third reason to support this amendment is because many of the Nation's smaller counties and communities rely on EDA help for local planning efforts. In South Dakota, a number of the smaller communities cannot afford a full-time economic development director. In many instances, these are the communities that need the most help. EDA funding has allowed local planning districts to travel to small towns across rural America, identify local leaders, and help them execute plans for infrastructure development or industrial recruitment.

Finally, EDA has taken steps to reduce bureaucratic overhead without sacrificing customer service. In 1994, overhead at EDA was just 4.6 percent.

Regulations in the Federal Register have been cut by 60 percent. EDA has delegated more responsibility to its regional offices. And, EDA will be reducing its staff from 350 people to 309 in fiscal year 1996.

Mr. President, the budget resolution and 13 appropriations bills we have been considering in recent weeks have forced the Senate to make hard choices about what our country's priorities should be. If our current budget can include $245 billion in tax cuts for the wealthy, why can it not include another $249 million for EDA? Let us be clear—Senator PRYOR's amendment requests that the Senate support a Federal investment that is less than 2 percent of what is being set aside for this country's top income earners.

Is providing tax relief for this group 100 times more important than helping distressed communities battling base closures, defense downsizings, and depressed prices for commodities? Are tax cuts for the wealthy 100 times more important than creating 2.8 million jobs, keeping people off unemployment lines and out of welfare offices?

While our colleagues on the other side of the aisle point to a decline in values, they are missing the point. Strong values are built on the self-respect and economic stability that come with a good job. A strong sense of community is fostered by shared economic hope for the future. There is no greater sense of values and community than in the rural areas of South Dakota. These towns are hungry to innovate and adapt to the changing economy. They are deeply committed to making economic development projects work so they can preserve their way of life.

EDA gives us the efficient investment tools to help communities make this happen. And it does so while paying its own way. Taxes received by the Federal Government from EDA investments exceed Federal funds provided to the agency.

Our vote today on the Pryor amendment will reflect this body's priorities. Do we cut EDA funding to pay for tax cuts? Or do we invest in our future wisely and give distressed communities the tools they need to put more Americans to work.

Mr. President, EDA is the right priority, and it works. I urge my colleagues to support the Pryor amendment.

ZEBRA MUSSEL

Mr. LEAHY. Mr. President, I want to thank Senators GRAMM, HOLLINGS and LEVIN for working with me to find an appropriate solution to the zebra mussel problem that has overtaken the Great Lakes and Lake Champlain. I hope Senators HOLLINGS and LEVIN can join me in a brief colloquy on the Hollings-Levin-Leahy amendment.

For Senators who may not be familiar with the zebra mussel, I want to briefly describe the challenge facing the State of Vermont. Zebra mussels, which are tiny, fresh-water mollusks the size of my thumbnail, threaten to choke off 25 percent of Vermont's drinking water, clog our hatcheries and unravel the Lake Champlain ecosystem.

We did not ask for the mussels, but we got them. I was scuba diving in Lake Champlain this summer and was shocked to find mussels taking over the lake bottom, historic ship wrecks included. Three years ago we had no zebra mussels—this summer I found mussels by the handful.

The zebra mussel problem in Lake Champlain deserves immediate and swift action. This pest poses a serious risk to the water resources throughout Vermont, economic opportunities along the lake, and the health and safety of Vermonters. In the not-so-distant future, some Vermonters may turn on their taps to find nothing flowing, as these mussels have blocked water intakes and delivery systems up and down the shoreline.

The biggest hurdle our States face is the fact that there is no proven control technology. It is like the State of Vermont looking for a solution to cancer—by itself. The Hollings-Levin-Leahy amendment provides a modest contribution of Federal assistance that will help address the zebra mussel problem.

My understanding is that this amendment includes $100,000 specifically for Vermont to tackle the problem. Our State Legislature has appropriated millions of dollars to address the problem, and this token of Federal support will make a big difference.

Mr. LEVIN. The Senator from Vermont has been very supportive of our efforts to clean up the Great Lakes and is correct about this amendment. We know first hand the challenge Vermont faces. The Great Lakes research and control efforts have benefited Lake Champlain, and we expect the Lake Champlain efforts funded in this amendment to benefit the Great Lakes.

Mr. HOLLINGS. I agree with both the Senator from Vermont and the Senator from Michigan. They have worked hard on this amendment to address a problem of true national concern and scope.

Mr. LEAHY. I want to thank the Senator from South Carolina for his leadership on this bill, and the Senator from Michigan for his longstanding commitment to the Great Lakes and to freshwater issues like the Zebra mussel.

Mr. GRAMM. Mr. President, I believe now we are ready for third reading.

The bill was ordered to be engrossed for a third time and was read the third time.

The PRESIDING OFFICER. Is there further debate? If not, the question is, Shall the bill pass?

So the bill (H.R. 2076), as amended, was passed.

Mr. GRAMM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GRAMM. I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. COVERDELL. Mr. President, on behalf of the city of Smyrna, GA, and its outstanding Mayor Max Bacon, I rise to commend the Senate—and especially Senator GRAMM—for helping Smyrna and the entire Atlanta area in its efforts to deal with the transportation of illegal immigrants once they have been detained.

By increasing by $12.3 million the portion of the Immigration and Naturalization Service budget for fiscal year 1996 which deals with the transportation of detained illegals, the Commerce, Justice, and State appropriations bill will go a long way toward more effectively enforcing our immigration laws.

In the city of Smyrna—as in many across the country—illegal immigrants are placing an enormous burden on legal residents, who are facing rising taxes due to the increased costs of providing health services and educational programs, in addition to the loss of jobs.

In the Atlanta area, we have been concerned with the lack of vehicles available for the transportation of detained illegals. The city of Smyrna is optimistic that an influx of new buses and vehicles will help the INS be even more effective in removing illegal immigrants and transporting them to the proper authorities. Again, I commend my Senate colleagues for their wisdom, and extend my gratitude on behalf of Smyrna's Mayor Bacon.

MORNING BUSINESS

Mr. COATS. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

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

THE RIGHT TRACK

Mr. WARNER. Mr. President, I rise today to once again express my concerns about the so-called "train wreck" that might occur if there is a lapse in appropriations authority beyond the Continuing Resolution we will be approving today or tomorrow.

While some have proclaimed it would be "no big deal" if government shut down, there are many, including me,

who think this kind of reasoning is wrong.

By approving a continuing resolution (CR), we are acting responsibly and avoiding unnecessary and costly furloughs. The CR gives us time to pass all of our appropriations bills and helps provide for real deficit reduction.

But, if we continue to play politics with Government employees and the American people on this issue, we are only hurting ourselves and the image of Congress. Those who encourage a shutdown proclaim themselves to be deficit and spending hawks.

Mr. President, in 1990, we had our last furlough. It happened over the Columbus Day Weekend. As a result, several members of Congress asked the General Accounting Office [GAO] to examine the taxpayer costs of that shutdown. The GAO found that of the 22 executive branch agencies surveyed, seven reported significant shutdown costs totaling about $3.4 million.

Moreover, the GAO examined a hypothetical three-day shutdown during a normal workweek. The costs of this scenario would range from $244.6 million to $607.3 million.

It is foolhardy to think a shutdown is good for America. The 1994 elections, which gave Republicans majorities in both Houses of Congress, sent a clear message to Washington, DC. The message was: "We are sick and tired of Congress doing business as usual. Stop the bickering and get the job done."

I applaud the Republican leadership in the House and here in the Senate. We are changing the way government does business. We are, however, doing "business as usual" when we play politics and appear cavalier in attitude toward our Federal employees—both civilian and military.

Mr. President, I am the sponsor of S. 1246, a bill that would insure that Federal employees who work or are furloughed during a shutdown will automatically be paid as soon as the appropriations bill funding their salary is enacted.

I have also vowed not to accept a paycheck if a shutdown occurs. Like the men and women of the armed services and the civil service, all of us are employees of the American people. If the Government shuts down in November after the CR expires, or because we fail to agree on a measure to raise the nation's debt ceiling, I believe that the Congress should be denied compensation as well.

In conclusion, Mr. President, let me say that I believe the American people are looking to us Republicans to lead this country and to make their Federal Government more responsive and less burdensome. We have weathered some tough storms in the Senate, but we are making progress as evidenced by passage of the unprecedented reform of the country's broken down welfare system.

The American public, including the people in my State, are proud of our achievements. Republicans are moving in the right direction, and we are changing the way government governs. We are not posturing, we are working.

I say to my colleagues on both sides of the aisle, the American people are fed up with blustering and posturing. The American people are sick and tired of hearing about a "train wreck." They have heard these same arguments year after year. I say to my colleagues, get our appropriations bill passed before the continuing resolution expires.

Resolve to negotiate firmly with the White House over the debt ceiling, but be realistic about what we want and what can be achieved. We Republicans are leading the way against government as usual. Do not get snared in a political trap by recycling old arguments that make us look like we are returning to the old way of doing business.

I say again. We are changing the way government governs. This is the track of the Republican train. There will only be a wreck if we turn our back on the progress we are making.

ST. MARY'S CATHOLIC PARISH

Mr. WARNER. Mr. President, I rise paying tribute to Saint Mary's Catholic Parish in historic Old Town Alexandria. Tomorrow, September 30, 1995 marks a true milestone, its 200th anniversary. Saint Mary's stands as the oldest Catholic church in the Commonwealth of Virginia.

Saint Mary's has called Alexandria home for two centuries and is an institution whose presence has extended over many generations. The actual parish was founded in 1795 at a time when the seeds of Catholicism were just planted: Virginia was home for only 200 Catholics at the turn of the eighteenth-century.

Led by Colonel John Fitzgerald, then the Mayor of Alexandria and military assistant to General George Washington, Saint Mary's was erected. In 1869, the Sisters of Holy Cross School pioneered Saint Mary's School, which is still in existence and filled to capacity.

The Reverend Stanley Krempa currently serves pastor to Saint Mary's, which boasts a membership of over 3,200 families. Its "church family" is fervently committed to taking on the twenty-first century with great energy and zeal. Saint Mary's family not only intends to expand, they are preparing for tomorrow, today: the church just successfully concluded an amazing fundraising drive that will build not only classrooms for the school, but assists with other renovation efforts associated with the church.

I join the many friends and families in wishing well to Saint Mary's Catholic Parish. As we stand in the threshold of the twenty-first century, Saint Mary's stands as a body with tremendous outreach, Saint Mary's stands as a credit to its church body and its locality. Saint Mary's can stand tall.

SENATOR MARK HATFIELD: RECIPIENT OF 1995 ALBERT LASKER PUBLIC SERVICE AWARD

Mrs. KASSEBAUM. Mr. President, I rise today to extend my congratulations to the distinguished Senator from Oregon, Mr. HATFIELD, upon his receipt of the 1995 Albert Lasker Public Service Award for his "energetic leadership and enduring advocacy in support of biomedical research."

I can think of no Member of the Senate more deserving of this recognition. Senator HATFIELD has been unflagging in his dedication to the cause of biomedical research—recognizing the importance it holds for Americans today and the promise it holds for Americans in the future.

As chairman of the Senate Committee on Appropriations, Senator HATFIELD is keenly aware of the competing demands upon dwindling Federal resources. Establishing priorities among a series of worthy causes is a difficult task. I believe it is a tribute to his judgment and his vision that he has always assigned the highest priority to biomedical research efforts.

In addition to protecting the current Federal investment in this area, Senator HATFIELD has also sought creative ways to expand the pool of funds which can be made available to it. I was pleased to have been counted among the supporters of the biomedical research trust fund proposal he put forward during the last Congress and of his efforts to restore National Institutes of Health [NIH] funding in the budget resolution this year.

The Senate Committee on Labor and Human Resources, which I chair, has authorizing and oversight responsibility for the NIH. Senator HATFIELD has consistently offered his support and suggestions for NIH activities, and I look forward to continuing to work with him.

The Albert and Mary Lasker Foundation has made a wise choice in selecting Senator HATFIELD for this prestigious award.

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

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

1995 ALBERT LASKER PUBLIC SERVICE AWARD

THE CITATION

As an energetic advocate in support of biomedical research, Senator Mark Hatfield has made outstanding contributions. Dedicated to the proposition that the health of Americans is a national priority, Mark Hatfield has continually fought to increase research appropriations for the National Institutes of Health, and he has succeeded.

During the six years of his Chairmanship of the Senate Committee on Appropriations, funding for the National Institutes of Health

increased by over $2.5 billion, an average of almost 10% per year. These funds enabled 107,000 research projects to receive NIH grants, supported an expansion of the National Institute of Neurological Disorders and Stroke, and substantially increased the allocation for research on Alzheimer's Disease.

Senator Hatfield's vigorous leadership has been crucial in the battle against proposed cuts in the NIH budget. Affirming the central role of the National Institutes of Health in the mission of biomedical research, he declared that, "The NIH is the cornerstone of improved quality of life in this nation."

Throughout his career, Mark Hatfield has sought to reorder our nation's research priorities to focus on activities that enhance life. Taking the time to become informed about particular diseases has led him to introduce legislation to create a National Advisory Council on Rare Disease Research, which would formulate a strategic plan and establish a national research database. He has also emphasized the need to support research on Parkinson's Disease, Epidermolysis Bullosa, and Sudden Infant Death Syndrome.

During the 103rd Congress, Senator Hatfield achieved enactment of a National Center for Sleep Disorders Research within the National Heart Lung and Blood Institute, and introduced a bill to create a permanent bioethics advisory board as a forum for discussion of ethical issues in biomedicine. In a period of dwindling resources, his most farsighted piece of health legislation is the Hatfield-Harkin bill that would establish a Fund for Health Research, a stable, non-appropriations-based source of additional research dollars, from tax checkoffs and insurance premiums.

Mark Hatfield believes that funding for medical research not only improves quality of life, but offers our nation the highest rate of economic return of any other federal program. If health is wealth, then biomedical research is the best investment our nation can make in its future.

To Mark O. Hatfield, for energetic leadership and enduring advocacy in support of biomedical research, this 1995 Albert Lasker Public Service Award is given.

THE CONTRIBUTION OF THE FULBRIGHT PROGRAM

Mr. MOYNIHAN. Mr. President, I rise to speak on the importance of international exchange programs at this particular point in history. I would particularly like to highlight the Fulbright program and its enormous contribution to the enrichment of our society. The Fulbright program was created in 1946 largely with the efforts of the Senator from Arkansas from whom the program derived its name. Since that time the program has sent 75,026 United States students to study in foreign countries and has brought 127,093 foreigners to study in our country.

Forty-five years ago they sent me off to the London School of Economics where, for the first time, I learned a dictum of Seymour Martin Lipsit, who has put it so nicely. He said, "He who knows only one country knows no country." If you use the simple analogy of eyesight, it is two eyes that provide perspective.

My experience in London was certainly eye-opening. As a New Deal Democrat I was surprised to find how extraordinarily suspicious of the United States they were in London. I wrote back to a friend, in a letter that Douglas Schoen had preserved in his book:

I get the impression Americans are not generally aware of just how fundamentally we are being opposed by a small but enormously vital element in British society, or just how much we are being disagreed with by British society in general. I respectfully submit that we had damned sure better get off our intellectual asses but quick.

A point that was perhaps never fully appreciated. I only wish that there were more Fulbright opportunities so that more students might have the enlightening experience that I enjoyed.

Perhaps at no time in our history have we needed an increase in international exchange programs. We find ourselves in a world that in many ways is more complex than when it was dominated by two ideologies. International exchange programs are necessary to give our students an appreciation of our country and its place in the world.

The Fulbright program has been administered by an even older institution, the Institute for International Education [IIE]. Last year I had the honor to address the Seventy-Fifth Anniversary Forum of the IIE. I ask unanimous consent that my remarks from this event be printed in the RECORD at this point.

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

OPENING REMARKS

(By Senator Daniel Patrick Moynihan)

Andrew Heiskell began by noting the setting we're in, the New York Public Library. I was brought up in this library in a very important way. I was brought up into an understanding of what the United States could provide for people.

In the 1930s, in the midst of the Depression, I shined shoes, pretty much for a living. But it was a living that was fair enough. I would work between Sixth and Seventh Avenues at the Wurlitzer Building, in a little territorial space of my own. When I had earned $1.10, which was five cents up in the subway, five cents back, and a dollar for the day, I'd come over here as a shoe shine boy, with a black box. I'd take it in the Fifth Avenue entrance and bring it to the check-in desk. It would be accepted, without comment, as if it were an umbrella being presented in the lobby of a Pall Mall club. I'd be given a ticket by a man in a brown cotton jacket. I'd go up in that great room. I was a citizen of the world and of literature. And indeed, for those purposes. I was, I can never repay that debt.

I'm here to talk about the Fullbright experience and the Institute of International Education. IIE sent me off 44 years ago, in 1950, to the London School of Economics. There, for the first time. I learned a dictum of Seymour Martin Lipset, who said, "He who knows only one country knows no country."

If you use the simple analogy of eyesight, it is two eyes that provide perspective. And it was a perspective enormously striking to me at that time—1950, the United States in good condition, untouched by war, and, indeed, enlivened by it. The recovery was extraordinary, and Europe was just climbing out of the ruins. We were victorious allies. I found, though, on arriving at the London School of Economics as a person of liberal disposition, a New Deal democrat, if you like, how extraordinarily suspicious of the United States were most folks there, the academics in particular, and the Left, to be specific.

And then came the Korean War. I was called back. We mustered in Grosvenor Square, got on a train at Waterloo, and in the late afternoon we were crossing the Netherlands on our way, as it would turn out, to Bremerhaven, which was a submarine base the Nazis had built.

I had brought along a library habit that had been imbued here, made possible largely through the GI bill and its book allowance. I brought an enormous volume of Hannah Arendt's, The Origins of Totalitarianism. just then published in Great Britain. This was her masterwork. I brought it along, not to read, really, but to be seen reading. So, I got in this compartment, as they then had in European railways—there were six of us—and I opened it up. Here was the first paragraph. "Two world wars in one generation, separated by an uninterrupted chain of local wars and revolutions, followed by no peace treaty for the vanquished and no respite for the victor, have ended in the anticipation of a third World War between the two remaining world powers. This moment of anticipation is like the calm that settles after all hopes have died."

I read that. Then I read it out loud to the compartment. No one demurred. Finally, a commander, who had a Navy Cross and was the senior officer present afloat said, "There must be a bar car on this train somewhere." And that was that.

I began to sense then the power of Marxism as an idea, the inevitability of the clash of civilizations—the totalitarian, the liberal—you could read it either way, and some did. And some looked both ways simultaneously. The first thing I ever published was a letter from London in *The Nation*, in response to an article by G.D.H. Cole, who suggested that the Korean War was an act of American aggression, intended to invade China and the Soviet Union. I said, "No, no, no, surely that's not so." I got a surprising amount of mail from the British, Londoners, who said that's obviously right, but that's what they all think.

But having had this experience of the power of Marxism, it became possible for me years later, in different circumstances, to see its decline. Having seen it at the flood tide of its strength, you saw it recede. You couldn't have done that absent the international experience. And it was startling to be in Washington, and see how little this was understood.

In 1979, *Newsweek* had an issue on "what will happen in the 1980s," and I wrote a small piece that said, "Well, in the 1980s, the Soviet Union will break up. That's obvious." And will the world blow up as its constituent parts start using their nuclear weapons one on the other? This issue is not yet resolved. I'm not aware if anyone read the article, but I was then on the Intelligence Committee, and I would make this argument, an argument impenetrable to the intelligence community. They didn't know what you were talking about.

I was once, for a long period, an observer to the Strategic Arms Reduction Talks, the

START talks. I remember asking the negotiators, when we were finished with the mind-numbing details of this treaty between the United States of America and the Union of Soviet Socialist Republics, what makes you think there will *be* a Union of Soviet Socialist Republics?

Well, to them this question was not a question. They had never heard it before and went right by it. When the treaty did arrive at the Committee on Foreign Relations, of which I am a member, it was between the United States of America and four countries, of which I think I'd only heard of two. They were Russia, Ukraine, Belarus, and Kazakhstan.

I had the doubtful pleasure of asking the ambassadors who were presenting this to us. "It says here it's a treaty between the U.S. and the U.S.S.R., and then yet it says, no, no, it's these four other countries. How do you know it's with these other four countries?"

They said, "We have letters." I said, "Well where did you get them?" They said, "We got them in Lisbon." It sounded like a World War II Humphrey Bogart movie. Oh. Got them in Lisbon. I see.

In fact, had we had a better feel for what you could have learned in those years, we might not be in such straitened circumstances as we are today. That failure of understanding of international politics came about because of an insularity about the essential fact, the opposition of ideas, and then a pre-occupation with the minute, mechanical fallout of those ideas.

This clash of ideas is not over. It now assumes yet another phase. At the beginning of this century, there were two commanding, universal ideas. You could call them liberal, if you like, and Marxist, if you choose. The liberal idea, in the general usage in nineteenth-century England, was that the group identity that was called nationalist, or ethnic, was preindustrial and would simply disappear as it became more and more outdated and irrelevant. The other side, the Marxist view, was that economic processes determine all identity, that the class structure determines all social struggle, and that it would be universal in its nature. The red flag is red because the blood of all men and women is red. And that is the universality of the class struggle.

Well, both ideas were wrong. Deeply wrong. And we enter into an age subsequent to that, in which not the only, but the most painful, the most immediate source of conflicts is ethnic. It is ethnic conflict as a post-industrial phenomenon—ethnic conflict as a mode of aggregating interests that is far more effective than any other mode seen on earth just now.

If you look around the world, that is what you mostly encounter. We are two or three generations behind any understanding of it. Just as the American political establishment had no real understanding of Marxism in 1950, it has no real understanding of ethnicity today. We're as unprepared for Bosnia as we were for Leningrad.

And there's one answer to it, if there's any answer. That is to go abroad and study it, and see it, taste it, touch it, feel it. And there's one institution singularly devoted to just that purpose. And that is the Institute of International Education.

You were welcoming to me, a gawky and half-formed youth, nearly half a century ago. There will be others like me coming, possibly to your embarrassment. But with any luck, it all works out, and I'm here to thank you and wish you another three-quarters of a century as successful as the last.

TENTH ANNIVERSARY OF FARM AID

Mr. DASCHLE. Mr. President, this Sunday will mark the 10th anniversary of Farm Aid. This remarkable organization, born of the farm crisis of the 1980's, has stood on the front lines with America's family farmers as farming, ranching and the rural way of life have been under attack. Through the vision and effort of founders Willie Nelson, Neil Young, and John Mellencamp, millions of dollars have been raised to assist farm families beset by disaster, fund legal assistance programs for rural citizens and increase national and international awareness of the plight of America's family farmer.

At the same time we are celebrating the achievements of Farm Aid, the Republican-controlled Congress is making the deepest cuts to farm programs in history—at the same time they are funding tax breaks for the wealthiest citizens in the country. Make no mistake, a workable farm program cannot be crafted under a mandate to cut $13.4 billion from farm programs. This legislation could result in a farm crisis far worse than the one that gave birth to Farm Aid.

The 1995 farm bill is far too important to be sacrificed this way. That's why several of my colleagues have joined me in introducing the Farm Security Act, an alternative way to reform farm programs and secure a safety net for our farmers. We have developed a commodity support proposal that would allow market-based income support, target benefits to our smaller producers, and simplify programs. Unlike the Republican plan, our plan offers real reform. We didn't just cut funding levels by providing less of the same old programs that are already too complicated, too rigid and too inadequate.

The goal of farm programs should be to give America's farmers and rural communities a fair shake. Farmers do not want a handout. They do not want welfare. They want a program that reflects the principles that launched Farm Aid 10 years ago: a helping hand that lets them grow the best food and fiber in the world with minimal bureaucracy and with a good return on their financial and labor investments. Today, however, farm programs have become, in the minds of some people who have never milked a cow or plowed a field, a sacrificial lamb that can be offered up to fund new defense programs and unreasonable tax breaks.

For many farm families across the country, the organizations supported by Farm Aid have been all that stood between them and disaster. The counseling, educational and legal services these groups provide have helped farm families navigate some very difficult times. In my State of South Dakota, Dakota Rural Action, a Farm Aid-supported group, has been an effective voice for family farmers and rural communities. Through grassroots organization, educational programming on issues from land stewardship to meatpacker concentration, and effective policy advocacy, they have brought the voices of farmers to the halls of Congress.

I am deeply concerned about how rural communities across the Nation continue to whither as more and more farmers are driven off their land and young people find it increasingly difficult to begin farming. Now that the majority in Congress has threatened to pull the rug out from under our farmers again, Farm Aid and the groups it supports will be needed more than ever to provide support and leadership for our rural communities.

The strengths of rural America have always been hard work, fair play and commitment to community. I applaud the efforts of Farm Aid to facilitate these goals and secure a bright future for America's farmers and ranchers. There is a reason why the Midwest is called America's Heartland. It is because our farmers, ranchers and rural citizens truly represent the heart and soul of America. If we continue to take for granted the men and women who live on the land and produce our food, we will lose an important piece of our national soul.

NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

Mr. PELL. Mr. President, 30 years ago today on September 29, 1995, I was proud to witness President Lyndon Johnson sign into law the National Foundation on the Arts and Humanities Act which established the National Endowment for the Arts and the National Endowment for the Humanities. That historic occasion marked the beginning of a process to preserve America's cultural heritage and to broaden access to millions of our citizens in every corner of the country, Americans who would otherwise not be able to hear a symphony orchestra concert, see a dance or theater production, or experience a great museum exhibition.

By any measure, the endowments have been a magnificent success. People are participating in our culture in record numbers. The endowments have made a difference in the lives of millions of children and their families. A cultural infrastructure has solidified and grown. In 1965, where there were 46 nonprofit theaters, there are over 425 today. The numbers of large orchestras has doubled, opera companies have increased 6-fold, and there are 10 times as many dance companies now as there were 30 years ago. In 1965, there were five State arts agencies; today every State has a vibrant public arts agency, and there are now community arts agencies in over 3,800 cities, counties

and towns. Individuals who have received endowment support early in their careers have gone on to spectacular achievement, earning numerous important prizes and awards, and creating works that will prove to be an enduring legacy from the second half of the 20th century.

In my own State of Rhode Island, the endowments have supported a Music in our Schools program in Providence, a folk and traditional arts apprenticeship program and the nationally-acclaimed Trinity Repertory Theater; aided the Museum of Art at the Rhode Island School of Design in renovating its painting and sculpture facilities; and provided funds to a team of scholars at the Rhode Island Historical Society to edit the papers of Revolutionary War Gen. Nathaniel Greene for publication. Also funded was a partnership between the Rhode Island State Council on the Arts and the U.S. Department of Education to integrate theater, music and design into the curriculum of the Davies Career and Technical High School which has shown to improve overall discipline and attendance at the school.

As further testimony to their success, the small investments in American culture made by the endowments has stimulated an extraordinary amount of private dollars. Since 1985, NEH matching funds have leveraged almost $1.4 billion in third-party support for the humanities. Each Federal dollar invested by NEA leverages $12 non-Federal dollars.

As we celebrate the 30th anniversary of the endowments, we are celebrating our belief in a vigorous, democratic, far-reaching culture. The Federal Government has a strong role to play in transmitting our Nation's greatest artistic and scholarly achievements to the generations of the future. As the present custodians of American culture, we must continue to do so. It would be a tragedy for the 30th anniversary celebration to be marred by a reluctance to reauthorize the National Foundation on the Arts and Humanities.

UNITED STATES SUPPORT FOR THE PEACE PROCESS IN LIBERIA

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues the recent cease-fire agreement in Liberia. After nearly 6 years of civil war, 13 failed peace agreements and protracted negotiations, the leaders of Liberia's warring factions have finally coalesced to form a government aimed at bringing peace and democracy to this war-torn African nation. This recent peace agreement, agreed to on August 19, 1995, in Abuja Nigeria, provides the United States with a unique opportunity to demonstrate leadership in restoring peace and democracy to a longtime ally, as well as to prove its concern for the stability of the entire West African region.

Mr. President, I would like to begin my statement by identifying several key actors who deserve recognition for procuring this peace agreement: Members of ECOWAS, the Economic Community of West African States, ECOMOG, the West African peacekeeping force, UNOMIL, the U.N. observer mission, and the President's Special Envoy to Liberia, Ambassador Dane Smith, I would particularly commend the extraordinary diplomatic leadership shown by President Jerry Rawlings of Ghana and his Deputy Foreign Minister Muhamed Ibn Chambas. I know and greatly admire both men; their commitment to peace in Liberia is exemplary and is one of the key reasons why this cease-fire and agreement have been archived.

On a local level, I would like to pay special tribute to my esteemed colleague on the Foreign Relations Committee, the distinguished Senator from Kansas. As Chair of the Subcommittee on African Affairs, she is a strong leader, an able manager, a model for bipartisanship, and a tremendous resource on issues regarding African affairs. Last week, Senator KASSEBAUM introduced amendment 2710, stating that it is in the interest of the United States to "strongly support the peace process in Liberia, including diplomatic engagement, support for the West Africa peacekeeping force, humanitarian assistance, and assistance for demobilizing troops and for the resettlement of refugees."

I too, believe that it is in the interest of the United States to support this peace agreement, both diplomatically and financially. The United States has a special responsibility towards Liberia. Founded in the early 19th century by freed American slaves, the United States and Liberia have had almost 150 years of continued friendship. As pointed out in a position paper sent to me by Friends of Liberia, in World War II, American soldiers used Liberian airfields and ports as a primary base to supply the battlefields in North Africa and Europe. During the cold war, Liberia was often our only reliable ally in Africa, serving as a listening post and headquarters to the United States intelligence services. At the United Nations, Liberia has been a dependable American ally, consistently voting in support of United States positions, even when such actions were unpopular among other developing nations.

If we neglect our historic relationship with Liberia, we will jeopardize, if not lose, our reliable foothold in Africa. A limited diplomatic reaction to this peace agreement would reflect poorly on our commitment to peace and democracy on the African Continent, and would hinder future United States diplomatic and commercial interests, among others, in the region.

Given the current climate in Congress to paralyze humanitarian assistance, I believe that this situation offers an important opportunity to prove to critics of U.S. foreign aid that a small investment in seeking peace through diplomacy will yield significant returns. By heightening our diplomatic involvement and providing modest financial support to the peace process, we can help break the cycle of humanitarian need that will only continue if this disastrous war is not resolved.

American support can make the difference in securing a sustainable peace in Liberia and beyond. The international community looks to the United States as having the closest ties to Liberia, thus having the responsibility of taking the first step in assisting this peace process. Once the United States takes the lead, the European Community, Japan and other governments with historical relationships with Liberia, as well as members from the private and public sectors, are likely to follow.

Given our special relationship towards Liberia, our commitment to promoting peace, democracy, trade and human rights in West Africa, and our position in the international community as the only remaining superpower, I conclude that it is in the interest of the United States to take the initiative to develop and implement a coalition to sustain the peace in Liberia. We must move quickly to provide the significant support, in terms of diplomatic engagement and where possible, the allocation of resources, to assist the Liberians as they move through this delicate period of transition to peace and democracy.

GIVEAWAY TO SPECIAL INTERESTS IN REPUBLICAN STUDENT LOAN BILL

Mr. KENNEDY. Mr. President, earlier this week the Republican majority in the Senate Labor and Human Resources Committee voted to cut $10.8 billion from student loans over the next 7 years. This bill is bitter news for students and their families, who will see their student loan costs rise by as much as $7,800 per family. But the champagne corks are popping for banks and other special interests in the student loan industry, because the same Republican majority also voted a $1.8 billion sweetheart deal for them.

Tucked in the legislation is a series of provisions that sign over $1.8 billion in Federal funds to the guaranty agencies in the student loan program. That $1.8 billion should be used to ease the burden of the budget cuts on students and their families. It should not be used to bestow an unjustified windfall on the special interest student loan industry.

This new windfall comes with no strings attached. Guaranty agencies

can use it to build new palaces for their headquarters, or to pad the salaries of their executives, which for one official already exceeds $600,000 a year. They can even literally take the money and run. Under current law, if a guaranty agency goes out of business, the reserve funds that it has accumulated under the Federal student loan program are returned to the American taxpayer. Under this new giveaway, the officers and directors of a guaranty agency could close down the agency and keep the funds for themselves.

Forty-one guaranty agencies participate in the Federal student loan program. They function as middlemen between the banks, who loan funds to students, and the Federal Government, which bears the risk on the loans. The guaranty agencies maintain records on student borrowing, collect on defaulted loans, and advance funds to lenders for defaulted loans. The guaranty agencies are reimbursed by the Federal Government for those advances. The agencies are then permitted to pursue the defaulted debts, and keep 27 cents of every dollar over and above the reimbursed amount.

In the course of the past three decades, the guaranty agencies have accumulated $1.8 billion in what are called reserves. These reserves began with seed money advanced to the guaranty agencies by the Federal Government in the early years of the loan program, of which $40 million now remains. Since then, the agencies have accumulated $1.8 billion in additional reserves from other sources. Ninety-eight percent of those reserves come from insurance premiums paid by students under the Federal student loan program, payments received from the Federal Government for default claims and administrative expenses, and investment earnings on the reserve funds.

The reserves were originally intended as a financial cushion to enable the guaranty agencies to have enough funds to cover defaults in the student loan program. Now, however, the Federal Government bears virtually all the risk on the loans, and the cushion is no longer needed. There is no doubt that the reserves are Federal funds. They certainly do not belong to the guaranty agencies. If the Federal Government were to take back the reserves, the Congressional Budget Office would score the reclaimed reserves as a savings to the taxpayer of $1.8 billion.

The Republican student loan bill, however, does exactly the opposite. Rather than reclaiming the reserves in order to reduce cuts in student aid or to reduce the deficit, the bill turns over to the guaranty agencies—no strings attached—all but the $40 million of taxpayer funds originally given to the agency reserve accounts. Secretary of Education Riley has called this giveaway "an alarming development that would further exacerbate the current problems in the student loan industry."

I urge the Senate to block this $1.8 billion Republican raid on the student reserve funds. It is unconscionable for the Republican majority to slash $7.6 billion from student loans, while sneaking $1.8 billion out the back door and into the pockets of the very people who have profited for more than 30 years on the backs of students. This is corporate welfare of the worst kind, and the Senate should reject it.

I ask unanimous consent that a letter on this issue from Secretary Riley and a memorandum from General Counsel Judith Winston of the Department of Education be printed in the RECORD.

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

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
Washington, DC, September 28, 1995.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC

DEAR SENATOR KENNEDY: I am writing to express my serious concern about a particular provision of the Student Loan amendments recently passed by the Senate Committee on Labor and Human Resources as part of its budget reconciliation package. In particular, under the guise of strengthening guaranty agency reserves, Section 1004(e)(2) of the bill would have the effect of giving away approximately $1.8 billion in Federal assets to non-profit and State guaranty agencies.

An analysis of the effect of the proposed change on the Federal interest in the guaranty agency reserve funds by the department's General Counsel is attached for your consideration. In my view, enactment of this change would be an alarming development that would further exacerbate the current problems in the student loan program. I urge the Committee to reconsider this decision.

I am sending an identical letter to Senator Kassebaum.

Yours sincerely,

RICHARD W. RILEY.

Attachment.

U.S. DEPARTMENT OF EDUCATION,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, September 28, 1995.

MEMORANDUM

To: The Secretary
From: Judith A. Winston, General Counsel
Subject: Guaranty Agency Reserves

Earlier this week, the Senate Committee on Labor and Human Resources approved certain changes to the statutory provisions relating to the Federal Family Education Loan (FFEL) Program in connection with the budget reconciliation bill. One of the approved provisions would make significant changes in the status and ownership of guaranty agency reserve funds. If enacted, these changes would cede Federal ownership of more than $1.7 billion in funds and assets to state or private non profit agencies.

In particular, the bill passed by the Committee would make significant changes to §422(g) of the Higher Education Act of 1965, as amended (HEA). Currently §422(g) reflects numerous Federal court decisions that the reserve funds of the guaranty agencies are Federal property which is held by the guaranty agency as a trustee of the funds for the general public. *See Puerto Rico Higher Education Assistance Corp.* v. *Riley*, 10 F.3d 847, 851 (D.C. Cir. 1993); *State of Colorado* v. *Cavazos*, 962 F.2d 968, 971 (10th Cir. 1992); *Rhode Island Higher Education Assistance Auth.* v. *Secretary, U.S. Dep't of Education*, 929 F.2d 844 (1st Cir. 1991); *Great Lakes Higher Education Corp.* v. *Cavazos*, 911 F.2d 10 (7th Cir. 1990); *Education Assistance Corp.* v. *Cavazos*, 902 F.2d 617, 627 (8th Cir. 1990), *cert. denied* U.S. , 111 S.Ct. 246 (1990); *Ohio Student Loan Com'n* v. *Cavazos*, 902 F.2d 894 (6th Cir. 1990), *cert. denied* U.S. , 111 S.Ct. 246 (1990); *South Carolina State Education Assistance Auth Corp.* v. *Cavazos*, 897, F.2d 1272 (4th Cir. 1990), *cert. denied* U.S. , 111 S.Ct 243; *Delaware* v. *Cavazos*, 723 F.Supp. 234 (D. Del. 1989), *aff'd without opinion*, 919 F.2d 137 (3d Cir. 1990). Earlier this month, the United States District Court for the District of Idaho reaffirmed the holding of these earlier decisions that guaranty agencies do not have (and have never had) a property right in their reserve funds. Instead, that court held that the guaranty agencies' reserve funds are Federal property and are subject to the control of the Secretary of Education. *Student Loan Fund of Idaho* v. *Riley*, Case No. CV 94-0413-S-LMB (D. Ida., Sept. 14, 1995).

The bill would essentially give away the overwhelming amount of Federal property included in the guaranty agency reserve funds. Most importantly, the bill would redefine the term "reserve fund" to mean "the Federal portion of a reserve fund". *See* §1004(e)(2) of the Committee bill, p. 38, lines 14-16. The bill would then limit the Federal property to an amount calculated under the formula in §422(a)(2) of the HEA. The formula in §422(a)(2) of the HEA would, in most cases, limit the "Federal portion" of the reserve fund to the amount of Federal advances maintained by the guaranty agency plus interest. As of September 30, 1994, the amount of outstanding Federal advances was $40 million out of total guaranty agency reserves (all of which came from Federal sources or under Federal authority) of more than $1.8 billion. *See* FY 1993 Loan Programs Data Book, at 65, 67. Thus, the Federal government would be relinquishing ownership and control of more than $1.7 billion in Federal funds and property.

Enactment of these proposed changes to the definition of "reserve fund" would also effectively end Federal control over the uses of the reserve funds by the agencies. If the reserve funds are the property of the guaranty agency and the agency uses those funds for purposes unrelated to the FFEL program, the Department would have no authority to take action against the agency. Thus, the Department would be unable to take action against an agency that used funds intended to be used to pay lender claims on elaborate offices or high executive salaries. If this provision were enacted, the strong possibility exists that an agency could choose to use reserve funds for non-program purposes and be unable to pay lenders' claims. At that point, the lender would then be able to demand payment from the Department under §432(o) of the HEA. The Department would have to use taxpayer funds to pay the lenders.

This proposal would also provide an incentive for some guaranty agencies to leave the program. An agency which left the program would be able to take its reserve fund (minus Federal advances and interest) with it and use it for purposes unrelated to higher education or student loans.[1] Moreover, those

[1] Those agencies which are tax exempt non profits under §501(c)(3) of the Internal Revenue Code would

agencies which have already established loan servicing and secondary market operations could use the reserve funds to compete with private parties which provide services in this area.

NOMINATION OF JUSTICE JAMES DENNIS FOR THE U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

Mr. HATCH. Mr. President, I would like to correct a matter that arose in yesterday's discussion on the nomination of Justice Dennis. As the committee investigation found, a case can be made that Justice Dennis should have recused himself and that he should have notified the committee of the problem. My staff has told me that it communicated these conclusions to interested Senators. But my staff has informed me that it never presented any conclusions to Senators concerning what the committee would have done had it known of the Times-Picayune information before it reported the nomination to the floor. I can appreciate how some might have misinterpreted these findings but I wanted to make the matter clear for the record.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, September 28, the Federal debt stood at $4,954,794,272,486.85. On a per capita basis, every man, woman and child in America owes $18,808.48 as his or her share of that debt.

THE FINAL DAY OF BOSTON GARDEN

Mr. KERRY. Mr. President, I come to the floor of the Senate today to convey my thoughts on the closing of the fabled Boston Garden in Boston, Massachusetts.

To almost all of my constituents in Massachusetts, the Boston Garden represents the best in the world of sports. Many championship battles have been waged within the hallowed walls of this magnificent structure. Some were lost, most were won, but all are captured forever in the hearts and minds of the legions of Boston sports fans.

Just ask any hockey player from Northeastern University, Boston College, Harvard University or Boston University what the Boston Garden means to them and you will hear war stories about two Mondays every February where seasons are made or broken during the Beanpot Championship.

Just ask any of the high school athletes, whose teams were good enough to persevere through endless qualifying playoff rounds in order to play for a league championship on the Boston Bruins' ice or the Celtics' parquet floor, what the Boston Garden means to them and you will hear innumerable accounts of a dream come true.

Just ask the scores of everyday people, who file into the Garden to sit together knee-to-knee and elbow-to-elbow, what the Boston Garden means to them, and you will hear recollections of rumors, myths, legends, and lore.

Gallery gods, leprechauns, ghosts, and other beings are rumored to inhabit the Garden and wreak havoc with the fate of visiting, unfriendly teams. Some say they are responsible for turning up the heat on the L.A. Lakers and trying to fog-out and eventually powering down the Edmonton Oilers. Others claim they are to be credited with the infamous dead spots in the parquet and the impossible bounces of the puck off the boards.

Other teams feared coming to the Garden. They declared it archaic and decrepid with abysmal accommodations and playing conditions. But Boston fans know the truth, they feared coming to the Garden because they hated to lose.

Legends abound in the Boston Garden, and historical significance seemingly is a basic element of every event that has taken place there.

On election night in 1960, then-Senator John KENNEDY delivered his first campaign address in the city of Boston at the Garden. An estimated 1 million people flocked to the area surrounding the Garden and a precious few 25,000 were fortunate enough to be inside to hear his words. Many other great politicians of this century have addressed the people of Boston from a platform in Boston Garden. President Eisenhower, Horace Taft, Mayor James Curley, Gov. Thomas Dewey, and Winston Churchill are just a few who have contributed to the Garden's political lore.

I could stand here and talk for days on the meaning of the Boston Garden and the tumultuous history it has enjoyed. I could recall the many games I have attended and rallies I have witnessed. There are many things worth mentioning, but I am certain I would be unable to recall them all.

Tonight, in Boston, the people will re-live all of these and other memories in a ceremony full of history and celebration designed to mark the closing of one of the greatest venues in America.

"Havlicek stole the ball * * *, "Sanderson to Orr * * *, "Bird for three * * *, "Penalty—O'Reilly, "Russell with a block, "Esposito shoots, scores! "DJ steals, over to Bird, Good!, "Cheevers stones him, "Cousy tricky dribbles, lays it in." The voices of the past catalogue the great moments in a history soon to be turned over to a new building and a new era of sports in Boston.

As the lights dim for the final time, echoes will resound through the city and people will think of their fondest memories of the Garden and celebrate the great times enjoyed by those who were there, or watching, or listening, when great things happened.

THE CONVENTIONAL WEAPONS REVIEW CONFERENCE: AN OPPORTUNITY FOR U.S. LEADERSHIP

Mr. LEAHY. Mr. President, this week representatives of over 50 governments began meeting in Vienna, Austria to discuss proposals to amend the Conventional Weapons Convention, which contains the first laws of war limitations on the use of landmines.

Fifteen years ago, the United States played a leading role in negotiations on the Convention. However, despite lofty rhetoric at the time, the Convention is so riddled with loopholes and exceptions, as well as lacking any verification procedures, that the numbers of civilian casualties from landmines has soared. This is because the focus of the negotiations then was on reducing the dangers to military personnel, rather than on the problems landmines cause for civilians.

Today, there are 80 to 110 million landmines in over 60 countries, each one waiting to explode from the pressure of a footstep.

These hidden killers have turned vast areas of land, in countries struggling to rebuild after years of war, into death traps. According to the State Department every 22 minutes someone is maimed or killed by a landmine. That is 26,000 people each year, most of whom are innocent civilians.

It would cost tens of billions of dollars to locate and remove the mines. It is an incredibly arduous, dangerous, and prohibitively expensive task. There is no way they will be cleared. The world's arsenals are overflowing with new mines that are only compounding the problem in every armed conflict today.

Mr. President, the meetings in Vienna began yesterday with dramatic announcements by two of our NATO allies, France and Austria. The French Government announced that it would halt all production of antipersonnel landmines, and begin destroying their stockpiles of these weapons. The Austrian Government declared that its military would renounce their use, and destroy their stockpiles.

Earlier this year, Belgium outlawed all production, use and exports of antipersonnel mines.

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have to use the funds in accordance with the requirements of that section. However, some agencies have already transferred significant portions of reserve funds to associated non-profit companies which may not be tax exempt and thus not bound by those restrictions. Moreover, some state laws appear to allow non-profit corporations which dissolve to distribute remaining assets to members (generally the company's directors) in certain circumstances. *See* 805 ILCS 105/112.16 (Illinois); A.R.S. §10-2422 (Arizona). In regard to state agencies, it appears that a State could close the guaranty agency, put the reserve funds into its general fund for use for other purposes and leave the Department with the responsibility for paying lenders.

I mention this because just a month ago, my amendment to impose a 1-year moratorium on the use of these weapons passed the Senate 67 to 27.

Yesterday's announcements by our NATO allies go even further, and the United States should seize this opportunity to support them. These NATO countries defy the Pentagon's assertion that modern militaries like ours require antipersonnel landmines. Landmines are a coward's weapon, that are overwhelmingly used against civilians. If the United States were to join France, Belgium and Austria it would give an enormous push toward the goal of ridding the world of these weapons.

Mr. President, I am going to put my full statement in the RECORD, but I do want to say this. This conference in Vienna presents the United States with a tremendous opportunity, an opportunity that must not be missed.

Fifteen years ago the Conventional Weapons Convention was signed with much fanfare, but it has turned out to be worth little more than the paper it was printed on. Today, there are hundreds of thousands of people dead or maimed by landmines, the very weapon that Convention was intended to control.

We have seen the immense devastation landmines cause, and continue to cause, around the world. Each day, another 70 people are killed or horribly mutilated. The undeniable truth is that antipersonnel landmines cannot be controlled. They are too cheap to make, too easy to transport and conceal. They are the "Saturday night specials" of civil wars, and they have become one of the world's greatest scourges.

Last September at the United Nations, President Clinton took a courageous step, when he called for the eventual elimination of antipersonnel mines. My amendment was a small step toward that goal.

Its purpose was not unilateral disarmament, as some in the Pentagon would have one believe, but leadership. Leadership by the world's only superpower with a military arsenal that dwarfs that of any other nation, to stop the senseless slaughter of tens of thousands of innocent people. By setting an example, we can lead others to take similar action, just as our European allies announced steps yesterday that we should imitate.

The amendment that won the bipartisan support of two thirds of the Senate should be a model for our negotiators in Vienna. I only wish these negotiations were being held in Cambodia, or Angola, where the one-legged victims of landmines can be seen on every street corner.

I wish the negotiators could experience the constant fear of losing a leg, or an arm, or a child, simply from stepping in the wrong place. Instead of weeks of lofty speeches in air conditioned room quibbling over an elaborate set of unenforceable rules, I think we would see dramatic progress toward a ban on these weapons.

Let us not repeat the mistake of a decade and a half ago. Let us finally recognize that there are some weapons that are so indiscriminate, so inhumane, and so impossible to control, that they should be banned altogether. Let us finally do what we say, and stop this when we have the chance.

Mr. President, I ask unanimous consent to have printed in the RECORD a New York Times article about the French Government's announcement.

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

[From the New York Times Sept. 27, 1995]

PARIS TO SCRAP SOME LAND MINES IN FACE OF GROWING SENTIMENT

VIENNA, Sept. 26.—France announced today that it would stop production and export of all antipersonnel mines and begin to destroy its stocks.

Xavier Emmanuelli, the French secretary of state for emergency humanitarian actions, said at a conference in Vienna that France was determined to carry on its struggle against mines, which caused a "humanitarian catastrophe."

"To further this end, France has decided to adopt a moratorium on the production of all types of antipersonnel mines," Mr. Emmanuelli told delegates. "We shall also halt the production of these weapons."

Furthermore, he added, "France will as of now begin to reduce its stocks of antipersonnel mines by destroying them."

The Vienna conference is reviewing a 1980 convention on weapons that are deemed to be indiscriminate or excessively injurious. It will also be discussing laser weapons that blind people exposed to them.

The United Nations Secretary General, Boutros Boutros-Ghali, called for a total ban on land mines, which he said killed or maimed thousands of civilians each year.

He acknowledged that the conference was unlikely to outlaw land mines completely but urged participating countries to at least establish an export moratorium.

In a videotaped message, the United Nations chief said 1,600 people would be killed or wounded in mine blasts around the world during the time the conference was being held. It ends Oct. 13.

Mr. Boutros-Ghali said several countries had already heeded a call by the General Assembly to establish an export moratorium and he urged the conference to back an export ban to states that had not yet ratified the 1980 convention.

France's move, which does not cover antitank mines, is likely to increase pressure on countries that are still exporting mines.

The United States banned mine exports three years ago.

Belgium, Denmark, Norway and Sweden backed Mr. Boutros-Ghali's call for a total ban.

Mr. LEAHY. Mr. President, landmines have been around since at least the American Civil War, when live artillery shells were concealed beneath the surface of roads, in houses, even in water wells. They would explode when a person inadvertently came into contact with them, whether a soldier or an innocent child. The result was an arm or leg blown off, or worse. At the time, General Sherman, who is not remembered as a great humanitarian, called them a "violation of civilized warfare." Yet despite Sherman's condemnation, landmines have been used ever since, in steadily increasing numbers.

My own knowledge about landmines dates to 1988, when I met a young boy in a field hospital on the Honduras-Nicaragua border. He had lost a leg from a mine that had been left on a jungle path near his home. It was because of that boy that I started a fund to get artificial limbs to landmine victims around the world. The war victims fund has been used in over a dozen countries, including Vietnam.

That boy is one of countless people whose lives have been irreparably harmed by landmines. We have all seen the photographs of children with their legs blown off at the knee; their mothers with an arm or a leg missing; hospital wards filled with rows of amputees. They tell the gruesome story, yet those people, who face a lifetime of hardship, are the lucky ones because they survived. There are many thousands of people like them, and as many others who died from loss of blood before reaching a hospital.

Civilians are not the only victims of landmines. Landmines have become a cheap, popular weapon in developing countries where American troops are likely to be sent in the future, either in combat or on peacekeeping missions. A $2 plastic antipersonnel mine, hidden under a layer of sand or dust and practically impossible to detect with a metal detector, can blow the leg off the best trained, best equipped American soldier as easily as a defenseless child. If American and NATO troops are sent to former Yugoslavia to rescue U.N. peacekeepers, they will face as many as 2 million mines in Bosnia alone.

The social and economic costs of landmines are staggering. The United Nations estimates that it will cost several tens of billions of dollars just to remove the existing mines. In each of the past 2 years, about 100,000 mines were cleared at an average cost of several hundred dollars per mine, while an estimated 2 to 2.5 million new mines are laid. The United States has spent millions of dollars to develop better technology for locating and removing landmines, but the most effective method is still a hand-held probe and metal detector. Kuwait, one of the few mine-infested countries rich enough to get rid of the mines left over from the Gulf war, spent over $800 million to clear the millions of Iraqi and American mines and 84 deminers died in the process. We are clearly losing the battle.

The cost of caring for the victims is also immense. The medical care, artificial limbs and lost income for a quarter million amputees over a lifetime is figured at about $750 million, and another

70 people are maimed or killed by mines each day.

Three years ago almost no one was paying attention to this global crisis. The Conventional Weapons Convention had become a distant memory, in part because it had been such a failure. Then, in 1992, the U.S. Senate passed my amendment for a moratorium on the export of antipersonnel landmines. That amendment had one goal—to challenge other countries to join with us to stop the spread of these hidden killers.

Since then, and spurred on by a global campaign of 350 nongovernmental organizations in at least 30 countries, public pressure against the proliferation and use of antipersonnel mines has grown steadily. To date, 28 countries have halted all or most of their exports of these weapons.

Then last September, in an historic speech to the U.N. General Assembly, President Clinton announced the goal of the eventual elimination of antipersonnel mines. On December 15, the U.N. General Assembly passed a resolution calling for further steps toward this goal.

This is the first time since the banning of chemical weapons that the nations of the world have singled out a type of weapon for total elimination. It reflects a growing consensus that antipersonnel landmines are so cheap, so easy to mass produce, so easy to conceal and transport and sow by the thousands, that they cannot be controlled. They have become slow motion weapons of mass destruction, and it is civilians who suffer.

In March of this year, Belgium, a member of NATO, became the first country to unilaterally implement the U.N. goal, by prohibiting the production, export, and use of antipersonnel mines. In June, the Norwegian Parliament did the same thing, and half a dozen other countries have declared support for a global ban on these weapons. The European Parliament and the Organization of African Unity have also adopted resolutions supporting a complete ban.

U.N. Secretary General Boutros-Ghali, U.N. High Commissioner for Refugees Sadako Ogata, Pope John Paul II, former President Jimmy Carter, former Secretary of State Cyrus Vance, and American Red Cross President Elizabeth Dole are among the world leaders who have called for an end to the use of antipersonnel mines.

Yet, despite this progress, the use of landmines continues unabated. In the past year alone, an estimated 5 to 10 million new mines were produced and millions have been used in Chechnya, Bosnia, Cambodia, along the Peruvian-Ecuador border, and in virtually every other armed conflict in the world today.

President Clinton's announcement of the goal to seek the eventual elimination of antipersonnel mines was a crucial milestone, because it defined the ultimate solution to the problem. The administration has also participated actively in the meetings to prepare for the Vienna review conference, where it has shown leadership on several important issues such as the convention's scope and verification. It has also been the leading contributor to landmine clearance programs in countries contaminated with mines.

On the other hand, the administration has emphasized eventual rather than elimination. It has proposed a strategy, developed by the Pentagon, which aims to promote the export and use of self-destruct mines which are designed to blow themselves up after a finite period of time. The theory is that by increasing the availability of these safe mines, the reliance on long-life mines, which often remain active years after a conflict ends, will decrease. However, there is no requirement that governments actually reduce their stockpiles of long-life mines, and no limit on the number of self-destruct mines than can be used.

In an ideal world this approach might make sense, but the reality is otherwise. It ignores the intrinsic problem with landmines—no matter how modern the technology, as long as they are active they cannot distinguish between civilians and soldiers. It also ignores the fact that these mines can be scattered over wide areas by the thousands, or tens of thousands, and even if the failure rate is 2 or 3 percent they pose a perpetual life-threatening danger to whole societies. Moreover, there are tens of millions of long-life mines in inventories around the world. There is little incentive for governments to destroy these stockpiles simply to pay to replace them with more expensive short-life mines. Finally, if we treat some mines as acceptable it will be difficult if not impossible to build international support for the goal of banning them altogether. The inevitable result will be many more needless civilian deaths.

My amendment, which passed the Senate on August 4, offers an alternative approach. But whether the opportunity of the Vienna conference will be seized is the question, and I am not optimistic. Despite notable progress on some issues, the four meetings to prepare for the conference were disappointing since there was little support for a complete ban on antipersonnel mines. Instead, it seems clear that, at best, we can expect an increasingly elaborate set of rules and procedures which are exceedingly difficult, if not impossible, to monitor and enforce.

Although probable, such an outcome is not inevitable. To begin with, there is a proposal for consideration at the review conference to prohibit the use, development, manufacture, stockpiling, or transfer of antipersonnel landmines. The administration should support this proposal, especially considering this week's announcements by the French and Austrian Governments, coming on the heels of the Belgian Government's. It is fully consistent with the President's goal, and with my amendment. Even a halt to production, as our NATO allies have done, would be a major step beyond where we are.

Unfortunately, the Pentagon continues to insist that it needs antipersonnel landmines until viable and humane alternatives are developed, and is therefore certain to reject such an approach despite the administration's own rhetoric. Although the Pentagon is spending millions of dollars to develop more advanced mines, there is little evidence that it is seriously engaged in developing alternatives. Instead, the administration will probably support proposed hortatory language that the restrictions and prohibitions in this protocol shall facilitate the ultimate goal of a complete ban on the production, stockpiling, use, and trade of antipersonnel landmines. Although constructive, this language would have no operative effect and could easily be construed to be consistent with the administration's safe mine approach.

Even if governments fail to adopt the complete ban on antipersonnel mines which I and many others would prefer, the conference can produce important progress toward that goal and the United States should seek the strongest possible limits on antipersonnel landmines.

The convention, like other laws of war agreements, contains limits on use, as opposed to production, stockpiles, and transfers. My amendment, which also limits use, offers a useful model, and the administration should incorporate elements of it into the U.S. negotiating position. Rather than encourage the widespread use of self-destruct mines, my amendment seeks to severely limit the use of all antipersonnel mines, and thus move unambiguously toward a complete ban. But it falls significantly short of a ban, since it permits their use along international borders and in demilitarized zones which is a paramount concern of countries with hostile neighbors. It exempts antitank mines. It exempts command detonated munitions which are effective for protecting a perimeter and are not indiscriminate. And, it does not take effect for 3 years.

Although my amendment differs substantially from the administration's current policy, it has the distinct benefit of being simpler to implement and far easier to verify. And while overcoming the considerable resistance to such a significant change in international practice would depend on the amount of public pressure that could be amassed to convince governments to agree, it has the added advantage that it might actually work.

While I believe the above recommendations are reasonable and necessary under the circumstances, I fully recognize that, at best, they are likely to receive only passing consideration. However, short of that, there are several other areas of discussion where strong U.S. leadership could determine whether the review conference achieves meaningful results.

I am encouraged that there is near agreement on expanding the scope of the convention beyond international conflicts. This is crucial, since the widespread use of landmines in recent years has been in civil wars. The administration has strongly supported this modification, and it should advocate for final agreement on application of the convention in all circumstances, so there is no ambiguity about its universal application.

There is a proposal that any antipersonnel mine that is not placed in a marked and guarded minefield must contain a self-destructing device. However, self-destruct mines are often disbursed by aircraft and artillery in huge numbers over wide areas making it extremely difficult to accurately map their location. Instead, all mines, including self-destruct mines which as noted above are as indiscriminate as other mines, should be required to be located in marked and monitored minefields to ensure the exclusion of civilians. In addition, given the large number of self-destruct mines that failed to self-destruct in the Persian Gulf war, it is essential that the United States advocate strongly that such mines also contain a self-deactivating device, such as a battery which loses power after a finite time.

A proposal tabled by Russia would establish an exception to the self-destruct and marked and monitored minefield requirements in situations where direct enemy military action makes it impossible to comply. Such an exception would virtually negate the effect of these requirements, and the administration should strongly oppose it.

The time period within which a self-destruct mine must self-destruct or self-deactivate remains a subject of discussion. There are proposals ranging from 2 to 365 days. Indeed, at least one government has reportedly proposed that there be no time limit. Most U.S. mines are designed to self-destruct within 24 to 48 hours, and to self-deactivate within 60 days. The administration should advocate strongly for this short time period.

One of the most frequent criticisms of the Conventional Weapons Convention is its lack of verification and compliance procedures. The administration has proposed factfinding and compliance procedures which, while not nearly as intrusive as the verification and compliance procedures in the Chemical Weapons Convention, could significantly enhance the effectiveness of the Conventional Weapons Convention. In contrast, a proposal advocated by several nonaligned governments would provide for only transparency requirements, whereby governments would have to disclose certain information about their use of mines. This would be woefully inadequate. If the review conference is to have any hope of producing meaningful results the convention must include effective verification procedures and at least the possibility of sanctions for nonratification and noncompliance.

It is encouraging that there appears to be agreement that antipersonnel mines must be detectable with common electronic metal detecting equipment. To avoid confusion and foreseeable problems, there needs to be a requirement of a specific amount of metal to ensure easy detection. This requirement should be extended to cover antitank mines as well. This is very important for the safety of deminers.

The administration has proposed to prohibit antihandling devices on antitank landmines, as well as on antipersonnel mines. Unfortunately, this has not received support from other countries. The administration should continue to advocate for such a prohibition, since an antitank mine with an anti-handling device is an antipersonnel mine. This could also could help reduce the danger to deminers.

Finally, given the U.N. General Assembly's adoption of the goal of eventually eliminating antipersonnel mines, the utter failure of the convention, and the fact that the results of the Vienna conference are likely to be quite modest, the administration should seek frequent reviews of the convention. Rather than every 10 years, there should be some form of annual technical review, and a formal review at least every 5 years. In addition to identifying problems, frequent reviews could help bring additional States on board.

Like any weapon, landmines have a military use. But it needs to be weighed against the immense, long-term human and economic damage they cause. Solving the landmine crisis will take years, possibly generations. The Vienna conference is a beginning. Our aim should be to build an international consensus that like chemical and biological weapons, antipersonnel mines are so indiscriminate and inhumane that they do not belong on this Earth. They are not weapons we depend on for our national security. They are most often used against the defenseless.

Ultimately, it is a moral issue, as has been so eloquently stated by South African Archbishop Desmond Tutu. He has spoken about the 20 million landmines in Africa that have already destroyed so many innocent lives:

> Antipersonnel landmines are not just a crime perpetrated against people, they are a sin. Why has the world been so silent about these obscenities? It is because most of the victims of landmines are neither heard nor seen.

Mr President, I want to also speak briefly about another issue that will be debated in Vienna, blinding laser weapons.

In recent years, military forces have come to rely on lasers for range finding, target designation and other modern technology. These technologies have helped to increase the accuracy and effectiveness of U.S. weapons, and are widely accepted as legitimate uses in warfare. However, as the technology has advanced, various governments have begun to move from these nonweapon laser systems to the development of tactical laser weapons that are either intended or have the potential to destroy eyesight. Such laser weapons now exist in prototype form, and some are small enough to be mounted on a rifle.

A recent report identified 10 different U.S. laser weapon systems, 5 of which have apparently been fielded in prototype form. The Pentagon has acknowledged that two of the systems were deployed, but not used, in the Gulf war, and that one system was deployed, but not used, in Somalia. Other governments that have been mentioned in the press as developing blinding laser weapons include China, Russia, other former Soviet republics, France, the United Kingdom, Germany and Israel. China attempted to market its ZM-87, a portable laser weapon system, at an arms exhibition this spring. Its promotional literature openly states that one of the weapon's main purposes is to injure eyesight.

Alarmed by the obvious potential for widespread abuse by terrorists, rogue states, insurgent groups and common criminals if antipersonnel laser weapons are developed and allowed to proliferate, several years ago the international committee of the Red Cross initiated a campaign against battlefield laser weapons. This led to a Swedish proposal to add a protocol to the convention to prohibit the use of laser weapons for the purpose of causing permanent blindness as a method of warfare. Over 20 governments including many of our closest allies, as well as the European Parliament and the Organization of African Unity, have expressed support for such a protocol.

The possibility of hundreds or thousands of American servicemen and women returning from combat to face the rest of their lives without eyesight is sufficiently horrifying that I sought the Pentagon's opinion on the Swedish proposal. Although the Pentagon concedes that there is no military requirement for weapons that are used to destroy eyesight, I found the Pentagon strongly opposed to the Swedish proposal for several somewhat contradictory reasons:

I was told that a prohibition is unnecessary since there is no plan to develop blinding weapons. At the same time, I was told that they are easy to develop and indeed already exist.

I was told that there is no point in investing in such weapons since they are ineffective in inclement weather and thus unlikely to receive widespread use.

I was told that a prohibition would not prevent their development or use by civilians; that blinding is preferable to death; that a prohibition would be difficult to enforce because of the legitimate uses of lasers in warfare and, even worse, that it would deter legitimate uses; and that negotiation of such a protocol would divert attention from the more immediate and pressing issue of landmines.

These arguments are unpersuasive. The Pentagon maintains that its laser weapons systems are intended not to blind, but to disrupt enemy optical and electro-optical battlefield surveillance systems. The Pentagon has also conceded, however, that in some circumstances the laser weapon performs its antisensor function by damaging the eyesight of the enemy user. A laser weapon beam directed at a simple optic such as a binocular or gunner's sight does not destroy the optical lens, but instead magnifies and shoots back into the human eye, causing damage and probable permanent blindness. The most advanced U.S. laser weapon system, the Laser Countermeasure System [LCMS], which is mounted on an M-16 rifle, reportedly fires a beam powerful enough to destroy a human retina from a distance of 3,000 feet.

The fact that a prohibition would not directly apply to civilians is hardly a reason not to limit their use as a method of warfare, particularly since a prohibition would certainly inhibit their development and use by terrorists and common criminals. Blindness may be preferable to death, but blindness is permanent and weapons used to blind would be used in combination with, not instead of, other deadly weapons.

As for the Pentagon's argument that a prohibition on blinding could deter legitimate uses of lasers, it should not be difficult to distinguish between the use of nonweapon lasers for target designation and range-finding versus tactical laser weapons that can blind. During the Gulf War, there were many thousands of uses of nonweapon lasers by the United States and other nations, and only one or two known instances of eye damage.

In any event, this problem is certainly solvable, and is by no means unique to the laws of war. A prohibition should prohibit blinding as a method of warfare, as well as the development, production, transfer, and use of laser weapons the primary purpose or effect of which is to cause blindness.

Some violations would be difficult or impossible to prove, but that is true with other laws of war violations such as the deliberate targeting of civilians. The burden of proof is on the person alleging the violation.

As a strong proponent of limits on the use of landmines, I certainly do not want negotiations on laser weapons to divert attention from the landmine issue. However, given the brevity of the Swedish proposal, its support among other governments and the unique opportunity presented by the Vienna conference, this is too important an opportunity to miss. I have urged the administration to delay the development or production of any antipersonnel laser system until the issue has been fully considered in Vienna.

Unfortunately, in June the Pentagon made an ill-advised decision to go forward with a limited production of 75 LCMS systems, while deferring a decision on full production of 2,500 units until early 1996. While I am relieved that a decision on full production was delayed, even limited production will complicate the negotiations on a prohibition. The administration should reverse this decision and postpone any further research, development, or procurement of tactical laser weapon systems until after the Vienna conference.

To its credit, the Pentagon recently announced that it has revised its policy on lasers, to prohibit the use of lasers specifically designed to cause permanent blindness. This is an important step, but it is not enough to prohibit only lasers designed to be used against personnel, since virtually any laser can be used to destroy eyesight if used for that purpose.

It is not too late to act to prevent the widespread proliferation of these weapons. Like exploding bullets and other weapons that have been banned as excessively cruel, the administration should actively support an international prohibition on blinding as a method of warfare. U.S. leadership, even at this late date, would virtually assure agreement.

Mr. President, again, the Vienna conference is a unique opportunity. On both landmines and laser weapons, U.S. leadership is urgently needed and vital to save lives and prevent the proliferation of these inhumane weapons.

FOREIGN OPERATIONS APPROPRIATIONS AMENDMENTS VOTES

Mr. ABRAHAM. Mr. President, I want to take a few moments to explain several of my votes concerning H.R. 1868, the Foreign Operations appropriation bill. I voted in favor of final passage of the bill because it would meet U.S. foreign relations and national security goals, while cutting spending in those areas that do not directly support the U.S. national security strategy.

Many of the amendments offered to the bill concerned the question of responsibility the United States has in economically or militarily supporting other countries. I ran for this body on a platform fiscal conservatism and directing our foreign assistance programs towards those areas in which the United States has a direct political, economic, or national security interest. Although many arguments were raised as to what effect U.S. aid would or would not have in the recipient country, my votes on the amendments turned more on the question of whether the national security of the United States was directly improved by the provision or withholding of this assistance.

These principles led me to oppose the D'Amato amendment to cut Economic Support Fund assistance to Turkey, but support the Dole amendment on the transhipment of United States humanitarian aid. I believe the United States national security interests are best served by a strong and stable Turkish government, which has fully committed itself to the principles of open markets, democratic government, and the preservation of individual liberties.

Turkey, in my opinion, is making progress on all these fronts, and relations with its neighbors are similarly changing, both with United States assistance and through other venues. Because of the potential for our relations with Turkey to quickly shift, I believe it is critical any conditions the Congress places upon assistance to Turkey provide the Executive with the tools necessary to adjust to those new circumstances. The D'Amato amendment cut almost half of the Economic Support Fund aid to Turkey without any method for the Executive to resume that aid if such leverage proves necessary or fruitful. For that reason I was unable to support the D'Amato amendment.

The Dole amendment, however, provided such tools to the Executive, and I was therefore able to support this measure. Although the language of the amendment was universal in its application, the Majority Leader made clear his motivation for this measure was Turkey's refusal to allow the transhipment of United States humanitarian aid to Armenia. Because of the potential for a rapid shift in our national security objectives and relations with Turkey, this amendment provides the Executive the authority to waive its provisions if it is in the United States national security interests to do so. Given the strategic, political and economic importance of Turkey to the United States, I believe this is a vital provision. This language is even more expansive than the original Humanitarian Relief Corridor Act waiver language and I applaud its inclusion. Although the amendment was adopted by voice vote, if it had come to the floor for a roll call vote, I would have voted

in favor of its adoption. I also wish to make it clear that if the progress I referred to earlier in the democratization and liberalization of Turkey does not continue and solidify, I may determine that requested levels of United States assistance are no longer serving our national interests.

I also wish to explain my opposition to the Brown amendment allowing the transfer of previously purchased military equipment to Pakistan. This amendment was presented as an attempt to divest the United States of military equipment purchased by Pakistan, but withheld due to the implementation of the Pressler amendment. I do not wish to argue the relative merits of the Pressler amendment itself, for that was not the issue. The issue was whether the United States should go back on its legislatively defined position that aid to Pakistan could only be provided if Pakistan did not possess a nuclear explosive device. The Pressler amendment had been on the books for almost 5 years before it was finally implemented in 1990, and Pakistan knew full well what would happen if the President found it impossible to certify that Pakistan did not possess a nuclear explosive device. Pakistan continued those policies that led to this Presidential determination, and they must be willing to accept the consequences.

This is not to imply our interests in South Asia are static. All parties must abandon the notion that United States relations with Pakistan and India are part of some regional zero-sum game. Measures the United States undertakes to improve relations with one country should not be interpreted as happening at the expense of the other country. But I believe allowing the introduction of significant military hardware at this critical juncture in South Asian relations would be contrary to our national interests and regional stability. Obviously, however, the affirmative vote on the Brown amendment indicates the Senate is moving in another direction. I therefore believe it is now time for the United States to move past this issue in our relations with India and Pakistan, and extend our relations with both countries, not at the expense of one or the other, but in tandem.

As for my support for the Helms amendment regarding funding for the UN Population Fund [UNFPA], it is not because I am opposed to foreign assistance. Indeed, I believe it is vitally important we remain engaged in the international arena, and foreign assistance can be a powerful tool for the United States to further its political, economic, and national security goals. However, the history of our foreign assistance programs shows a repeated record of funding for controversial projects that do little to advance those goals. Given the demands to balance the budget and cut federal spending, I believe this program is extraneous to our foreign policy objectives.

The UNFPA fully supports Chinese population control programs that include forced abortions and involuntary sterilization. These practices are contrary to the values of a large segment of my State's citizens, and I believe the citizens of the United States as well. That consideration, in fact, is why the Congress has previously mandated such United assistance to the UNFPA be separated from the Chinese programs. But I believe such separations are irrelevant given the inherent fungibility of money. The UNFPA simply shifts other donor countries contributions to China and use the United States contributions as a replacement in non-Chinese projects. The Helms amendment stops this elaborate shell game unless China ceases such practices or the UNFPA withdraws from this program, and brings such expenditures in line with the clear wishes of the American people. I therefore voted to adopt the Helms amendment.

Finally, Mr. President, I wish to explain my vote regarding the Smith amendment prohibiting Most Favored Nation trading status with Vietnam, or the provision of trade financing incentives unless the President certifies they have been fully cooperative on the issues of United States POW/MIA's and human rights. The normalization of relations with Vietnam is a major development in United States foreign policy, and I have long been disappointed the Congress was not more fully brought into this process by the Administration. There are still substantial questions regarding the fate of United States servicemen lost in South East Asia during the Vietnam War. I therefore voted for this amendment in the hope it would provide the leverage needed to obtain this crucial cooperation and information.

However, given the amendment's rejection by a vote of 39 to 59, it is clear the Senate has decided to move forward in relations with Vietnam, and I am fully prepared to become involved in that process. The Administration has promised these initiatives towards Vietnam will more assuredly provide the United States the answers it needs regarding POWs and MIA's in South East Asia. I will monitor that progress closely over the next year, and make an independent evaluation as to whether these measures have indeed helped resolve these questions.

Mr. President, it is difficult to analyze this myriad of issues in the pure vacuum of policy analysis. Different groups can have vastly different positions on issues, and each can defend those positions with a plethora of hard evidence and supporting statistics. However, by applying a standard of United States national security interests to such decisions, I believe we can ensure that our international initiatives best meet our national strategies and goals, and further the establishment of democratic societies, free market economies and individual liberty.

Mr. President, I yield the floor.

COSPONSORING S. 830

Mr. LEAHY. Mr. President, I am pleased to cosponsor S. 830, a bill introduced by Senator SPECTER to amend the Federal Criminal Code to prohibit the making of false statements, misrepresentations or false writings to Congress or to any congressional committee or subcommittee. Until the Supreme Court decided Hubbard versus United States in May of this year, that had been the law of the land for 40 years.

In the Hubbard case, the Supreme Court decided that section 1001 of title 18, United States Code, prohibits the making of false statements only to executive branch agencies, and not to the courts or Congress. This decision overturned a 1955 Supreme Court case, which squarely held that "one who lied to an officer of Congress was punishable under §1001 * * *" *Hubbard*, 131 L.Ed. 2d 779, 798.

S. 830 would make clear that the courts, Congress, and "any duly constituted committee or subcommittee of Congress" are covered by the prohibition in section 1001 against false statements. It would restore the clear message to all who may appear before a committee or subcommittee of the Senate or House: Do not lie to us.

Although various other laws criminalize false statements to Congress, none of those statutes reaches the breadth of misrepresentations and false statements prohibited by section 1001. For example, a perjury prosecution under 18 U.S.C. §1621 requires that the false statement be made under oath, while section 1001 does not. Likewise, a prosecution under 18 U.S.C. §287 requires that the false statement be made in connection with a claim for payment, while section 1001 does not. Finally, an obstruction prosecution under 18 U.S.C. §1505 requires that the obstruction be effected "corruptly or by threats or force," which section 1001 does not. Indeed, section 1505 has specifically been held not to prohibit lying to Congress. *U.S.* v. *Poindexter*, 951 F.2d 369 (D.C. Cir. 1991).

I recognize that extension of section 1001 to the courts must be done delicately so as not to impinge upon responsible advocacy. I look forward to working with my friend from Pennsylvania on refining this bill, and urge its passage in this Congress.

We should all be aware that until S. 830 is passed, witnesses may lie with impunity at congressional hearings, unless they are placed under oath.

Senator SPECTER has meticulously administered oaths to every witness who has appeared at the extensive and

ongoing Ruby Ridge hearings before the Judiciary Subcommittee on Terrorism, Technology and Government Information, which he chairs. We have heard from current and former law enforcement personnel from four Federal agencies, including the Marshals Service, the Bureau of Alcohol, Tobacco and Firearms, the FBI, and the Justice Department. We have also heard from Randy Weaver and his daughter, Sara, Kevin Harris, their neighbors and their friends.

Sorting out what happened 3 years ago at Ruby Ridge, and then its aftermath, has proven to be no simple task. This was a tragedy, resulting in the deaths of Deputy Marshal William Degan, a 14-year-old boy, Sammy Weaver, and his mother, Vicki Weaver. Figuring out what went wrong at Ruby Ridge and what can be done to make sure those events are never repeated, is the challenge the subcommittee is facing on a bipartisan basis.

Fulfilling our important oversight responsibility at these hearings, and in future hearings on other matters, requires that we seek the truth and base our findings on facts. Witnesses, who are interviewed, called to testify, and asked to provide documentary material relating to matters under consideration by Congress, should be given the message loudly and clearly that if they lie or purposely mislead us, they will be sanctioned with criminal penalties. This bill would put that message in the law, and I am glad to cosponsor it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED AGREEMENT FOR COOPERATION WITH SOUTH AFRICA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 84

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 Foreign Relations.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and the Republic of South Africa Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Acting Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with the Republic of South Africa has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the non-proliferation and other foreign policy interests of the United States. It provides a comprehensive framework for peaceful nuclear cooperation between the United States and South Africa under appropriate conditions and controls reflecting a strong common commitment to nuclear non-proliferation goals.

The proposed new agreement will replace an existing U.S.-South Africa agreement for peaceful nuclear cooperation that entered into force on August 22, 1957, and by its terms would expire on August 22, 2007. The United States suspended cooperation with South Africa under the 1957 agreement in the 1970's because of evidence that South Africa was embarked on a nuclear weapons program. Moreover, following passage of the NNPA in 1978, South Africa did not satisfy a provision of section 128 of the Atomic Energy Act (added by the NNPA) that requires full-scope IAEA safeguards in non-nuclear weapon states such as South Africa as a condition for continued significant U.S. nuclear exports.

In July 1991 South Africa, in a momentous policy reversal, acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and promptly entered into a full-scope safeguards agreement with the IAEA as required by the Treaty. South Africa has been fully cooperative with the IAEA in carrying out its safeguards responsibilities.

Further, in March 1993 South Africa took the dramatic and candid step of revealing the existence of its past nuclear weapons program and reported that it had dismantled all of its six nuclear devices prior to its accession to the NPT. It also invited the IAEA to inspect its formerly nuclear weapons-related facilities to demonstrate the openness of its nuclear program and its genuine commitment to non-proliferation.

South Africa has also taken a number of additional important non-proliferation steps. In July 1993 it put into effect a law banning all weapons of mass destruction. In April 1995 it became a member of the Nuclear Suppliers Group (NSG), formally committing itself to abide by the NSG's stringent guidelines for nuclear exports. At the 1995 NPT Review and Extension Conference it played a decisive role in the achievement of indefinite NPT extension—a top U.S. foreign policy and national security goal.

These steps are strong and compelling evidence that South Africa is now firmly committed to stopping the spread of weapons of mass destruction and to conducting its nuclear program for peaceful purposes only.

In view of South Africa's fundamental reorientation of its nuclear program, the United States proposes to enter into a new agreement for peaceful nuclear cooperation with South Africa. Although cooperation could have been resumed under the 1957 agreement, both we and South Africa believe that it is preferable to have a new agreement completely satisfying, as the proposed new agreement does, the current legal and policy criteria of both sides, and that reflects, among other things:

Additional international non-proliferation commitments entered into by the parties since 1974, when the old agreement was last amended, including, for South Africa, its adherence to the Treaty on the Non-Proliferation of Nuclear Weapons;

Reciprocity in the application of the terms and conditions of cooperation between the parties; and

An updating of terms and conditions to take account of intervening changes in the respective domestic legal and regulatory frameworks of the parties in the area of peaceful nuclear cooperation.

For the United States, the proposed new agreement also represents an additional instance of compliance with section 404(a) of the NNPA, which calls for an effort to renegotiate existing agreements for cooperation to include the more stringent requirements established by the NNPA.

The proposed new agreement with South Africa permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or

major critical components thereof. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

From the United States perspective the proposed new agreement improves on the 1957 agreement by the addition of a number of important provisions. These include the provisions for full-scope safeguard; perpetuity of safeguards; a ban on "peaceful" nuclear explosives; a right to require the return of exported nuclear items in certain circumstances; a guarantee of adequate physical security; and a consent right to enrichment of nuclear material subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 29, 1995.*

REPORT RELATIVE TO THE EXPORT ADMINISTRATION ACT OF 1979—MESSAGE FROM THE PRESIDENT—PM 85

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month periodic report on the national emergency declared by Executive Order No. 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 29, 1995.*

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 743. An Act to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

H.R. 1170. An Act to provide that cases challenging the constitutionality of measures passed by State referendum be heard by a 3-judge court.

The message also announced that pursuant to the provisions of section 168(b) of Public Law 102–138, the Speaker appoints the following Member to the British-American Interparliamentary Group on the part of the House: Mr. BEREUTER, Chairman.

At 4:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, with an amendment, in which it requests the concurrence of the Senate:

S. Con. Res. 27. Concurrent Resolution correcting the enrollment of H.R. 402.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 895) to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ARCHER, Mr. GOODLING, Mr. ROBERTS, Mr. SHAW, Mr. TALENT, Mr. NUSSLE, Mr. HUTCHINSON, Mr. MCCRERY, Mr. SMITH of Texas, Mrs. JOHNSON of Connecticut, Mr. CAMP, Mr. FRANKS of Connecticut, Mr. GIBBONS, Mr. CLAY, Mr. DE LA GARZA, Mr. CONYERS, Mr. FORD, Mr. WAXMAN, Mr. MILLER of California, Mrs. KENNELLY, Mr. LEVIN, and Mrs. LINCOLN as the managers of the conference on the part of the House.

The message also announced that the Speaker appoints the following Members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 440) entitled "An Act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes":

As additional conferees for the consideration of sections 105 and 141 of the Senate bill, and section 320 of the House amendments, and modifications committed to conference: Mr. BLILEY, Mr. BILIRAKIS, Mr. BARTON of Texas, Mr. GREENWOOD, Mr. DINGELL, Mr. WAXMAN, and Mr. BROWN of Ohio.

As additional conferees for the consideration of section 157 of the Senate bill, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. HANSEN, and Mr. MILLER of California.

At 6:51 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 104. Concurrent Resolution providing for an adjournment of the two houses.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 2399. An Act to amend the Truth in Lending Act to clarify the intent of such Act and to reduce burdensome regulatory requirements on creditors.

ENROLLED JOINT RESOLUTION SIGNED

At 7:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 108. Joint Resolution making continuing appropriations for the fiscal year 1996, and for other purposes.

At 7:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker appoints Mr. EMERSON as an additional conferee in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 743. An Act to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 1170. An Act to provide that an application for an injunction restraining the enforcement, operation, or execution of a State

law adopted on the ground of the unconstitutionality of such law unless the application is heard and determined by a 3-judge court; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 325. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes (Rept. No. 104–150).

By Mr. STEVENS, from the Committee on Governmental Affairs, without amendment:

S. 868. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes (Rept. No. 104–151).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1084. A bill to provide for the conveyance of the C.S.S. Hunley to the State of South Carolina, and for other purposes (Rept. No. 104–152).

S. 1141. A bill to authorize appropriations for the activities of the Under Secretary of Commerce for Technology, and for scientific research services and construction of research facilities activities of the National Institute of Standards and Technology, for fiscal years 1996, 1997, and 1998, and for other purposes (Rept. No. 104–153).

By Mr. ROTH, from the Committee on Finance, without amendment:

H.R. 2288. A bill to amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of State plans for child and spousal support.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S.J. Res. 21. A joint resolution proposing a constitutional amendment to limit congressional terms.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. Thurmond, from the Committee on Armed Services:

John Wade Douglass, of Virginia, to be an Assistant Secretary of the Navy.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH (for himself, Mr. CHAFEE, Mr. INHOFE, Mr. KEMPTHORNE, Mr. FAIRCLOTH, Mr. BOND, Mr. THOMAS, Mr. McCONNELL, Mr. WARNER, Mr. LOTT, and Mr. GREGG):

S. 1285. A bill to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SMITH:

S. 1286. A bill to amend the Solid Waste Disposal Act regarding management of remediation waste, certain recyclable industrial materials, and certain products, co-products, and intermediate products, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LEAHY:

S. 1287. A bill to amend chapters 83 and 84 of title 5, United States Code, to provide that Federal employees who are erroneously covered by the Civil Service Retirement System may elect to continue such coverage or transfer to coverage under the Federal Employees Retirement System, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BRYAN:

S. 1288. A bill to validate certain conveyances made by the Southern Pacific Transportation Company within the city of Reno, Nevada and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KYL (for himself, Mr. NUNN, Mr. HELMS, Mr. BENNETT, Mr. KEMPTHORNE, and Mr. FAIRCLOTH):

S. 1289. A bill to amend title XVIII of the Social Security Act to clarify the use of private contracts, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 1290. A bill to reduce the deficit; to the Committee on the Budget.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 1291. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of effectively connected investment income of insurance companies; to the Committee on Finance.

By Mr. BROWN:

S. 1292. A bill to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office", and for other purposes; to the Committee on Governmental Affairs.

By Mr. MURKOWSKI (for himself, Mr. HELMS, Mr. McCAIN, and Mr. NICKLES):

S. 1293. A bill to provide for implementation of the Agreed Framework with North Korea regarding resolution of the nuclear issue on the Korean Peninsula, and for other purposes; to the Committee on Foreign Relations.

By Mr. JEFFORDS:

S. 1294. A bill to amend title 10, United States Code, to repeal the requirement that amounts paid to a member of the Armed Forces under the Special Separation Benefits program of the Department of Defense, or under the Voluntary Separation Incentive program of that Department, be offset from amounts subsequently paid to that member by the Department of Veterans Affairs as disability compensation; to the Committee on Armed Services.

By Mr. HELMS (for himself, Mr. FAIRCLOTH, and Mr. WARNER):

S. 1295. A bill to prohibit the regulation of any tobacco products, or tobacco sponsored advertising, used or purchased by the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports association by the Secretary of Health and Human Services or any other instrumentality of the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. LUGAR, and Mr. COCHRAN):

S. 1296. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan; to the Committee on Finance.

By Mr. HATCH:

S. 1297. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. GREGG, and Mr. SMITH):

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact; 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. BIDEN:

S. Res. 177. A resolution to designate October 19, 1995, as "National Mammography Day"; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. GRAHAM, Mr. BOND, Mr. CHAFEE, Mr. D'AMATO, Mr. DOLE, Mr. GORTON, Mrs. KASSEBAUM, Mr. SPECTER, Mr. STEVENS, Mr. WARNER, Mr. THURMOND, Mr. AKAKA, Mr. HOLLINGS, Mr. KERREY, Mr. DASCHLE, Mr. LEVIN, and Ms. MIKULSKI):

S. Res. 178. A resolution designating the second Sunday in October of 1995 as "National Children's Day", and for other purposes; considered and agreed to.

By Mr. THURMOND (for himself, Mr. DOLE, Mr. ASHCROFT, Mr. BAUCUS, Mr. DOMENICI, Mr. DORGAN, Mr. GORTON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. SANTORUM, Mr. PACKWOOD, Mr. WARNER, Mr. COHEN, Mr. SHELBY, Mr. LOTT, Mr. HATFIELD, Mr. JEFFORDS, Mr. COCHRAN, Mr. BUMPERS, Mr. KOHL, Mr. MACK, Mr. BIDEN, Mr. CRAIG,, Mr. SARBANES, Mr. BYRD, Mr. STEVENS, Mr. INHOFE, Mr. WELLSTONE, Mr. LEAHY, Mr. SIMPSON, Mr. BROWN, Mr. ROBB, Mr. INOUYE, Mr. HATCH, and Mr. CAMPBELL):

S. Res. 179. A resolution concerning a joint meeting of Congress and the closing of the commemorations for the Fiftieth Anniversary of World War II, considered and agreed to.

By Mr. JEFFORDS:

S. Con. Res. 28. A concurrent resolution authorizing the use of the Capitol Grounds for the D.C. StandDown '95; to the Committee on Rules and Administration.

By Mr. DOLE:

S. Con. Res. 29. A concurrent resolution providing for marking the celebration of Jerusalem on the occasion of its 3000th Anniversary; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself, Mr. CHAFFEE, Mr. INHOFE, Mr. KEMPTHORNE, Mr. FAIRCLOTH,

Mr. BOND, Mr. THOMAS, Mr. MCCONNELL, Mr. WARNER, Mr. LOTT, and Mr. GREGG):

S. 1285. A bill to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

THE ACCELERATED CLEANUP AND ENVIRONMENTAL RESTORATION ACT OF 1995

Mr. SMITH. Mr. President, when the Superfund Program was enacted in 1980, it was expected that only a few hundred sites would need to be cleaned up, at a relatively modest cost. Today, we know those expectations were misguided. There are more than 1,300 sites on the national priorities list, and the EPA has been adding an average of 30–40 new sites per year. To date, the construction of long-term cleanup remedies have been completed at fewer than 300 contaminated sites.

The Superfund saga has been running now for 15 years. The cast includes a bewildering mix of lawyers, bureaucrats, insurers, small business owners, polluters and others trapped in a tangled web of retroactive, joint, strict and several liability. The Superfund story is one of good intentions gone bad while a Government program ran amok.

I am here today to announce that this sorry show will be coming to an end, soon. My goal this year has been nothing short of a comprehensive, common sense reform of the Superfund Program.

The Subcommittee on Superfund, Waste Control, and Risk Assessment, which I chair, held 7 hearings and received testimony from more than 60 witnesses in an effort to formally incorporate a wide variety of views on the issue of Superfund reform. On June 28, I released a detailed outline of a Superfund reform plan and asked for comments from interested parties. I received more than 150 constructive comments and suggestions.

The bill I am introducing today with Senators CHAFEE, BOND, INHOFE, THOMAS, KEMPTHORNE, FAIRCLOTH, LOTT, MCCONNELL, WARNER and GREGG respond to the broad-based concerns and problems with the Superfund Program. The Accelerated Cleanup and Environmental Restoration Act will do just what the title says. The legislation will accelerate the pace of cleanups by reducing cleanup costs, reducing litigation costs, and providing economic incentives for PRPs to stay on site and get the job done.

The legislation will establish a fair, cost-effective and balanced approach to cleaning up hazardous waste sites and returning them to productive use.

Mr. President, I ask unanimous consent that a title-by-title summary of legislation be printed in the RECORD.

Mr. President, I ask unanimous consent that a copy legislation be printed in the RECORD.

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

S. 1285

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 "Accelerated Cleanup and Environmental Restoration Act of 1995".

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

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY PARTICIPATION

Sec. 101. Community response organizations; technical assistance grants; improvement of public participation in the Superfund decisionmaking process.

TITLE II—STATE ROLE

Sec. 201. Delegation to the States of authorities with respect to national priorities list facilities.

TITLE III—VOLUNTARY CLEANUP

Sec. 301. Assistance for qualifying State voluntary response programs.
Sec. 302. Brownfield cleanup assistance.
Sec. 303. Treatment of security interest holders and fiduciaries as owners or operators.
Sec. 304. Federal Deposit Insurance Act amendment.
Sec. 305. Contiguous properties.
Sec. 306. Prospective purchasers and windfall liens.
Sec. 307. Safe harbor innocent landholders.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

Sec. 401. Definitions.
Sec. 402. Selection and implementation of remedial actions.
Sec. 403. Remedy selection methodology.
Sec. 404. Remedy selection procedures.
Sec. 405. Completion of remedial action and delisting.
Sec. 406. Transition rules for facilities currently involved in remedy selection.
Sec. 407. Judicial review.
Sec. 408. National priorities list.

TITLE V—LIABILITY ALLOCATIONS

Sec. 501. Allocation of liability for multiparty facilities.
Sec. 502. Liability of response action contractors.
Sec. 503. Release of evidence.
Sec. 504. Contribution protection.
Sec. 505. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.
Sec. 506. Common carriers.
Sec. 507. Limitation on liability for response costs.

TITLE VI—FEDERAL FACILITIES

Sec. 601. Transfer of authorities.
Sec. 602. Department of Energy environmental cleanup requirements.
Sec. 603. Innovative technologies for remedial action at Federal facilities.
Sec. 604. Federal facility listing.
Sec. 605. Federal facility listing deferral.
Sec. 606. Transfers of uncontaminated property.

TITLE VII—NATURAL RESOURCE DAMAGES

Sec. 701. Restoration of natural resources.
Sec. 702. Assessment of damages.
Sec. 703. Consistency between response actions and resource restoration standards and alternatives.
Sec. 704. Miscellaneous amendments.

TITLE VIII—MISCELLANEOUS

Sec. 801. Result-oriented cleanups.
Sec. 802. National priorities list.
Sec. 803. Obligations from the fund for response actions.
Sec. 804. Remediation waste.

TITLE IX—FUNDING

Subtitle A—General Provisions

Sec. 901. Authorization of appropriations from the fund.
Sec. 902. Orphan share funding.
Sec. 903. Department of Health and Human Services.
Sec. 904. Limitations on research, development, and demonstration programs.
Sec. 905. Authorization of appropriations from general revenues.
Sec. 906. Additional limitations.
Sec. 907. Reimbursement of potentially responsible parties.

TITLE I—COMMUNITY PARTICIPATION

SEC. 101. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) AMENDMENT.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

"(e) COMMUNITY RESPONSE ORGANIZATIONS.—

"(1) ESTABLISHMENT.—The Administrator shall create a community response organization for a facility—

"(A) if the Administrator determines that a representative public forum will be helpful in promoting direct, regular, and meaningful consultation among persons interested in remedial action at a facility; or

"(B) at the request of—

"(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

"(ii) a representative group of the potentially responsible parties; or

"(iii) any local governmental entity with jurisdiction over the facility.

"(2) RESPONSIBILITIES.—A community response organization shall—

"(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

"(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties; and

"(C) serve as a representative of the local community during the remedial action planning and implementation process.

"(3) CONSULTATION.—The Administrator shall consult with a community response organization in the preparation of a remedial action plan for a facility.

"(4) ACCESS TO DOCUMENTS.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

"(5) PARTICIPATION BY EPA, THE STATE, AND POTENTIALLY RESPONSIBLE PARTIES.—Representatives of the Administrator, the State, and the potentially responsible parties shall

be given reasonable notice and opportunity to participate in the community response organization activities and meetings and shall periodically report to the community response organization on preparation of the remedial action plan.

"(6) COMMUNITY RESPONSE ORGANIZATION INPUT.—

"(A) COMMUNICATION OF INFORMATION; SOLICITATION OF VIEWS.—The Administrator, (and if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall keep the community response organization informed of progress and solicit the views of the community response organization during development and implementation of the remedial action plan.

"(B) TIMELY SUBMISSION OF COMMENTS.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

"(C) CONSENSUS.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

"(7) TECHNICAL ASSISTANCE GRANTS.—

"(A) PREFERRED RECIPIENT.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

"(B) PRIOR AWARD.—A technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

"(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

"(ii) 1 person representing the grant recipient shall serve on the community response organization.

"(8) MEMBERSHIP.—

"(A) NUMBER.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

"(B) NOTICE.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

"(C) REPRESENTED GROUPS.—The Administrator shall select members of the community response organization from each of the following groups of persons:

"(i) Persons who reside or own residential property near the facility;

"(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

"(iii) Persons who are members of the local public health or medical community and actively practicing in the community.

"(iv) Representatives of local Indian tribes or Indian communities, if such tribes or communities may be adversely affected.

"(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

"(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

"(vii) Workers employed at the facility during facility operation, if readily available.

"(viii) The owner or operator of the facility and other potentially responsible parties who represent, if practicable, a balance of such parties' interests.

"(ix) Members of the local business community.

"(D) PROPORTION.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

"(E) PAY.—Members of a community response organization shall serve without pay.

"(9) PARTICIPATION BY GOVERNMENT REPRESENTATIVES.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

"(10) ADMINISTRATIVE SUPPORT.—The Administrator shall provide administrative services and meeting facilities for community response organizations.

"(11) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

"(f) TECHNICAL ASSISTANCE GRANTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) AFFECTED CITIZEN GROUP.—The term 'affected citizen group' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

"(B) TECHNICAL ASSISTANCE GRANT.—The term 'technical assistance grant' means a grant made under paragraph (2).

"(2) AUTHORITY.—

"(A) IN GENERAL.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

"(B) AVAILABILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

"(3) SPECIAL RULES.—

"(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

"(B) AVAILABILITY IN ADVANCE.—The Administrator shall make all or a portion (but not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

"(4) LIMIT PER FACILITY.—

"(A) 1 GRANT PER FACILITY.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

"(B) DURATION.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

"(5) AVAILABILITY FOR FACILITIES NOT YET LISTED.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry that have been proposed for listing but are not yet listed on the National Priorities List as of the date on which the grant is awarded.

"(6) FUNDING LIMIT.—

"(A) PERCENTAGE OF TOTAL APPROPRIATIONS.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

"(B) ALLOCATION BETWEEN LISTED AND UNLISTED FACILITIES.—Not more than the portion of funds equal to ⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

"(7) FUNDING AMOUNT.—

"(A) IN GENERAL.—The amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

"(B) INCREASE.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to an amount not exceeding $100,000 to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected citizen group, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

"(8) USE OF TECHNICAL ASSISTANCE GRANTS.—

"(A) PERMITTED USE.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

"(i) the nature of the hazardous substances located at a facility;

"(ii) facility evaluation;

"(iii) a proposed remedial action plan and final remedial design for a facility;

"(iv) response actions carried out at the facility; and

"(v) operation and maintenance activities at the facility.

"(B) PROHIBITED USE.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

"(9) GRANT GUIDELINES.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

"(B) HIRING OF EXPERTS.—A recipient of a technical assistance grant shall hire technical experts and other experts in accordance with the guidelines under subparagraph (A).

"(g) IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.—

"(1) IN GENERAL.—

"(A) MEETINGS AND NOTICE.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

"(i) a facility evaluation, as appropriate;

"(ii) announcement of a proposed remedial action plan; and

"(iii) completion of a final remedial design.

"(B) INFORMATION.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community,

with respect to a facility concerning the Administrator's facility activities and pending decisions.

"(2) PARTICIPANTS AND SUBJECT.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

"(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and any other person (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

"(B) the subject of the meeting involves discussions directly affecting—

"(i) a legally enforceable work plan document, or any amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

"(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

"(3) LIMITATION.—Nothing in this subsection shall be construed—

"(A) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

"(B) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

"(C) to waive, compromise, or affect any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

"(4) EVALUATION.—

"(A) IN GENERAL.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

"(B) PROCEDURE.—An evaluation under subparagraph (A) shall include, as appropriate—

"(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

"(ii) a public meeting;

"(iii) written responses to significant concerns; and

"(iv) other appropriate participatory activities.

"(5) VIEWS AND PREFERENCES.—

"(A) SOLICITATION.—During the facility evaluation study, the Administrator shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

"(B) CONSIDERATION.—The views and preferences of the community shall be described in the facility evaluation study and considered in the screening of remedial alternatives for the facility.

"(6) ALTERNATIVES.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

"(7) INFORMATION.—

"(A) THE COMMUNITY.—The Administrator, with the assistance of the community response organization under subsection (g) if there is one, shall provide information to the community and seek comment from the community throughout all significant phases of the response action at the facility.

"(B) TECHNICAL STAFF.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

"(C) RESPONSES.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

"(8) NONPRIVILEGED INFORMATION.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

"(9) PRESENTATION.—

"(A) DOCUMENTS.—

"(i) IN GENERAL.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

"(ii) RISK.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to describe the degree of risk to human health shall, at a minimum, state—

"(I) the upperbound and lowerbound estimates of the incremental risk;

"(II) the population or populations addressed by any estimates of the risk;

"(III) the expected risk or central estimate of the risk for the specific population;

"(IV) the reasonable range or other description of uncertainties in the assessment process; and

"(V) the assumptions that form the basis for any estimates of such risk posed by the facility and a brief explanation of the assumptions.

"(B) COMPARISONS.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

"(10) REQUIREMENTS.—

"(A) LENGTHY REMOVAL ACTIONS.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action, the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1).

"(B) OTHER REMOVAL ACTIONS.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.".

(b) ISSUANCE OF GUIDELINES.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

TITLE II—STATE ROLE

SEC. 201. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 302, is amended by adding at the end the following:

"SEC. 135. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE DELEGATION STATE.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

"(2) DELEGABLE AUTHORITY.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

"(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

"(i) a preliminary assessment or facility inspection under section 104;

"(ii) facility characterization under section 104;

"(iii) a remedial investigation under section 104;

"(iv) A facility-specific risk evaluation under section 129(b)(4); and

"(v) any other authority identified by the Administrator under subsection (b).

"(B) CATEGORY B.—All authorities necessary to perform alternatives development and remedy selection, including—

"(i) a feasibility study under section 104; and

"(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

"(II) remedial action planning under section 129(b)(5); and

"(iii) any other authority identified by the Administrator under subsection (b).

"(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

"(i) remedial design under section 121; and

"(ii) any other authority identified by the Administrator under subsection (b).

"(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

"(i) a removal under section 104;

"(ii) a remedial action under section 104 or section 10 (a) or (b);

"(iii) operation and maintenance under section 104(c); and

"(iv) any other authority identified by the Administrator under subsection (b).

"(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

"(i) information collection activity under section 104(e);

"(ii) allocation of liability under section 132;

"(iii) a search for potentially responsible parties under section 104 or 107;

"(iv) settlement under section 122; and

"(v) any other authority identified by the Administrator under subsection (b).

"(F) CATEGORY F.—All authorities necessary to perform enforcement, including—

"(i) issuance of an order under section 106(a);

"(ii) a response action cost recovery under section 107;

"(iii) imposition of a civil penalty or award under section 109 (a)(1)(D) or (b)(4);

"(iv) settlement under section 122; and

"(v) any other authority identified by the Administrator under subsection (b).

"(3) DELEGATED STATE.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

"(4) DELEGATED AUTHORITY.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

"(5) DELEGATED FACILITY.—The term 'delegated facility' means a non-federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

"(6) NONCOMPREHENSIVE DELEGATION STATE.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

"(7) NONDELEGABLE AUTHORITY.—The term 'nondelegable authority' means authority to—

"(A) make grants to community response organizations under section 117; and

"(B) conduct research and development activities under any provision of this Act.

"(8) NON-FEDERAL LISTED FACILITY.—The term 'non-federal listed facility' means a facility that—

"(A) is not owned or operated by and is not under the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States in any branch of the Government; and

"(B) is listed on the National Priorities List.

"(b) IDENTIFICATION OF DELEGABLE AUTHORITIES.—

"(1) IN GENERAL.—The Secretary shall by regulation identify all of the authorities of the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

"(2) LIMITATION.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

"(c) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—On application by a State, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

"(2) APPLICATION.—An application under paragraph (1) shall—

"(A) identify each non-Federal listed facility for which delegation is requested;

"(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

"(C) certify that the State has adequate legal authority, financial and personnel resources, organization, and expertise to perform the requested delegable authority.

"(3) APPROVAL OF APPLICATION.—

"(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from any other State, the Administrator shall—

"(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

"(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

"(C) RESUBMISSION OF APPLICATION.—

"(i) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(ii) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

"(D) NO ADDITIONAL TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

"(E) JUDICIAL REVIEW.—

"(i) IN GENERAL.—A disapproval of a resubmitted application shall be subject to judicial review under section 113(b).

"(ii) STANDARD OF REVIEW.—In a proceeding on review of a disapproval of a resubmitted application, the court shall, notwithstanding section 706(2)(E) of title 5, United States Code, hold unlawful and set aside actions, findings, and conclusions found to be unsupported by substantial evidence.

"(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

"(5) LIMITED DELEGATION.—

"(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

"(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

"(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

"(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

"(2) AGREEMENTS.—A delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

"(3) COMPLIANCE WITH ACT.—

"(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

"(B) COMPREHENSIVE DELEGATION STATES.—

"(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

"(ii) COSTLIER REMEDIAL ACTION.—

"(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

"(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

"(4) JUDICIAL REVIEW.—

"(A) IN GENERAL.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be subject to judicial review under section 113(b).

"(B) STANDARD OF REVIEW.—In a proceeding on review of an order under subparagraph (A), the court shall, notwithstanding section 706(2)(E) of title 5, United States Code, hold unlawful and set aside actions, findings, and conclusions found to be unsupported by substantial evidence.

"(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

"(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

"(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with section 121(a)(1) and (2);

"(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under the Solid Waste Disposal Act (42 U.S.C 6901 et seq.); or

"(iii) if the State is a comprehensive delegation State with respect to the facility.

"(B) EFFECT OF DELISTING.—A delisting under subparagraph (A)(iii) shall not affect—

"(i) the authority or responsibility of the State to complete remedial action and operation and maintenance; or

"(ii) the eligibility of the State for funding under this Act.

"(C) NO RELISTING.—The Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

"(6) COST RECOVERY.—

"(A) DEPOSIT IN FUND.—Any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107 shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

"(B) RECOVERY BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party.

"(ii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107, the delegated State may not take any other action for recovery of response costs under this Act or any other Federal or State law.

"(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

"(1) REVIEW USE OF FUNDS.—

"(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

"(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the Governor's certification.

"(C) EXPLANATION.—not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

"(i) explain why the Administrator's finding is in error; or

"(ii) explain to the Administrator's satisfaction how any misapplication or misuse of funds will be corrected.

"(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the Administrator's satisfaction, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

"(E) WITHHOLDING OF FURTHER FUNDS; CIVIL ACTION.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds from that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

"(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

"(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

"(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

"(ii) does not have adequate legal authority to request and accept delegation; or

"(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(C) NO WITHDRAWAL WITH 1 YEAR OF APPROVAL.—The Administrator shall not withdraw a delegation of authority within 1 year after the date on which the application for delegation is approved (including approval under subsection (b)(3) (B) or (C)(ii)).

"(D) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

"(E) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (D), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(F) JUDICIAL REVIEW.—

"(i) IN GENERAL.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

"(ii) STANDARD OF REVIEW.—In a proceeding on review of a decision by the Administrator to withdraw a delegation of authority, the court shall, notwithstanding section 706(2)(E) of title 5, United States Code, hold unlawful and set aside actions, findings, and conclusions found to be unsupported by substantial evidence.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

"(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

"(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

"(4) EMERGENCY REMOVAL.—

"(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the Administrator's intention to perform the removal.

"(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

"(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

"(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g), the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 with respect to a delegated facility.

"(f) FUNDING.—

"(1) IN GENERAL.—The Administrator shall provide grants to delegated States to carry out this section.

"(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund.

"(3) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

"(A) determine—

"(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

"(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

"(B) publish a list describing the delegable authorities in each category.

"(4) FACILITY-SPECIFIC GRANTS.—The costs described in paragraph (3)(A)(i) shall be funded as such costs arise with respect to each delegated facility.

"(5) NON-FACILITY-SPECIFIC GRANTS.—

"(A) IN GENERAL.—The costs described in paragraph (1)(A)(ii) shall be funded through non-facility-specific grants under this paragraph.

"(B) FORMULA.—The Administrator shall establish a formula under which funds available for non-facility-specific grants shall be allocated among the delegated States, taking into consideration—

"(i) the cost of administering the delegated authority;

"(ii) the number of sites for which the State has been delegated authority;

"(iii) the types of activities for which the State has been delegated authority;

"(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 127(d)(5);

"(v) the number of other high priority facilities within the State;

"(vi) the need for the development of the State program;

"(vii) the need for additional personnel;

"(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

"(ix) the benefit to human health and the environment of providing the funding.

"(6) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

"(7) COST SHARE.—

"(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

"(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

"(8) CERTIFICATION OF USE OF FUNDS.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

"(A) a certification that the State has used the funds in accordance with the requirements of this Act; and

"(B) information describing the manner in which the State used the funds.

"(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.

"(h) NON-NATIONAL PRIORITIES LIST FACILITIES.—

"(1) DEFINITIONS.—In this subsection, the term 'non-National Priorities List facility' means a facility that is not, and never has been, listed on the National Priorities List and that is not owned or operated by a department, agency, or instrumentality of the United States.

"(2) FINALITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a determination that a response action at a non-National Priorities List facility or portion of a non-National Priorities List facility is complete under State law is final, and the facility shall not be subject to further response action notwithstanding any provision of this Act or any other Federal law.

"(B) EXCEPTION FOR EMERGENCY REMOVALS.—The Administrator may conduct an emergency removal action under the authority of section 104 subject to the notice requirement of section 135(e)(4) at a non-National Priorities List facility.

"(3) PROHIBITION.—The President shall not take any action under section 106 at a non-National Priorities List facility.".

(b) USES OF FUND.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

"(7) GRANTS TO DELEGATED STATES.—Making a grant to a delegated State under section 135(f).".

(c) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 114 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614) is amended—

(A) by striking subsection (a); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) CONFORMING AMENDMENT.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking "section 114(c)" and inserting "section 114(b)".

TITLE III—VOLUNTARY CLEANUP

SEC. 301. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

(a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—The term 'qualifying State voluntary response program' means a State program that includes the elements described in section 133(b).".

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 501, is amended by adding at the end the following:

"SEC. 133. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

"(a) ASSISTANCE TO STATES.—The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

"(b) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

"(1) Opportunities for technical assistance for voluntary response actions.

"(2) Adequate opportunities for public participation, including prior notice and opportunity for comment, in appropriate circumstances, in selecting response actions.

"(3) Streamlined procedures to ensure expeditious voluntary response actions.

"(4) Oversight and enforcement authorities that are adequate to ensure that—

"(A) voluntary response actions are protective of human health and the environment and are conducted in accordance with an appropriate response action plan; and

"(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

"(5) Mechanisms for approval of a voluntary response action plan.

"(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.".

(c) FUNDING.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611), as amended by section 201(b), is amended by inserting after paragraph (7) the following:

"(8) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—For assistance to States to establish and administer qualifying State voluntary response programs, during the first 5 full fiscal years following the date of enactment of this subparagraph, in a total amount to all States that is not less than 2 percent and not more than 5 percent of the amount available in the Fund for each such fiscal year, distributed among each of the States that notifies the Administrator of the State's intent to establish a qualifying State voluntary response program and each of the States with a qualifying State voluntary response program in the amount that is equal to the total amount multiplied by a fraction—

"(A) the numerator of which is the number of facilities in the State that, as of September 29, 1995, were listed on the Comprehensive Environmental Response, Compensation, and Liability Information System (not including facilities that are listed on the National Priorities List); and

"(B) the denominator of which is the total number of such facilities in the United States.".

SEC. 302. BROWNFIELD CLEANUP ASSISTANCE.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 301(b), is amended by adding at the end the following:

"SEC. 134. BROWNFIELD CLEANUP ASSISTANCE

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATIVE COST.—The term 'administrative cost' does not include the cost of—

"(A) investigation and identification of the extent of contamination;

"(B) design and performance of a response action; or

"(C) monitoring of natural resources.

"(2) BROWNFIELD FACILITY.—The term 'brownfield facility' means—

"(A) a parcel of land that contains or at any time contained abandoned or underused commercial or industrial property, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

"(B) does not include—

"(i) a facility that is the subject of a removal or planned removal under title I;

"(ii) a facility that is listed or has been proposed for listing on the National Priorities List or that has been delisted under section 135(d)(5);

"(iii) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

"(iv) a land disposal unit with respect to which—

"(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(II) closure requirements have been specified in a closure plan or permit;

"(v) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.);

"(vi) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

"(vii) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a general purpose unit of local government;

"(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

"(C) a regional council or group of general purpose units of local government; and

"(D) an Indian tribe.

"(b) BROWNFIELD CLEANUP ASSISTANCE PROGRAM.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide interest-free loans for the site characterization and assessment of brownfield facilities.

"(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

"(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make interest-free loans out of the Fund to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

"(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a loan under subparagraph (A) shall be performed in accordance with section 101(35)(B).

"(C) REPAYMENT.—

"(i) IN GENERAL.—An eligible entity that receives a loan under subparagraph (A) shall agree to repay the full amount of the loan within 10 years after the date on which the loan is made.

"(ii) DEPOSIT IN FUND.—Repayments on a loan under subparagraph (A) shall be deposited in the Fund.

"(3) HAZARDOUS SUBSTANCE SUPERFUND.—Notwithstanding section 111 of this Act or any provision of the Superfund Amendments and Reauthorization Act of 1986 (100 Stat. 1613), there is authorized to be appropriated out of the Fund $15,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this section, to be used for making interest-free loans under paragraph (2).

"(4) MAXIMUM LOAN AMOUNT.—A loan under subparagraph (A) shall not exceed, with respect to each brownfield facility covered by the loan, $100,000 for any fiscal year or $200,000 in total.

"(5) SUNSET.—No amount shall be available from the Fund for purposes of this section after the fifth fiscal year after the date of enactment of this section.

"(6) PROHIBITION.—No part of a loan under this section may be used for payment of penalties, fines, or administrative costs.

"(7) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit all loans made under paragraph (2) to ensure that all funds are used for the purposes described in this section and that all loans are repaid in accordance with paragraph (2).

"(8) AGREEMENTS.—Each loan made under this section shall be subject to an agreement that—

"(A) requires the eligible entity to comply with all applicable State laws (including regulations);

"(B) requires that the eligible entity shall use the loan exclusively for purposes specified in paragraph (2); and

"(C) contains such other terms and conditions as the Administrator determines to be necessary to protect the financial interests of the United States and to carry out the purposes of this section.

"(9) LEVERAGING.—An eligible entity that receives a loan under paragraph (1) may use the loaned funds for part of a project at a brownfield facility for which funding is received from other sources, but the loan funds shall be used only for the purposes described in paragraph (2).

"(c) LOAN APPLICATIONS.—

"(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a loan under this section for 1 or more brownfield facilities.

"(2) APPLICATION REQUIREMENTS.—An application for a loan under this section shall include—

"(A) an identification of each brownfield facility for which the loan is sought and a description of the redevelopment plan for the area or areas in which each facility is located, including a description of the nature and extent of any known or suspected environmental contamination within the area; and

"(B) an analysis that demonstrates the potential of the grant to stimulate economic development on completion of the planned response action, including a projection of the number of jobs expected to be created at the facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs.

"(3) APPROVAL.—

"(A) INITIAL LOANS.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make loans under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under ranking criteria established under paragraph (4).

"(B) SUBSEQUENT LOANS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make loans under this section to eligible entities that submit applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

"(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking loan applications that includes the following criteria:

"(A) The extent to which a loan will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

"(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

"(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

"(ii) The potential of a loan to create new or expand existing business and employment opportunities (particularly full-time employment opportunities) on completion of any necessary response action.

"(iii) The estimated additional tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

"(iv) The estimated extent to which a loan would facilitate the identification of or facilitate a reduction of health and environmental risks.

"(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

"(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

"(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.".

SEC. 303. TREATMENT OF SECURITY INTEREST HOLDERS AND FIDUCIARIES AS OWNERS OR OPERATORS.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 301(a), is amended—

(1) in paragraph (20)—

(A) in subparagraph (A) by striking the second sentence; and

(B) by adding at the end the following:

"(E) SECURITY INTEREST HOLDERS.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a person that, without participating in the management of a vessel or facility, holds an indicium of ownership primarily to protect the person's security interest in a vessel or facility.

"(ii) PARTICIPATING IN MANAGEMENT.—A security interest holder—

"(I) shall be considered to be participating in management of a vessel or facility only if the security interest holder has undertaken—

"(aa) responsibility for the hazardous substance handling or disposal practices of the vessel or facility; or

"(bb) overall management of the vessel or facility encompassing day-to-day decision-making over environmental compliance or over an operational function (including functions such as those of a plant manager, operations manager, chief operating officer, or chief executive officer), as opposed to financial and administrative aspects, of a vessel or facility; and

"(II) shall not be considered to be participating in management solely on the ground that the security interest holder—

"(aa) serves in a capacity or has the ability to influence or the right to control the operation of a vessel or facility if that capacity, ability, or right is not exercised;

"(bb) acts, or causes or requires another person to act, to comply with an applicable law or to respond lawfully to disposal of a hazardous substance;

"(cc) performs an act or omits to act in any way with respect to a vessel or facility prior to the time at which a security interest is created in a vessel or facility;

"(dd) holds, abandons, or releases a security interest;

"(ee) includes in the terms of an extension of credit, or in a contract or security agreement relating to an extension of credit, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(ff) monitors or enforces a term or condition of an extension of credit or a security interest;

"(gg) monitors or undertakes 1 or more inspections of a vessel or facility;

"(hh) requires or conducts a response action or other lawful means of addressing a release or threatened release of a hazardous substance in connection with a vessel or facility prior to, during, or on the expiration of the term of an extension of credit;

"(ii) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure a default or diminution in the value of a vessel or facility;

"(jj) exercises forbearance by restructuring, renegotiating, or otherwise agreeing to alter a term or condition of an extension of credit or a security interest; or

"(kk) exercises any remedy that may be available under law for the breach of a term or condition of an extension of credit or a security agreement.

"(iii) FORECLOSURE.—Legal or equitable title acquired by a security interest holder through foreclosure (or the equivalent of foreclosure) shall be considered to be held primarily to protect a security interest if the holder undertakes to sell, re-lease, or otherwise divest the vessel or facility in a reasonably expeditious manner on commercially reasonable terms.

"(iv) DEFINITION OF SECURITY INTEREST.—In this subparagraph, the term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or

lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or any other obligation.

"(F) FIDUCIARIES.—

"(1) IN GENERAL.—The term 'owner or operator' does not include a fiduciary that holds legal or equitable title to, is the mortgagee or secured party with respect to, controls, or manages, directly or indirectly, a vessel or facility for the purpose of administering an estate or trust of which the vessel or facility is a part."; and

(2) by adding at the end the following:

"(40) FIDUCIARY.—The term 'fiduciary' means a person that is acting in the capacity of—

"(A) an executor or administrator of an estate, including a voluntary executor or a voluntary administrator;

"(B) a guardian;

"(C) a conservator;

"(D) a trustee under a will or a trust agreement under which the trustee takes legal or equitable title to, or otherwise controls or manages, a vessel or facility for the purpose of protecting or conserving the vessel or facility under the rules applied in State court;

"(E) a court-appointed receiver;

"(F) a trustee appointed in proceedings under title 11, United States Code;

"(G) an assignee or a trustee acting under an assignment made for the benefit of creditors; or

"(H) a trustee, or a successor to a trustee, under an indenture agreement, trust agreement, lease, or similar financing agreement, for debt securities, certificates of interest of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender.".

(b) LIABILITY OF FIDUCIARIES AND LENDERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(n) LIABILITY OF FIDUCIARIES.—

"(1) IN GENERAL.—The liability of a fiduciary that is liable under any other provision of this Act for the release or threatened release of a hazardous substance from a vessel or facility held by a fiduciary may not exceed the assets held by the fiduciary that are available to indemnify the fiduciary.

"(2) NO INDIVIDUAL LIABILITY.—Subject to the other provisions of this subsection, a fiduciary shall not be liable in an individual capacity under this Act.

"(3) EXCEPTIONS.—This subsection does not preclude a claim under this Act against—

"(A) the assets of the estate or trust administered by a fiduciary;

"(B) a nonemployee agent or independent contractor retained by a fiduciary; or

"(C) a fiduciary that causes or contributes to a release or threatened release of a hazardous substance.

"(4) SAFE HARBOR.—Subject to paragraph (5), a fiduciary shall not be liable in an individual capacity under this Act for—

"(A) undertaking or directing another to undertake a response action under section 107(d)(1) or under the direction of an on-scene coordinator;

"(B) undertaking or directing another to undertake any other lawful means of addressing a hazardous substance in connection with a vessel or facility;

"(C) terminating the fiduciary relationship;

"(D) including, modifying, or enforcing a covenant, warranty, or other term or condition in the terms of a fiduciary agreement that relates to compliance with environmental laws;

"(E) monitoring or undertaking 1 or more inspections of a vessel or facility;

"(F) providing financial or other advice or counseling to any party to the fiduciary relationship, including the settlor or beneficiary;

"(G) restructuring, renegotiating, or otherwise altering a term or condition of the fiduciary relationship;

"(H) administering a vessel or facility that was contaminated before the period of service of the fiduciary began; or

"(I) declining to take any of the actions described in subparagraphs (B) through (H).

"(5) DUE CARE.—This subsection does not limit the liability of a fiduciary if the fiduciary fails to exercise due care and the failure causes or contributes to the release of a hazardous substance.

"(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

"(B) create any liability for any person; or

"(C) create a private right of action against a fiduciary or against a Federal agency that regulates lenders.

"(o) LIABILITY OF LENDERS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ACTUAL BENEFIT.—The term 'actual benefit' means the net gain, if any, realized by a lender due to an action.

"(B) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(i) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

"(ii) that conforms to all regulations issued by any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) and any appropriate State banking regulatory authority.

"(C) FORECLOSURE.—The term 'foreclosure' means the acquisition of a vessel or facility through—

"(i) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if the vessel or facility was security for an extension of credit previously contracted;

"(ii) conveyance under an extension of credit previously contracted, including the termination of a lease agreement; or

"(iii) any other formal or informal manner by which a person acquires, for subsequent disposition, possession of collateral in order to protect the security interest of the person.

"(D) LENDER.—The term 'lender' means—

"(i) a person that makes a bona fide extension of credit to, or takes a security interest from, another party;

"(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or any other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests in loans;

"(iii) a person engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to another party; and

"(iv) a person regularly engaged in the business of providing title insurance that acquires a vessel or facility as a result of an assignment or conveyance in the course of underwriting a claim or claim settlement.

"(E) NET GAIN.—The term 'net gain' means an amount not in excess of the amount realized by a lender on the sale of a vessel or facility less acquisition, holding, and disposition costs.

"(F) VESSEL OR FACILITY ACQUIRED THROUGH FORECLOSURE.—The term 'vessel or facility acquired through foreclosure'—

"(i) means a vessel or facility that is acquired by a lender through foreclosure from a person that is not affiliated with the lender; but

"(ii) does not include such a vessel or facility if the lender does not seek to sell or otherwise divest the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

"(2) LIABILITY LIMITATION.—

"(A) IN GENERAL.—The liability of a lender that is liable under any other provision of this Act for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility shall be limited to the amount described in subparagraph (B) if the vessel or facility is—

"(i) a vessel or facility acquired through foreclosure;

"(ii) a vessel or facility subject to a security interest held by the lender;

"(iii) a vessel or facility held by a lessor under the terms of an extension of credit; or

"(iv) a vessel or facility subject to financial control or financial oversight under the terms of an extension of credit.

"(B) AMOUNT.—The amount described in this subparagraph is the excess of the fair market value of a vessel or facility on the date on which the liability of a lender is determined over the fair market value of the vessel or facility on the date that is 180 days before the date on which the response action is initiated, not to exceed the amount that the lender realizes on the sale of the vessel or facility after subtracting acquisition, holding, and disposition costs.

"(3) EXCLUSION.—This subsection does not limit the liability of a lender that causes or contributes to the release or threatened release of a hazardous substance.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

"(B) create any liability for any person; or

"(C) create a private right of action against a lender or against a Federal agency that regulates lenders.".

SEC. 304. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

"SEC. 45. FEDERAL BANKING AND LENDING AGENCY LIABILITY.

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency'—

"(A) means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, a Federal Reserve Bank, a Federal Home Loan Bank, the Department of Housing and Urban Development, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the

Farmers Home Administration, the Rural Electrification Administration, the Small Business Administration, and any other Federal agency acting in a similar capacity, in any of their capacities, and their agents or appointees; and

"(B) includes a first subsequent purchaser of the vessel or facility from a Federal banking or lending agency, unless the purchaser—

"(i) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, corrective, or other response action due to a prior relationship with the vessel or facility;

"(ii) is or was affiliated with or related to a party described in clause (i);

"(iii) fails to agree to take reasonable steps necessary to remedy the release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

"(iv) causes or contributes to any additional release or threatened release on the vessel or facility.

"(2) FACILITY.—The term 'facility' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(3) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' means a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

"(4) RELEASE.—The term 'release' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(5) RESPONSE ACTION.—The term 'response action' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(6) VESSEL.—The term 'vessel' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(b) FEDERAL BANKING AND LENDING AGENCIES NOT STRICTLY LIABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of a hazardous substance at or from a vessel or facility (including a right or interest in a vessel or facility) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including a subsidiary of an insured depository institution;

"(B) in connection with the provision of a loan, a discount, an advance, a guarantee, insurance, or other financial assistance; or

"(C) in connection with a vessel or facility received in a civil or criminal proceeding, or administrative enforcement action, whether by settlement or by order.

"(2) ACTIVE CAUSATION.—Subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(d)), a Federal banking or lending agency that causes or contributes to a release or threatened release of a hazardous substance may be liable for a response action pertaining to the release or threatened release.

"(3) FEDERAL OR STATE ACTION.—If a Federal agency or State environmental agency is required to take response due to the failure of a subsequent purchaser to carry out in good faith an agreement described in paragraph (a)(1)(C)(iii), the subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of the response action. Any such reimbursement shall not exceed the increase in the fair market value of the vessel or facility attributable to the response action.

"(c) LIEN EXEMPTION.—Notwithstanding any other law, a vessel or facility held by a subsequent purchaser described in subsection (a)(1)(B) or held by a Federal banking or lending agency shall not be subject to a lien for costs or damages associated with the release or threatened release of a hazardous substance existing at the time of the transfer.

"(d) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring the agency to grant a covenant warranting that a response action has been, or will in the future be, taken with respect to a vessel or facility acquired in a manner described in subsection (b)(1).

"(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) affect the rights or immunities or other defenses that are available to any party under this Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other law;

"(2) create any liability for any party;

"(3) create a private right of action against an insured depository institution or lender, a Federal banking or lending agency, or any other party;

"(4) preempt, affect, apply to, or modify a State law or a right, cause of action, or obligation under State law, except that the liability of a Federal banking or lending agency for a response action under a State law shall not exceed the value of the interest of the agency in the asset giving rise to the liability; or

"(5) preclude a Federal banking or lending agency from agreeing with a State to transfer a vessel or facility to the State in lieu of any liability that might otherwise be imposed under State law.".

SEC. 305. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)), as amended by section 303(b), is amended by adding at the end the following:

"(p) CONTIGUOUS PROPERTIES.—

"(1) IN GENERAL.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under subsection (a) (1) or (2) solely by reason of the contamination if the person did not cause, contribute, or consent to the release or threatened release.

"(2) ASSURANCES.—The Administrator may—

"(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

"(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).".

SEC. 306. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 303(a)(2), is amended by adding at the end the following:

"(41) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

"(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

"(B) INQUIRIES.—

"(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

"(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

"(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

"(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

"(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(F) RELATIONSHIP.—The person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.".

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 305(b), is amended by adding at the end the following:

"(q) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

"(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

"(2) LIEN.—If there are unrecovered response costs at a facility for which an owner

of the facility is not liable by reason of subsection (n)(1)(C) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

"(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

"(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

"(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

"(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

"(4) AMOUNT.—A lien under paragraph (2)—

"(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

"(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

"(C) shall be subject to the requirements of subsection (l)(3); and

"(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.".

SEC. 307. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

"(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

"(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The Secretary shall by regulation establish as standards and practices for the purpose of clause (i)—

"(I) the American Society for Testing and Materials (ASTM) Standard E1527-94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

"(II) alternative standards and practices under clause (iii).

"(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

"(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

"(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall include each of the following:

"(aa) The results of an inquiry by an environmental professional.

"(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

"(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

"(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

"(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

"(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

"(gg) Specialized knowledge or experience on the part of the defendant.

"(hh) Consideration of the relationship of the purchase price to the value of the property if the property was uncontaminated.

"(ii) Commonly known or reasonably ascertainable information about the property.

"(jj) Consideration of the degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

"(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.".

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 306(a), is amended by adding at the end the following:

"(42) ACTUAL OR PLANNED OR REASONABLY ANTICIPATED FUTURE USE OF THE LAND AND WATER RESOURCES.—The term 'actual or planned or reasonably anticipated future use of the land and water resources' means—

"(A) the actual use of the land, surface water, and ground water at a facility at the time of the initiation of the facility evaluation; and

"(B)(i) with respect to land—

"(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

"(II) any other reasonably anticipated use that has a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

"(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by a local government or other governmental unit that regulates ground water use or ground water use planning in the vicinity of the facility, on the earlier of—

"(I) the date of issuance of the first record of decision; or

"(II) the initiation of the facility evaluation.

"(43) SIGNIFICANT ECOSYSTEM.—The term 'significant ecosystem', for the purpose of section 121(a)(1)(B), means an ecosystem that exhibits a uniqueness, particular value, or historical presence or that is widely recognized as a significant resource at the national, State or local level.

"(44) VALUABLE ECOSYSTEM.—The term 'valuable ecosystem' means an ecosystem that is a known source of significant human or ecological benefits for its function.

"(45) SUSTAINABLE ECOSYSTEM.—The term 'sustainable ecosystem' means an ecosystem that has redundancy and resiliency sufficient to enable the ecosystem to continue to function and provide benefits within the normal range of its variability notwithstanding exposure to hazardous substances resulting from releases.

"(46) ECOLOGICAL RESOURCE.—The term 'ecological resource' means land, fish, wildlife, biota, air, surface water, and ground water within an ecosystem.

"(47) SIGNIFICANT RISK TO ECOLOGICAL RESOURCES THAT ARE NECESSARY TO THE SUSTAINABILITY OF A SIGNIFICANT ECOSYSTEM OR VALUABLE ECOSYSTEM.—The term 'significant risk to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem' means the risk associated with exposures and impacts resulting from the release of hazardous substances which together reduce or eliminate the sustainability (within the meaning of paragraph (45)) of a significant ecosystem or valuable ecosystem.".

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

"SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

"(a) GENERAL RULES.—

"(1) SELECTION OF MOST COST-EFFECTIVE REMEDIAL ACTION THAT PROTECTS HUMAN HEALTH AND THE ENVIRONMENT.—

"(A) IN GENERAL.—The Administrator shall select a remedial action that is the most

cost-effective means of achieving the goals of protecting human health and the environment as stated in subparagraph (B) using the criteria stated in subparagraph (C).

"(B) GOALS OF PROTECTING HUMAN HEALTH AND THE ENVIRONMENT.—

"(i) PROTECTION OF HUMAN HEALTH.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action achieves a residual risk—

"(I) from exposure to carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

"(II) from exposure to noncarcinogenic hazardous substances, pollutants, or contaminants at the facility that does not pose an appreciable risk of deleterious effects.

"(ii) PROTECTION OF THE ENVIRONMENT.—A remedial action shall be considered to protect the environment if, based on the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action will protect against significant risks to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem and will not interfere with a sustainable functional ecosystem.

"(C) REMEDY SELECTION CRITERIA.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B), the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

"(i) The effectiveness of the remedy in protecting human health and the environment.

"(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

"(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

"(iv) The acceptability of the remedial action to the affected community.

"(v) The implementability and technical practicability of the remedial action from an engineering perspective.

"(2) TECHNICAL IMPRACTICABILITY AND UNREASONABLE COST.—

"(A) MINIMIZATION OF RISK.—If the Administrator finds that achieving the goals stated in paragraph (1)(B), is technically impracticable or unreasonably costly, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that minimizes the risk to human health and the environment by cost-effective means.

"(B) BASIS FOR FINDING.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

"(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

"(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

"(3) PRESUMPTIVE REMEDIAL ACTIONS.—A remedial action that implements a presumptive remedial action issued under section 128 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(C).

"(4) GROUND WATER.—

"(A) IN GENERAL.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock in the water's condition at the time of initiation of the facility evaluation.

"(B) CONSIDERATIONS.—A decision under subparagraph (A) regarding remedial action for ground water shall take into consideration—

"(i) the actual or planned or reasonably anticipated future use of the ground water and the timing of that use;

"(ii) any attenuation or biodegradation that would occur if no remedial action were taken; and

"(iii) the criteria stated in paragraph (1)(C).

"(C) OFFICIAL CLASSIFICATION.—For the purposes of subparagraph (A), there shall be no presumption that ground water that is suitable for use as drinking water by humans or livestock is the actual or planned or reasonably anticipated future use of the ground water.

"(D) UNCONTAMINATED GROUND WATER.—A remedial action for protecting uncontaminated ground water may be based on natural attenuation or biodegradation so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the ground water.

"(E) CONTAMINATED GROUND WATER.—A remedial action for contaminated ground water may include point-of-use treatment.

"(5) LEGALLY APPLICABLE REQUIREMENTS.—A remedial action shall not be required to attain any standard that, without regard to this paragraph, would be legally applicable under any other Federal or State law, except that in the case of a removal or remedial action involving the transfer of hazardous waste off-site, that hazardous waste may be transferred only to a facility that is permitted to treat, store, or dispose such waste under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925) or, if applicable, the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(6) OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.";

(2) by redesignating subsection (c) as subsection (b), and, in the first sentence of that subsection, by striking "5 years" and inserting "7 years";

(3) by redesignating subsection (e) as subsection (c); and

(4) by redesignating subsection (f) as subsection (d).

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 127. FACILITY-SPECIFIC RISK EVALUATIONS.

"(a) USES.—

"(1) IN GENERAL.—A facility-specific risk evaluation shall be used to—

"(A) identify the significant components of potential risk posed by a facility;

"(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

"(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

"(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

"(2) COMPLIANCE WITH PRINCIPLES.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

"(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

"(B) all of the components of the evaluation are, to the maximum extent practicable, scientifically objective and inclusive of all relevant data.

"(b) RISK EVALUATION PRINCIPLES.—A facility-specific risk evaluation shall—

"(1) be based on actual or plausible estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources;

"(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

"(3) use chemical and facility-specific data and analysis (such as toxicity, exposure, and fate and transport evaluations) in preference to default assumptions;

"(4) use a range and distribution of realistic and plausible assumptions when chemical and facility-specific data are not available;

"(5) use mathematical models that take into account the fate and transport of hazardous substances, pollutants, or contaminants, in the environment instead of relying on default assumptions; and

"(6) use credible hazard identification and dose/response assessments.

"(c) RISK COMMUNICATION PRINCIPLES.—The document reporting the results of a facility-specific risk evaluation shall—

"(1) contain an explanation that clearly communicates the risks at the facility;

"(2) identify and explain all assumptions used in the evaluation, all alternative assumptions, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

"(3) present—

"(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

"(i) the most plausible assumptions or a weighted combination of multiple assumptions based on different scenarios; or

"(ii) any other methodology designed to characterize the most plausible estimate of risk given the scientific information that is available at the time of the facility-specific risk evaluation; and

"(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

"(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

"(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

"(d) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that

promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

"(e) DETERMINATION OF ACTUAL OR PLANNED OR REASONABLY ANTICIPATED FUTURE USE OF THE LAND AND WATER RESOURCES.—The Administrator shall determine the actual or planned or reasonably anticipated future use of the land and water resources at a facility by consulting the community response organization, facility owners and operators, potentially responsible parties, elected municipal and county officials, and other persons.

"SEC. 128. PRESUMPTIVE REMEDIAL ACTIONS.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

"(b) PRACTICABILITY AND COST-EFFECTIVENESS.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(c) VARIATIONS.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

"(d) ENGINEERING CONTROLS.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.".

SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 403, is amended by adding at the end the following:

"SEC. 129. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

"(a) IN GENERAL.—

"(1) BASIC RULES.—

"(A) PROCEDURES.—A remedial action shall be developed and selected in accordance with the procedures set forth in this section.

"(B) NO OTHER PROCEDURES OR REQUIREMENTS.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

"(C) LIMITED REVIEW.—In a case in which the potentially responsible parties prepare a remedial action plan, only the facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

"(D) NATIONAL CONTINGENCY PLAN.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

"(2) USE OF PRESUMPTIVE REMEDIAL ACTIONS.—

"(A) PROPOSAL TO USE.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

"(B) LIMITATION.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

"(b) REMEDIAL ACTION PLANNING PROCESS.—

"(1) IN GENERAL.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

"(2) CONTENTS.—A remedial action plan shall consist of—

"(A) the results of a facility evaluation, including any screening analysis performed at the facility;

"(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a) and how they balance the factors stated in section 121(a)(1)(C);

"(C) a description of the remedial action to be taken;

"(D) a description of the facility-specific risk-based evaluation under section 127 and a demonstration that the selected remedial action—

"(i) will achieve the goals stated in section 121(a)(1)(B); or

"(ii) satisfies the requirements of section 128; and

"(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

"(3) WORK PLAN.—

"(A) IN GENERAL.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

"(B) SUBMISSION.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

"(C) PUBLICATION.—The Administrator, or the preparer of the plan, shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer of the work plan, the Administrator, the State, or the local community response organization.

"(D) FORWARDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

"(4) FACILITY EVALUATION.—

"(A) IN GENERAL.—The Administrator shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

"(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

"(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

"(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

"(B) SUBMISSION.—A draft facility evaluation shall be submitted to the Administrator for approval.

"(C) PUBLICATION.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

"(D) AVAILABILITY OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

"(E) NOTICE OF APPROVAL.—If the Administrator approves a facility evaluation, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a facility evaluation, the Administrator shall—

"(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

"(ii) request that the preparer submit a revised facility evaluation within a reasonable period of time.

"(5) PROPOSED REMEDIAL ACTION PLAN.—

"(A) SUBMISSION.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

"(B) PUBLICATION.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization, and that persons may request that the Administrator hold a public hearing.

"(C) AVAILABILITY OF COMMENTS.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

"(D) HEARING.—The Administrator shall hold a public hearing at which the proposed remedial action plan may be presented and public comment received.

"(E) APPROVAL.—

"(i) IN GENERAL.—The Administrator shall approve a proposed remedial action plan if the plan—

"(I) contains the information described in subsection (b); and

"(II) achieves the goals stated in section 121(a)(1)(B).

"(ii) DEFAULT.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 90 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

"(F) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(G) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

"(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

"(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time.

"(6) IMPLEMENTATION OF REMEDIAL ACTION PLAN.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

"(7) REMEDIAL DESIGN.—

"(A) SUBMISSION.—A remedial design shall be submitted to, or in a case in which the Administrator is preparing the remedial action plan, completed by, the Administrator.

"(B) PUBLICATION.—After receipt (or completion) of the remedial design, the Administrator shall—

"(i) notify the community response organization; and

"(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

"(C) COMMENT.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

"(D) APPROVAL.—Not later than 90 days after the submission (or completion) of the remedial design, the Administrator shall approve or disapprove the remedial design.

"(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall identify with specificity any deficiencies in the submission and allow the preparer submitting a remedial design a reasonable time to submit a revised remedial design.

"(c) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act or any other law, an approval or disapproval of a remedial action plan the implementation of which is projected to cost more than $15,000,000 shall be final action of the Administrator subject to judicial review in United States district court.

"(d) ENFORCEMENT OF REMEDIAL REMEDIAL PLAN.—

"(1) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has deviated significantly from the plan, the Administrator shall so notify the implementing party and require the implementing party to—

"(A) comply with the terms of the remedial action plan; or

"(B) submit a notice for modifying the plan,

at the option of the implementing party.

"(2) FAILURE TO COMPLY.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all appropriate enforcement pursuant to this Act.

"(e) MODIFICATIONS TO REMEDIAL ACTION PLAN.—

"(1) BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—If the Administrator proposes a modification to the plan, the Administrator shall demonstrate that the modification constitutes the most cost-effective remedial action that is technologically feasible, is not unreasonably costly, and achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party and the community response organization at least 30 days' advance notice and opportunity to comment on any such proposed modification.

"(2) BY THE IMPLEMENTING PARTY.—An implementing party that proposes a minor modification to or clarification of a remedial action plan shall, at least 10 days prior to the proposed implementation of the modification or clarification, submit to the Administrator and to the community response organization a description of the proposed modification or clarification and documentation showing that the proposed modification or clarification will not cause the remedial action to fail to achieve the goals of section 121(a)(1)(B).".

SEC. 405. COMPLETION OF REMEDIAL ACTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 404, is amended by adding at the end the following:

"SEC. 130. COMPLETION OF REMEDIAL ACTION AND DELISTING.

"(a) IN GENERAL.—

"(1) PROPOSED NOTICE OF COMPLETION AND PROPOSED DELISTING.—Not later than 60 days after the completion of a remedial action by the Administrator, or not later than 60 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

"(2) COMMENTS.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

"(3) FINAL NOTICE.—Not later than 60 days after the end of the comment period, the Administrator shall—

"(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

"(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

"(4) FAILURE TO ACT.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (3)—

"(A) the remedial action plan shall be deemed to have been completed; and

"(B) the facility shall be delisted by operation of law.

"(5) EFFECT OF DELISTING.—The delisting of a facility shall have no effect on—

"(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act; or

"(B) the obligation of any person to provide continued operation and maintenance.

"(b) CERTIFICATION.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

"(c) RELEASE FROM LIABILITY.—

"(1) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of remedial action, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not meet the goals stated in section 121(a)(1)(B) considering the actual or planned or reasonably anticipated future use of the land and water resources.

"(2) FACILITY NOT AVAILABLE FOR UNRESTRICTED USE.—If, after completion of remedial action, a facility is not available for unrestricted use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

"(A) review the status of the facility every 7 years; and

"(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not meet the goals of section 121(a)(1) (B), (C), and (D) considering the actual or planned or reasonably anticipated future use of the land and water resources contemplated in the remedial action plan.

"(3) FACILITIES AVAILABLE FOR RESTRICTED USE.—The Administrator may determine that a facility or portion of a facility is available for restricted use while remediation response actions are under way. The Administrator shall make available for use any uncontaminated portions of the facility where such uses would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

"(4) FAILURE TO MAKE TIMELY DISAPPROVAL.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

"(d) OPERATION AND MAINTENANCE.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

"(e) CHANGE OF USE OF FACILITY.—

"(1) PETITION.—Any person may petition the Administrator to change the use of a facility from that which was the basis of the remedial action plan.

"(2) GRANT.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to meet

the goals stated in section 121(a)(1)(B), considering the different use of the facility.

"(3) RESPONSIBILITY FOR RISK.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.".

SEC. 406. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 405, is amended by adding at the end the following:

"SEC. 131. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

"(a) NO RECORD OF DECISION.—

"(1) OPTION.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 129 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

"(2) SUBMISSION OF FACILITY EVALUATION.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 270 days after the date on which notice of the election is given.

"(b) CONSTRUCTION NOT BEGUN.—

"(1) DETERMINATION.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section, the Administrator or the State shall, at the request of the implementer of the record of decision, conduct an expedited review to determine whether the application of section 127 would be likely to result in the selection of a less costly remedial action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(2) DEFAULT.—Section 127 shall apply to a facility or operable unit in accordance with a request under paragraph (1) unless the Administrator or the State, prior to the date that is 90 days after the date on which the request is made, publishes a written finding that the application of section 127 would not be likely to result in the selection of a less costly remedial action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(c) ADDITIONAL CONSTRUCTION.—

"(1) IN GENERAL.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section, but for which additional construction or long-term operation and maintenance activities are anticipated, the Administrator or the State shall, at the request of the implementer of the record of decision, conduct an expedited review to determine whether the application of section 127 would be likely to result in the selection of a remedial action that—

"(A) achieves a cost saving of at least 10 percent over the life of the remedial action, including any long-term operation and maintenance, compared to the remedial action originally selected; and

"(B) achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(2) DEFAULT.—Section 127 shall apply to a facility or operable unit in accordance with a request under paragraph (1) unless the Administrator or the State, prior to the date that is 90 days after the date on which the request is made, publishes a written finding that the application of section 127 would not be likely to result in the selection of a remedial action that achieves a cost saving of at least 10 percent over the life of the remedial and achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(d) MEDIATION OF DISPUTES.—A dispute over the implementation of this section or over a written finding under subsection (b)(2) or (c)(2) shall be referred to mediation on an expedited basis without penalty to any person.".

SEC. 407. JUDICIAL REVIEW.

(a) REVIEW OF CERTAIN ACTIONS.—Section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) is amended by adding at the end the following:

"(6) An action under section 129(c).".

(b) STAY.—Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(b)) is amended by adding at the end the following: "In the case of a challenge under section 113(h)(6), the court may stay the implementation or initiation of the challenged actions pending judicial resolution of the matter.".

SEC. 408. NATIONAL PRIORITIES LIST.

(a) REVISION OF NATIONAL CONTINGENCY PLAN.—

(1) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8) by adding at the end the following:

"(C) provision that in listing a site on the National Priority List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless the ground water is in use as a public drinking water supply or was in such use at the time of the release."; and

(B) by adding at the end the following:

"(h) LISTING OF PARTICULAR PARCELS.—

"(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

"(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.".

(2) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendment made by paragraph (1) not later that 180 days of the date of enactment of this Act.

TITLE V—LIABILITY ALLOCATIONS

SEC. 501. ALLOCATION OF LIABILITY FOR MULTIPARTY FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 132. ALLOCATION OF LIABILITY FOR MULTIPARTY FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATION PARTY.—The term 'allocation party' means a party, named on a list of parties that will be subject to the allocation process under this section, issued by an allocator under subsection (g)(3)(A).

"(2) ALLOCATOR.—The term 'allocator' means an allocator retained to conduct an allocation for a facility under subsection (f)(1).

"(3) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' means—

"(A) a non-federally owned vessel or facility listed on the National Priorities List for which the Administrator has approved a record of decision or a remedial action plan on or after June 15, 1995;

"(B) a federally owned facility listed on the National Priorities List for which the Administrator has approved a record of decision or a remedial action plan on or after June 15, 1995, if 1 or more of the potentially responsible parties with respect to the facility is not a department, agency, or instrumentality of the United States;

"(C) a non-federally owned vessel or facility listed on the National Priorities List for which the Administrator has approved a record of decision prior to June 15, 1995, if the construction or the operation and maintenance in accordance with the record of decision has continued after June 15, 1995; or

"(D) a federally owned facility listed on the National Priorities List for which the Administrator has approved a record of decision prior to June 15, 1995, and 1 or more of the potentially responsible parties is not a department, agency, or instrumentality of the United States and the construction or the operation and maintenance in accordance with the record of decision has continued after June 15, 1995.

"(b) ALLOCATIONS OF LIABILITY.—

"(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section.

"(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

"(A) incurred response costs with respect to a response action; or

"(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

"(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

"(4) ORPHAN SHARE.—An allocation performed at a facility identified under subsection (a)(3) (C) or (D) or (b) (2) or (3) shall not require payment of an orphan share under subsection (l) or reimbursement under subsection (t).

"(5) EXCLUDED FACILITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of the allocation process only, this section does not apply to—

"(i) a response action at a mandatory allocation facility for which there was in effect as of June 15, 1995, a final settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action; or

"(ii) a facility with respect to which none of the potentially responsible parties is liable or potentially liable under section 107(a)(1) (C) or (D).

"(B) CONDUCT PRIOR TO DECEMBER 11, 1980.—

"(i) IN GENERAL.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A), an allocation process shall be conducted for the sole purpose of determining the percentage share of responsibility attributable to activity of each potentially responsible party prior to December 11, 1980.

"(ii) PURPOSE.—The determination made under clause (i) shall be used only to determine the availability of the environmental response expenditures credit under section 38(b)(12) of the Internal Revenue Code of 1986.

"(6) SCOPE OF ALLOCATIONS.—Subject to paragraph (5), an allocation under this section shall apply to—

"(A) the cost of any response action selected by the Administrator after June 15, 1995, for a mandatory allocation facility described in subsection (a)(3) (A) or (B);

"(B) the cost of construction and operation and maintenance incurred at a mandatory allocation facility after June 15, 1995, in accordance with a record of decision approved by the Administrator before June 15, 1995; and

"(C) the cost of any response action incurred by a potentially responsible party at a facility that is the subject of a requested allocation or permissive allocation process under subsection (b) (2) or (3).

"(7) OTHER MATTERS.—This section shall not limit or affect—

"(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

"(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of the allocation process, subject to subsection (l)(3);

"(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree issued prior to the date of enactment of this section with respect to liability under this Act; or

"(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

"(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

"(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost under this Act or any other Federal or State law in connection with a response action—

"(A) for which an allocation is required to be performed under subsection (b)(1); or

"(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(5) or, if a second or subsequent report is issued under subsection (r), the date of issuance of the second or subsequent report.

"(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(5) or, if a second or subsequent report is issued under subsection (r), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

"(3) TOLLING OF PERIOD OF LIMITATION.—

"(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

"(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

"(ii) the date of initiation of the allocation process under this section.

"(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(5), or of a second or subsequent report under subsection (r).

"(4) LATER ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator shall not issue any order under section 106 after the date of enactment of this section in connection with a response action for which an allocation is required to be performed under subsection (b)(1), or for which the Administrator has initiated the allocation process under this section, until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(5) or of a second or subsequent report under subsection (r).

"(B) EMERGENCIES.—Subparagraph (A) does not preclude an order requiring the performance of a removal action that is necessary to address an emergency situation at a facility.

"(5) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

"(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

"(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party; or

"(C) file a proof of claim or take other action in a proceeding under title 11, United States Code.

"(d) INITIATION OF ALLOCATION PROCESS.—

"(1) RESPONSIBLE PARTY SEARCH.—For each facility described in paragraph (2), the Administrator shall initiate the allocation process as soon as practicable by commencing a comprehensive search for all potentially responsible parties with respect to the facility under authority of section 104.

"(2) FACILITIES.—The Administrator shall initiate the allocation process for each—

"(A) mandatory allocation facility;

"(B) facility for which a request for allocation is made under subsection (b)(2); and

"(C) facility that the Administrator considers to be appropriate for allocation under subsection (b)(3).

"(3) TIME LIMIT.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

"(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

"(B) the date that is 60 days after the date of selection of a removal action.

"(4) SUBMISSION OF INFORMATION.—Any person may submit information to the Administrator concerning a potentially responsible party for a facility that is subject to a search, and the Administrator shall consider the information in carrying out the search.

"(5) INITIAL LIST OF PARTIES.—

"(A) IN GENERAL.—As soon as practicable after initiation of an allocation process for a facility, the Administrator shall publish, in accordance with section 117(d), a list of all potentially responsible parties identified for a facility.

"(B) TIME LIMIT.—The Administrator shall publish a list under paragraph (1) not later than 120 days after the commencement of a comprehensive search.

"(C) COPY OF LIST.—The Administrator shall provide each person named on a list of potentially responsible parties with—

"(i) a copy of the list; and

"(ii) the names of not less than 25 neutral parties—

"(I) who are not employees of the United States;

"(II) who are qualified to perform an allocation at the facility, as determined by the Administrator; and

"(III) at least some of whom maintain an office in the vicinity of the facility.

"(D) PROPOSED ALLOCATOR.—A person identified by the Administrator as a potentially responsible party may propose an allocator not on the list of neutral parties.

"(e) SELECTION OF ALLOCATOR.—

"(1) IN GENERAL.—As soon as practicable after the receipt of a list under subsection (d)(5)(C), the potentially responsible parties named on the list shall—

"(A) select an individual to serve as allocator by plurality vote on a per capita basis; and

"(B) promptly notify the Administrator of the selection.

"(2) VOTE BY REPRESENTATIVE.—The representative of the Fund shall be entitled to cast 1 vote in an election under paragraph (1).

"(3) ELIGIBLE ALLOCATORS.—The potentially responsible parties shall select an allocator under paragraph (1) from among individuals—

"(A) named on the list of neutral parties provided by the Administrator;

"(B) named on a list that is current on the date of selection of neutrals maintained by the American Arbitration Association, the Center for Public Resources, the Administrative Conference of the United States, or another nonprofit or governmental organization of comparable standing; or

"(C) proposed by a party under subsection (d)(5)(D).

"(4) UNQUALIFIED ALLOCATOR.—

"(A) IN GENERAL.—If the Administrator determines that a person selected under paragraph (1) is unqualified to serve, the Administrator shall promptly notify all potentially responsible parties for the facility, and the potentially responsible parties shall make an alternative selection under paragraph (1).

"(B) LIMIT ON DETERMINATIONS.—The Administrator may not make more than 2 determinations that an allocator is unqualified under this paragraph with respect to any facility.

"(5) DETERMINATION BY ADMINISTRATOR.—If the Administrator does not receive notice of selection of an allocator within 60 days after a copy of a list is provided under subsection (d)(5)(C), or if the Administrator, having given a notification under paragraph (4), does not receive notice of an alternative selection of an allocator under that paragraph within 60 days after the date of the notification, the Administrator shall promptly select and designate a person to serve as allocator.

"(6) JUDICIAL REVIEW.—No action under this subsection shall be subject to judicial review.

"(f) RETENTION OF ALLOCATOR.—

"(1) IN GENERAL.—On selection of an allocator, the Administrator shall promptly—

"(A) contract with the allocator for the provision of allocation services in accordance with this section; and

"(B) notify each person named as a potentially responsible party at the facility that the allocator has been retained.

"(2) DISCRETION OF ALLOCATOR.—A contract with an allocator under paragraph (1) shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner.

"(3) PROVISION OF INFORMATION.—

"(A) IN GENERAL.—Not later than 30 days after the selection of an allocator, the Administrator shall make available to the allocator and to each person named as a potentially responsible party for the facility—

"(i) any information or documents furnished under section 104(e)(2); and

"(ii) any other potentially relevant information concerning the facility and the potentially responsible parties at the facility.

"(B) PRIVILEGED INFORMATION.—The Administrator shall not make available any privileged information, except as otherwise authorized by law.

"(g) ADDITIONAL PARTIES.—

"(1) IN GENERAL.—Any person may propose to the allocator the name of an additional potentially responsible party at a facility, or otherwise provide the allocator with information pertaining to a facility or to an allocation, until the date that is 60 days after the later of—

"(A) the date of issuance of the initial list described in subsection (d)(5)(A); or

"(B) the date of retention of the allocator under subsection (f)(1)(A).

"(2) NEXUS.—Any proposal under paragraph (1) to add a potentially responsible party shall include all information reasonably available to the person making the proposal regarding the nexus between the additional potentially responsible party and the facility.

"(3) FINAL LIST.—

"(A) IN GENERAL.—The allocator shall issue a final list of all parties that will be subject to the allocation process (referred to in this section as the 'allocation parties') not later than 120 days after publication of the initial list under subsection (d)(5)(A).

"(B) STANDARD.—The allocator shall include each party proposed under paragraph (1) in the final list of allocation parties unless the allocator determines that the party is not potentially liable under section 107.

"(4) DE MICROMIS PARTIES.—

"(A) IDENTIFICATION.—Not later than 120 days after the filing of the initial list of parties under subsection (d)(5)(A), the allocator shall issue a list identifying all de micromis parties with respect to the facility based on an evaluation of all evidence received at the time of the issuance of the list with respect to the amount of hazardous substances contributed by potentially responsible parties.

"(B) NOTIFICATION.—The allocator shall notify each de micromis party of its inclusion on the list under subparagraph (A) not later than 20 days after the date of issuance of the list.

"(C) EXEMPTION FROM LIABILITY.—A person that is named on the list under subparagraph (A) shall have no liability to the United States or to any other person (including liability for contribution), under Federal or State law, for a response action or for any past, present, or future cost incurred at the facility for a release identified in the facility evaluation under section 129(b)(4) if the person takes no other action after being included on the list that would give rise to a separate basis for liability under this Act.

"(h) FEDERAL, STATE, AND LOCAL AGENCIES.—

"(1) IN GENERAL.—Notwithstanding any other law, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

"(2) ORPHAN SHARE.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

"(i) POTENTIALLY RESPONSIBLE PARTY SETTLEMENT.—

"(1) SUBMISSION.—At any time prior to the date of issuance of an allocation report under subsection (j)(6) or of a second or subsequent report under subsection (r), any group of potentially responsible parties for a facility may submit to the allocator a private allocation for any response action that is within the scope of the allocation under subsection (b)(6).

"(2) ADOPTION.—The allocator shall promptly adopt a private allocation under paragraph (1) as the allocation report if the private allocation—

"(A) is a binding allocation of 100 percent of the recoverable costs of the response action that is the subject of the allocation; and

"(B) does not allocate a share to—

"(i) any person who is not a signatory to the private allocation; or

"(ii) any person whose share would be part of the orphan share under subsection (1), unless the representative of the Fund is a signatory to the private allocation.

"(3) WAIVER OF RIGHTS.—Any signatory to a private allocation waives the right to seek from any other potentially responsible party for a facility—

"(A) recovery of any response cost that is the subject of the allocation; and

"(B) contribution under this Act with respect to any response action that is within the scope of the allocation.

"(j) ALLOCATION DETERMINATION.—

"(1) ALLOCATION PROCESS.—An allocator retained under subsection (f)(1) shall conduct an allocation process culminating in the issuance of a written report with a nonbinding equitable allocation of percentage shares of responsibility for any response action that is within the scope of the allocation under subsection (b)(6).

"(2) COPIES OF REPORT.—An allocator shall provide the report issued under paragraph (1) to the Administrator and to the allocation parties.

"(3) INFORMATION-GATHERING AUTHORITIES.—

"(A) IN GENERAL.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

"(B) REQUESTS.—Any person may request that an allocator request information under this paragraph.

"(C) AUTHORITY.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

"(D) DISCLOSURE.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under paragraph (4) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

"(E) ORDERS.—In the event of contumacy or a failure of a person to obey a subpoena issued under paragraph (4), an allocator may request the Attorney General to—

"(i) bring a civil action to enforce the subpoena; or

"(ii) if the person moves to quash the subpoena, to defend the motion.

"(F) FAILURE OF ATTORNEY GENERAL TO RESPOND.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

"(4) ADDITIONAL AUTHORITY.—An allocator may—

"(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

"(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

"(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

"(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

"(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

"(5) CONDUCT OF ALLOCATION PROCESS.—

"(A) IN GENERAL.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (k).

"(B) OPPORTUNITY TO BE HEARD.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

"(C) RESPONSES.—The allocator shall not be required to respond to comments.

"(D) STREAMLINING.—In a case in which the expected response costs are relatively low and the number of potentially responsible parties is relatively small, the allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

"(6) ALLOCATION REPORT.—

"(A) DEADLINE.—

"(i) IN GENERAL.—The allocator shall provide a written allocation report to the Administrator and the allocation parties not later than 180 days after the date of issuance

of the final list of allocation parties under subsection (g)(3)(A) that specifies the allocation share of each potentially responsible party and any orphan shares, as determined by the allocator.

"(ii) EXTENSION.—On request by the allocator and for good cause shown, the Administrator may extend the time to complete the report by not more than 90 days.

"(B) BREAKDOWN OF ALLOCATION SHARES INTO TIME PERIODS.—The allocation share for each potentially responsible party with respect to a mandatory allocation facility shall be comprised of percentage shares of responsibility stated separately for activity prior to December 11, 1980, and activity on or after December 11, 1980.

"(C) TAX-EXEMPT PARTIES.—Of the percentage share of a potentially responsible party that is a State, political subdivision of a State, an agency or instrumentality of a State or political subdivision, or is an organization that is exempt from tax imposed by chapter 1 of the Internal Revenue Code of 1986 (unless the organization is subject to the tax imposed by 511 of the Internal Revenue Code of 1986) for activity prior to December 11, 1980, that would be allocated to that party but for this subparagraph—

"(i) 50 percent shall be allocated to that party; and

"(ii) 50 percent shall be allocated to the orphan share under subsection (l).

"(k) EQUITABLE FACTORS FOR ALLOCATION.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

"(1) the amount of hazardous substances contributed by each allocation party;

"(2) the degree of toxicity of hazardous substances contributed by each allocation party;

"(3) the mobility of hazardous substances contributed by each allocation party;

"(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

"(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

"(7) such other equitable factors as the allocator determines are appropriate.

"(l) ORPHAN SHARES.—

"(1) IN GENERAL.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

"(2) MAKEUP OF ORPHAN SHARE.—The orphan share shall consist of—

"(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party;

"(B) any share allocated under subsection (j)(6)(C)(ii); and

"(C) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States if—

"(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

"(ii) the person is eligible for an expedited settlement with the United States under section 122 based on de minimis contributions of hazardous substances to a facility;

"(iii) the liability of the person for the response action is limited or reduced by any provision of this Act; or

"(iv) the person settled with the United States before the completion of the allocation.

"(3) UNATTRIBUTABLE SHARES.—A share attributed to a hazardous substance that the allocator cannot attribute to any identified party shall be distributed among the allocation parties and the orphan share.

"(m) DE MINIMIS SETTLEMENTS.—

"(1) IDENTIFICATION.—As part of the allocation report under subsection (j)(6), or at any time before the issuance of the allocation report, the allocator shall issue a list identifying all potentially responsible parties with respect to the facility whose allocated share of liability is determined to be 1.0 percent or less.

"(2) SETTLEMENT OFFER.—

"(A) OFFER BY THE ADMINISTRATOR.—Not later than 90 days after the date of issuance of the allocation report under subsection (j)(6) or the date of issuance of the list of de minimis parties under paragraph (1), whichever is earlier, the Administrator shall make a firm written offer of settlement to all de minimis parties.

"(B) AMOUNT.—The amount of the settlement offer for a de minimis party—

"(i) shall be stated in dollars, not a percentage share of the cleanup costs; and

"(ii) shall be based on the Administrator's estimate of the total cleanup cost at the facility multiplied by the de minimis party's allocated share, as determined by the allocator.

"(C) SINGLE ESTIMATE AND PREMIUM.—All settlement offers by the Administrator to de minimis parties at a facility shall be based on the same estimate of cleanup costs and the same premium.

"(D) NO JUDICIAL REVIEW.—A settlement offer under this paragraph is not subject to judicial review.

"(3) ACCEPTANCE.—

"(A) DEADLINE.—A de minimis party may accept or decline a settlement offer, but any acceptance of the offer shall be made within 60 days after receipt of the offer.

"(B) RESOLUTION OF LIABILITY.—A de minimis party that accepts the offer may resolve the party's liability to the United States by paying the amount of the offer to the Hazardous Substance Superfund established under subparagraph (A) of chapter 98 of the Internal Revenue Code of 1986.

"(C) NO REOPENING.—Settlement under this subsection may not be reopened after payment is made except on the ground of fraud.

"(4) NO FURTHER LIABILITY.—A de minimis party that accepts a settlement offer and pays the amount of the offer shall have no other liability, under Federal or State law, to any person for a response action or for any past, present, or future costs incurred at the facility for a release identified in the facility evaluation under section 129(b)(4) if the de minimis party takes no other actions after making the payment that would give rise to a separate basis for liability of the de minimis party under this Act.

"(5) APPLICATION OF PROCEEDS.—

"(A) PROCEEDS REPRESENTING ALLOCATED SHARES.—All proceeds from a de minimis settlement under this subsection that represent the allocated share of a de minimis party for a facility shall be held by the Administrator for timely payment directly to the person performing the response action at the facility.

"(B) EXCESS AMOUNTS.—Any amounts of a settlement remaining in the Fund after completion of the response action shall be available for other authorized uses.

"(n) INFORMATION REQUESTS.—

"(1) DUTY TO ANSWER.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

"(2) CERTIFICATION.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

"(A) the answer is correct to the best of the representative's knowledge;

"(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

"(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

"(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

"(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

"(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

"(o) PENALTIES.—

"(1) CIVIL.—

"(A) IN GENERAL.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (n)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

"(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(2) CRIMINAL.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (n) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

"(p) DOCUMENT REPOSITORY; CONFIDENTIALITY.—

"(1) DOCUMENT REPOSITORY.—

"(A) IN GENERAL.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

"(B) AVAILABILITY.—Subject to paragraph (2), the documents and information in the

document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

"(B) MAINTENANCE.—The allocator, each allocation party, the Administrator, and the Attorney General—

"(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

"(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

"(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

"(D) DISCOVERY AND ADMISSIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

"(I) a new allocation under subsection (r) or (w) for the same response action; or

"(II) an initial allocation under this section for a different response action at the same facility.

"(ii) OTHERWISE DISCOVERABLE OR ADMISSIBLE.—

"(I) DOCUMENT OR MATERIAL.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

"(II) FACTS.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

"(3) NO WAIVER OF PRIVILEGE.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

"(4) PROCEDURE IF DISCLOSURE SOUGHT.—

"(A) NOTICE.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

"(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

"(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

"(B) RELEASE.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

"(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

"(ii) as may be required by court order.

"(5) CIVIL PENALTY.—

"(A) IN GENERAL.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

"(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(C) DEFENSES.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

"(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

"(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

"(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

"(q) REJECTION OF ALLOCATION REPORT.—

"(1) REJECTION.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

"(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

"(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

"(2) FINALITY.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding a de minimis or other expedited settlement under section 122) based on the allocation.

"(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

"(4) STANDARD OF REVIEW.—In a proceeding on review of a rejection of an allocation report under subparagraph (3), the court shall, notwithstanding section 706(2)(E) of title 5, United States Code, hold unlawful and set aside actions, findings, and conclusions found to be unsupported by substantial evidence.

"(5) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

"(r) SECOND AND SUBSEQUENT ALLOCATIONS.—

"(1) IN GENERAL.—If a report is rejected under subsection (q), the allocation parties shall select an allocator under subsection (e) to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

"(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

"(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine under subsection (e) that an allocator whose previous report at the same facility has been rejected under subsection (q) is unqualified to serve.

"(s) SETTLEMENTS BASED ON ALLOCATIONS.—

"(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (l).

"(2) IN GENERAL.—Unless an allocation report is rejected under subsection (q), any allocation party with respect to a mandatory allocation facility shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

"(A) offers to settle with the United States based on the percentage share specified by the allocator; and

"(B) agrees to the other terms and conditions stated in this subsection.

"(3) PROVISIONS OF SETTLEMENTS.—

"(A) IN GENERAL.—A settlement based on an allocation under this section—

"(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

"(ii) shall include—

"(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

"(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

"(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

"(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

"(V) provisions through which a settling party shall receive prompt reimbursement from the Fund under subsection (t) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

"(B) RIGHT TO REIMBURSEMENT.—A right to reimbursement under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

"(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

"(A) information comparing allocation results with actual settlements at multiparty facilities;

"(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

"(C) a description of any impediments to achieving complete recovery; and

"(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

"(5) PREMIUM.—In each settlement under this subsection, the premium authorized—

"(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement; but

"(B) shall not exceed—

"(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

"(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

"(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

"(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response action.

"(t) FUNDING OF ORPHAN SHARES.—

"(1) REIMBURSEMENT.—For each settlement agreement entered into under subsection (s), and for each administrative order that satisfies the requirements of subsection (u), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

"(2) ENTITLEMENT.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

"(3) AMOUNTS OWED.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

"(4) DOCUMENTATION AND AUDITING.—The Administrator—

"(A) shall require that any claim for reimbursement be supported by documentation of actual costs incurred; and

"(B) may require an independent auditing of any claim for reimbursement.

"(u) ADMINISTRATIVE ORDER REIMBURSEMENT.—

"(1) IN GENERAL.—An allocation party that is ordered to perform, and does perform, a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt reimbursement of the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (q).

"(2) NOT CONTINGENT.—The right to reimbursement under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

"(3) TERMS AND CONDITIONS.—

"(A) RISK PREMIUM.—A reimbursement shall be reduced by the amount of the litigation risk premium under subsection (s)(4) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

"(B) TIMING.—

"(i) IN GENERAL.—A reimbursement shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

"(ii) CONSTRUCTION.—Reimbursement for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

"(C) EQUITABLE OFFSET.—A reimbursement is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

"(D) INDEPENDENT AUDITING.—The Administrator may require independent auditing of any claim for reimbursement.

"(E) WAIVER.—An allocation party seeking reimbursement waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

"(F) BAR.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

"(v) POST-SETTLEMENT LITIGATION.—

"(1) IN GENERAL.—Subject to subsections (r) and (s), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

"(2) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (l), but shall not include any share allocated to a Federal, State, or local governmental agency, department, or instrumentality.

"(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

"(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

"(5) RESPONSE COSTS.—

"(A) ALLOCATION PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

"(B) FUNDING ORPHAN SHARES.—The cost attributable to funding an orphan share under this section—

"(i) shall be considered as a necessary cost of response cost; and

"(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (s) or (u).

"(w) NEW INFORMATION.—

"(1) IN GENERAL.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

"(A) the allocator did not have information concerning—

"(i) 35 percent or more of the materials containing hazardous substances at the facility; or

"(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

"(B) the information was discovered subsequent to the issuance of the report by the allocator.

"(2) NEW ALLOCATION.—Any new allocation of responsibility—

"(A) shall proceed in accordance with this section;

"(B) shall be effective only after the date of the new allocation report; and

"(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

"(x) ALLOCATOR'S DISCRETION.—The Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.".

SEC. 502. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) LIABILITY OF CONTRACTORS.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 303(a), is amended by adding at the end the following:

"(G) LIABILITY OF CONTRACTORS.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

"(ii) LIABILITY LIMITATIONS.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

"(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

"(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

"(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

"(IV) transport a hazardous substance, pollutant, or contaminant.

"(iii) EXCEPTION.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment ancillary to a response action.".

(b) NATIONAL UNIFORM NEGLIGENCE STANDARD.—Section 119(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking "title or under any other Federal law" and inserting "title, under any other Federal or State law"; and

(2) in paragraph (2)—

(A) by striking "Paragraph (1)" and inserting the following:

"(A) IN GENERAL.—Paragraph (1)"; and

(B) by adding at the end the following:

"(B) STANDARD.—Conduct under subparagraph (A) shall be evaluated based on the generally accepted standards and practices in effect at the time and place at which the conduct occurred.

"(C) PLAN.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under subparagraph (A).".

(c) EXTENSION OF INDEMNIFICATION AUTHORITY.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: "The agreement may apply to a claim for negligence arising under Federal or State law.".

(d) INDEMNIFICATION DETERMINATIONS.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

"(4) DECISION TO INDEMNIFY.—

"(A) IN GENERAL.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) STANDARD.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

"(C) DILIGENT EFFORTS.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) CONTINUED DILIGENT EFFORTS.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) LIMITATIONS ON INDEMNIFICATION.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.".

(e) INDEMNIFICATION FOR THREATENED RELEASES.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting "or threatened release" after "release" each place it appears.

(f) EXTENSION OF COVERAGE TO ALL RESPONSE ACTIONS.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D) by striking "carrying out an agreement under section 106 or 122"; and

(2) in the matter following subparagraph (D)—

(A) by striking "any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act," and inserting "any response action,"; and

(B) by inserting before the period at the end the following: "or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release".

(g) DEFINITION OF RESPONSE ACTION CONTRACTOR.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended by striking "and is carrying out such contract" and inserting "covered by this section and any person (including any subcontractor) hired by a response action contractor".

(h) SURETY BONDS.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C) by striking ", and before January 1, 1996,"; and

(2) in subsection (g)(5) by striking ", or after December 31, 1995".

(i) NATIONAL UNIFORM STATUTE OF REPOSE.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

"(h) LIMITATION ON ACTIONS AGAINST RESPONSE ACTION CONTRACTORS.—

"(1) IN GENERAL.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

"(A) injury to property, real or personal;

"(B) personal injury or wrongful death;

"(C) other expenses or costs arising out of the performance of services under the contract; or

"(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

"(2) EXCEPTION.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

"(3) INDEMNIFICATION.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

"(i) STATE STANDARDS OF NEGLIGENCE.—Subsection (a)(1) and subsection (h) shall not apply in determining the liability of a response action contractor if the State has enacted, after the date of enactment of this subsection, a statute of repose determining the liability of a response action contractor.".

SEC. 503. RELEASE OF EVIDENCE.

(a) TIMELY ACCESS TO INFORMATION FURNISHED UNDER SECTION 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after "shall be available to the public" the following: "not later than 14 days after the records, reports, or information is obtained".

(b) REQUIREMENT TO PROVIDE POTENTIALLY RESPONSIBLE PARTIES EVIDENCE OF LIABILITY.—

(1) ABATEMENT ACTIONS.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking "(a) In addition" and inserting the following: "(a) ORDER.—"

"(1) IN GENERAL.—In addition"; and

(B) by adding at the end the following:

"(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

(2) SETTLEMENTS.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

"(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

SEC. 504. CONTRIBUTION PROTECTION.

(a) NO LIABILITY FOR COST RECOVERY AFTER SETTLEMENT.—Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting "or cost recovery" after "contribution".

(b) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 401, is amended by adding at the end the following:

"(48) ALLOCATED SHARE.—The term 'allocated share' means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under section 132(j)(6).

"(49) DE MICROMIS PARTY.—The term 'de micromis party' means a potentially responsible party that is a generator or transporter that contributed not more than 200 pounds or not more than 110 gallons of material containing hazardous substances at a facility, or such greater or lesser amount as the Administrator may determine by regulation.

"(50) DE MINIMIS PARTY.—The term 'de minimis party' means a liable party whose assigned share of liability is determined to be 1.0 percent or less in an allocation report under section 132.

"(51) ORPHAN SHARE.—The term 'orphan share' means the total of the allocated shares determined by the allocator under section 132(l).

SEC. 505. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) DEFINITION.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 502(a), is amended by adding at the end the following:

"(H) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.".

(b) LIMITATION ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

"(r) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—

"(1) LIMITATION ON LIABILITY.—Subject to paragraph (2), if an organization described in

section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

"(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

"(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

"(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

"(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

"(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

"(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(G) that meets the conditions specified in paragraph (2).".

SEC. 506. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking "a published tariff and acceptance" and inserting "a contract".

SEC. 507. LIMITATION ON LIABILITY FOR RESPONSE COSTS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 505(b), is amended by adding at the end the following:

"(s) LIMITATION ON LIABILITY OF RAILROAD OWNERS.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

"(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

"(2) the spur track is 10 miles long or less; and

"(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.".

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

"(g) TRANSFER OF AUTHORITIES.—

"(1) DEFINITIONS.—In this section:

"(A) INTERAGENCY AGREEMENT.—The term 'interagency agreement' means an interagency agreement under section 120.

"(B) TRANSFER AGREEMENT.—The term 'transfer agreement' means a transfer agreement under paragraph (3).

"(C) TRANSFEREE STATE.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

"(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government) located in the State.

"(3) TRANSFER OF AUTHORITIES.—

"(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

"(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

"(ii) the State has demonstrated experience in exercising similar authorities;

"(iii) the State has agreed to be bound by all Federal requirements and standards under section 129 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

"(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

"(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

"(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

"(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

"(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

"(4) EFFECT OF TRANSFER.—

"(A) STATE AUTHORITIES.—A transferee State—

"(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

"(ii) shall have exclusive authority to determine the manner in which those authorities are implemented.

"(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

"(5) SELECTED REMEDIAL ACTION.—The remedial action selected for a facility under section 129 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

"(A) any corrective action activity under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

"(B) any remedial action in excess of remedial action under section 129 that the State selects in accordance with paragraph (8).

"(6) DEADLINE.—

"(A) IN GENERAL.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

"(7) RESUBMISSION OF APPLICATION.—

"(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

"(8) JUDICIAL REVIEW.—

"(A) IN GENERAL.—A disapproval of a resubmitted application shall be subject to judicial review under section 113(b).

"(B) STANDARD OF REVIEW.—In a proceeding on review of a disapproval of a resubmitted application, the court shall, notwithstanding section 706(2)(E) of title 5, United States Code, hold unlawful and set aside actions, findings, and conclusions found to be unsupported by substantial evidence.

"(9) WITHDRAWAL OF AUTHORITIES.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

"(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

"(B) has violated the transfer agreement, in whole or in part; or

"(C) no longer meets one of the requirements of paragraph (3).

"(10) STATE COST RESPONSIBILITY.—The State may require a remedial action that exceeds Federal standards (including the remedial action selection requirements of section 121) if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 129.

"(11) DISPUTE RESOLUTION AND ENFORCEMENT.—

"(A) DISPUTE RESOLUTION.—

"(i) FACILITIES COVERED BY BOTH A TRANSFER AGREEMENT AND AN INTERAGENCY AGREEMENTS.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(ii) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provide in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(iii) FAILURE TO RESOLVE.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action.

"(B) ENFORCEMENT.—

"(i) IN GENERAL.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement in the United States district court for the district in which the facility is located.

"(ii) REMEDIES.—The district court shall have the jurisdiction to—

"(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

"(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

"(III) compel implementation of the selected remedial action; and

"(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State, in accordance with section 113(j).

"(12) COMMUNITY PARTICIPATION.—If, prior to June 15, 1995, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'response action advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

"(A) shall be considered to be a community response organization for the purposes of section 117 (e) (2), (3), (4), (5), and (6), and (g) and sections 127 and 129; but

"(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (7), (8), (9), (10), or (11) or (f).".

SEC. 602. DEPARTMENT OF ENERGY ENVIRONMENTAL CLEANUP REQUIREMENTS.

(a) DEFINITIONS.—In this section:

(1) CIVIL OR CRIMINAL SANCTION.—The term "civil or criminal sanction" means a fine, penalty, imprisonment, a requirement to pay damages or costs, the imposition of equitable relief against a person, and the application of any other remedy authorized by law.

(2) DEPARTMENT OF ENERGY ENVIRONMENTAL CLEANUP REQUIREMENT.—The term "Department of Energy environmental cleanup requirement"—

(A) means a requirement imposed on the Secretary of Energy—

(i) to carry out a response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(ii) to take corrective action under section 3004 (u) or (v) or section 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u), (v));

(iii) to conduct closure activity under section 3004 or 3005 of the Solid Waste Disposal Act (42 U.S.C. 6924, 6925);

(iv) relating to storage of mixed waste under section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j));

(v) for treatment of mixed waste under section 3021 of the Solid Waste Disposal Act (42 U.S.C. 6939c);

(vi) with respect to the storage of mixed waste in a storage facility that does not meet other storage requirements imposed under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), if—

(I) the facility commenced operation prior to October 6, 1992;

(II) the storage does not result in any release of mixed waste to the environment, or any direct, immediate, and significant danger to human health or the environment.

(vii) under comparable provisions of State and local laws; or

(viii) under a permit or order issued by, or an agreement with a Federal, State, or local agency relating to a requirement described in clause (i), (ii), (iii), (iv), (v), (vi), (vii), or (viii); but

(B) does not include—

(i) a reporting requirement imposed by section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603); or

(ii) except as provided in subparagraph (A)(iii), a requirement with respect to the treatment, storage, disposal, or transportation of hazardous waste generated by a response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or by a corrective action or closure under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(b) LISTS.—

(1) INITIAL LIST.—Not later than 120 days after the date of enactment of this Act, the Secretary of Energy, after providing appropriate Federal, State, and local agencies reasonable notice and an opportunity for comment, shall submit to Congress a list identifying by State and facility the specific Department of Energy environmental cleanup requirements that cannot be carried out with the funds appropriated specifically for the Department's environmental management activities under the Energy and Water Development Appropriations Act, 1996, or the Department of Defense Appropriations Act, 1996.

(2) ANNUAL LISTS.—

(A) SUBMISSION TO THE PRESIDENT.—For fiscal year 1997 and each fiscal year thereafter, the Secretary of Energy, after providing appropriate Federal, State, and local agencies reasonable notice and an opportunity for comment, shall—

(i) provide to the President—

(I) information concerning the budget necessary to meet all Department of Energy environmental management requirements, including Department of Energy environmental cleanup requirements; and

(II) a list of the Department of Energy environmental cleanup requirements that cannot be met (including information about the nature and cost of each requirement and the locations of each affected facility) within the Department's budget request for environmental management activities for that fiscal year;

(ii) advise the President of the factors taken into account in formulating the list; and

(iii) a summary of comments on the list received by the Secretary of Energy from Federal, State, and local agencies.

(B) INCLUSION IN BUDGET REQUEST.—After considering information provided by the Secretary of Energy, the President shall submit to Congress with the President's annual budget request under section 1105 of title 31, United States Code—

(i) information concerning the budget necessary to meet all Department of Energy environmental management requirements, including Department of Energy environmental cleanup requirements;

(ii) a list of the Department of Energy environmental cleanup requirements that cannot be met (including information about the nature and cost of each requirement and the locations of each affected facility) within the Department's budget request for environmental management activities for that fiscal year; and

(iii) a summary of comments on the list received by the Secretary of Energy from Federal, State, and local agencies.

(3) COMMENTS ON COST REDUCTION.—During the comment period on a list under paragraph (1) or (2), the Secretary of Energy shall seek comments of appropriate Federal, State, and local agencies concerning opportunities for cost reduction in meeting cleanup requirements, risk reduction, community concerns and other factors relevant to setting priorities for cleanup activities.

(4) REVISION OF LISTS.—

(A) IN GENERAL.—Beginning with fiscal year 1997, after funds for the Department of Energy's environmental management activities have been appropriated for a fiscal year, the Secretary of Energy, after providing appropriate Federal, State, and local agencies reasonable notice and an additional opportunity for comment, shall revise the list of the Department of Energy environmental cleanup requirements submitted to Congress to reflect any differences between the President's budget request and the funds appropriated specifically to carry out such activities and shall submit the revised list to Congress within 60 days.

(B) NO FURTHER REVISION.—After a revised list is submitted to Congress, it shall not be subject to further revision.

(c) CIVIL OR CRIMINAL SANCTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other law, no action seeking to impose civil or criminal sanctions under any law may be commenced at any time against—

(A) the United States or any department, agency, or instrumentality of the United States;

(B) any employee or officer of the United States or of any department, agency, or instrumentality of the United States; or

(C) any person who is a contractor, subcontractor, or agent of the Department of Energy, or any employee, officer, shareholder, partner, or director of such a person acting in accordance with the person's authority,

with respect to a failure to comply with a Department of Energy environmental cleanup requirement by reason of a lack of funds appropriated specifically for the Department of Energy environmental management activities during a fiscal year for which such cleanup requirement was on a list under subsection (c).

(2) PERMITTED ACTIONS.—This subsection does not prohibit an action against the United States or any department, agency, or instrumentality of the United States—

(A) with respect to a violation of a Department of Energy environmental cleanup requirement contained in a compliance agreement with a Federal, State, or local agency or order that the Department of Energy voluntarily accepted in writing after January 1, 1995, if the action seeks only civil penalties stipulated in the agreement or order, or injunctive relief enforcing the agreement or order;

(B) if injunctive relief is sought on the basis that such relief is necessary to avoid a direct, immediate, and significant danger to human health or the environment; or

(C) if monetary damages are sought to compensate a person for an actual injury or loss to the extent that such an action is allowed by other law.

(d) JUDICIAL REVIEW.—A decision made by the President or the Secretary of Energy in preparing a list under subsection (c) shall not be subject to judicial review.

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

"(h) FEDERAL FACILITIES.—

"(1) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

"(2) USE OF FACILITIES.—

"(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

"(B) COORDINATION.—The Administrator—

"(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

"(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

"(3) CONSIDERATIONS.—

"(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

"(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.".

(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking "At the time" and inserting the following:

"(1) IN GENERAL.—At the time"; and

(2) by adding at the end the following:

"(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).".

SEC. 604. FEDERAL FACILITY LISTING.

Section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)) is amended—

(1) by striking "Not later" and inserting the following:

"(1) PRELIMINARY ASSESSMENTS.—Not later";

(2) by striking "Following such" and inserting the following:

"(2) EVALUATION AND PLACEMENT ON NATIONAL PRIORITIES LIST.—Following such";

(3) by striking "(1) evaluate" and inserting the following:

"(A) evaluate";

(4) by striking "(2) include" and inserting the following:

"(B) include";

(5) by striking "Such criteria" and inserting the following:

"(3) APPLICATION OF CRITERIA.—The criteria for determining priorities";

(6) by striking "Evaluation" and inserting the following:

"(4) COMPLETION.—Evaluation";

(7) by striking "Upon" and inserting the following:

"(5) PETITIONS BY GOVERNORS.—On"; and

(8) by adding at the end the following:

"(6) UNCONTAMINATED PROPERTIES.—On identification of parcels of uncontaminated property under subsection (h)(4), the Administrator may provide notice that the listing does not include the identified uncontaminated parcels.".

SEC. 605. FEDERAL FACILITY LISTING DEFERRAL.

Paragraph (3) of section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)), as designated by section 604, is amended by inserting after "persons" the following: ", but an appropriate factor as referred to in section 105(a)(8)(A) may include the extent to which the Federal land holding agency has arranged with the Administrator or with a State to respond to the release or threatened release under other legal authority".

SEC. 606. TRANSFERS OF UNCONTAMINATED PROPERTY.

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking "stored for one year or more,".

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 504(b), is amended—

(1) by striking paragraph (16) and inserting the following:

"(16) NATURAL RESOURCE.—

"(A) IN GENERAL.—The term 'natural resource' means land, fish, wildlife, biota, air, water, ground water, a drinking water supply, and any similar resource that is committed for use by the general public and is owned or managed by, appertains to, is held in trust by, or is otherwise controlled by the United States (including a resource of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), by a State or local government, by a foreign government, by an Indian tribe, or, if such a resource is subject to a trust restriction on alienation, by a member of an Indian tribe.

"(B) COMMITMENT FOR USE.—A resource shall be considered to be committed for use by the general public only if, at the time of the act of disposal giving rise to liability (as limited by section 107(f)(1)(B)), the resource is subject to a public use or to a planned public use, for which there is an authorized and documented legal, administrative, budgetary, or financial commitment."; and

(2) by adding at the end the following:

"(52) BASELINE.—The term 'baseline' means the condition or conditions that would have existed at a natural resource had a release of hazardous substances not occurred.

"(53) COMPENSATORY RESTORATION.—The term 'compensatory restoration' means the provision of ecological services lost as a result of injury to or destruction or loss of a natural resource from the initial release giving rise to liability under section 107(a)(2)(C) until primary restoration has been achieved with respect to those services.

"(54) ECOLOGICAL SERVICE.—The term 'ecological service' means a physical or biological function performed by an ecological resource, including the human uses of such a function.

"(55) PRIMARY RESTORATION.—The term 'primary restoration' means rehabilitation, natural recovery, or replacement of an injured, destroyed, or lost natural resource, or acquisition of a substitute or alternative natural resource, to reestablish the baseline ecological service that the natural resource would have provided in the absence of a release giving rise to liability under section 107(a)(2)(C).

"(56) RESTORATION.—The term 'restoration' means primary restoration and compensatory restoration.".

(b) LIABILITY FOR NATURAL RESOURCE DAMAGES.—

(1) AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended—

(A) by inserting "IN GENERAL.—" after "(a)";

(B) by striking "Notwithstanding" and inserting the following:

"(1) PERSONS LIABLE.—Notwithstanding";

(C) by redesignating paragraphs (1), (2), (3), and (4) (as designated prior to the date of enactment of this Act) as subparagraphs (A), (B), (C), and (D), respectively, and adjusting the margins accordingly;

(D) by striking "hazardous substance, shall be liable for—" and inserting the following:

"hazardous substance, shall be liable for the costs and damages described in paragraph (2).

"(2) COSTS AND DAMAGES.—A person described in paragraph (1) shall be liable for—";

(E) by striking subparagraph (C) of paragraph (2), as designated by subparagraph (D), and inserting the following:

"(C) damages for injury to, destruction of, or loss of the baseline ecological services of natural resources, including the reasonable costs of assessing such injury, destruction, or loss caused by a release; and";

(F) by striking "The amounts" and inserting the following:

"(3) INTEREST.—The amounts"; and

(G) in the first sentence of paragraph (3), as designated by subparagraph (F), by striking "subparagraphs (A) through (D)" and inserting "paragraph (2)".

(2) CONFORMING AMENDMENTS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended—

(A) in subsection (d)(3) by striking "the provisions of paragraph (1), (2), (3), or (4) of subsection (a) of this section" and inserting "subsection (a)";

(B) in subsection (f)(1) by striking "subparagraph (C) of subsection (a)" each place it appears and inserting "subsection (a)(2)(C)".

(c) NATURAL RESOURCE DAMAGES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting "NATURAL RESOURCE DAMAGES.—" after "(f)";

(2) by striking "(1) NATURAL RESOURCES LIABILITY.—In the case" and inserting the following:

"(1) LIABILITY.—

"(A) IN GENERAL.—In the case";

(3) in paragraph (1)(A), as designated by paragraph (2)—

(A) in the first sentence by inserting "the baseline ecological services of" after "loss of";

(B) in the third and fourth sentences, by striking "to restore, replace, or acquire the equivalent" each place it appears and inserting "for restoration";

(C) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration of such natural resources by the Indian tribe. A restoration conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically practicable, cost-effective, and consistent with all known or anticipated response actions at or near the facility. Any sums recovered by the United States, a State, or an Indian tribe shall be placed in an escrow account. Such sums may be released from the escrow account only for the purpose of contributing to restoration activities carried out in accordance with specific activities or accounts set forth in a restoration plan approved by the United States, a State, or an Indian tribe. The restoration plan may be revised as necessary to account for new information or extenuating circumstances on approval of the trustee and relevant responsible parties or on approval by a United States district court. The trustee shall issue a public notice and hold a public hearing every 2 years after approval of the restoration plan and issue a report describing how the sums have been expended in accordance with the restoration plan. Any sums expended by the United States, a State, or an Indian tribe that are not expended in accordance with the restoration plan may be recovered by the persons from whom the sums were collected."; and

(D) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

"(i) MEASURE OF DAMAGES.—The measure of damages in any action under subsection (a)(2)(C) shall be limited to the reasonable costs of restoration and of assessing damages.

"(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of non-use values.

"(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for injury to, destruction of, or loss of a natural resource caused by a release shall not be entitled to recovery under or any other Federal or State law for injury to or destruction or loss of the natural resource caused by the release.

"(iv) NO RETROACTIVE LIABILITY.—

"(I) COMPENSATORY RESTORATION.—There shall be no recovery from any person under this section of the costs of compensatory restoration for a natural resource injury, destruction, or loss that occurred prior to December 11, 1980.

"(II) PRIMARY RESTORATION.—There shall be no recovery from any person under this section for the costs of primary restoration if the natural resource injury, destruction, or loss for which primary restoration is sought and the release of the hazardous substance from which the injury resulted occurred entirely prior to December 11, 1980.

"(v) BURDEN OF PROOF ON THE ISSUE OF THE DATE OF OCCURRENCE OF A RELEASE.—The trustee for an injured, destroyed, or lost natural resource bears the burden of demonstrating that any amount of costs of compensatory restoration that the trustee seeks under this section is to compensate for an injury, destruction, or loss (or portion of an injury, destruction, or loss) that occurred on or after December 11, 1980."; and

(4) by adding at the end the following:

"(3) SELECTION OF RESTORATION METHOD.—When selecting appropriate restoration measures, including natural recovery, a trustee shall select the most cost-effective method of achieving restoration.".

(d) AMOUNT OF DAMAGES.—Section 107(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(c)) is amended—

(A) by striking "paragraph (2) of this subsection," and inserting "paragraph (2), and subject to the limitation stated in paragraph (4),"; and

(B) in subparagraph (D) by inserting ", as limited by paragraph (4)" before the period at the end; and

(2) by adding at the end the following:

"(4) LIMITATION.—Except as provided in paragraph (2), the aggregate liability of all responsible parties for costs of compensatory restoration incurred as a result of a release or releases of hazardous substances from an incineration vessel or a facility or group of facilities (including those that constitute part or all of 1 or more facilities listed on the national priorities list under section 105(a)(8)(B)) shall not exceed—

"(A) $25,000,000; or

"(B) if the costs of compensatory compensation exceed $100,000,000, $50,000,000.".

SEC. 702. ASSESSMENT OF DAMAGES.

(a) DAMAGE ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) DAMAGE ASSESSMENT.—

"(1) REGULATION.—A natural resource damage assessment conducted for the purposes of this Act or section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) made by a Federal, State, or tribal trustee shall be performed in accordance with—

"(I) the regulation issued under section 301(c); and

"(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

"(ii) FACILITY-SPECIFIC CONDITIONS AND RESTORATION REQUIREMENTS.—Injury determination, restoration planning, and quantification of restoration costs shall be based on an assessment of facility-specific conditions and restoration requirements.

"(iii) USE BY TRUSTEE.—A natural resource damage assessment under clause (i) may be used by a trustee as the basis for a natural resource damage claim only if the assessment demonstrates that the hazardous substance release in question caused the alleged natural resource injury.

"(iv) COST RECOVERY.—As part of a trustee's claim, a trustee may recover only the reasonable damage assessment costs that were incurred directly in relation to the site-specific conditions and restoration measures that are the subject of the natural resource damage action.

"(D) JUDICIAL REVIEW.—

"(i) LIABILITY.—In reviewing a claim brought by a trustee to recover natural resource damages costs of compensatory restoration or primary restoration under this section, a district court shall try de novo the issue whether a defendant is liable and the issue of the amount of liability, if any, to be imposed on the defendant.

"(ii) TRUSTEE DECISIONS.—In reviewing a claim brought to challenge a decision of a trustee (such as a decision concerning the extent of injury to or loss or destruction of a natural resource or the selection of a restoration plan) the district court, notwithstanding section 706(2)(E) of title 5, United States Code, shall hold unlawful and set aside actions, findings, and conclusions found to be unsupported by substantial evidence.".

(b) REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

"(c) REGULATIONS FOR DAMAGE ASSESSMENTS.—

"(1) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of restoration damages and assessment costs for injury to, destruction of, or loss of natural resources resulting from a release of oil or a hazardous substance for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f) (4), (5)).

"(2) CONTENTS.—The regulation under paragraph (1) shall—

"(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of baseline ecological services of the environment;

"(B) identify the best available procedures to determine damages for the reasonable cost of restoration and assessment;

"(C) take into consideration the ability of a natural resource to recover naturally and

the availability of replacement or alternative resources; and

"(D) specify an appropriate mechanism for the cooperative designation of a single lead decisionmaking trustee at a site where more than one Federal, State, or Indian tribe trustee intends to conduct an assessment, which designation shall occur not later than 180 days after the date of first notice to the responsible parties that a natural resource damage assessment will be made.

"(3) BIENNIAL REVIEW.—The regulation under paragraph (1) shall be reviewed and revised as appropriate every 2 years.".

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS AND ALTERNATIVES.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)), as amended by section 701(b)(4), is amended by adding at the end the following:

"(4) CONSISTENCY WITH RESPONSE ACTIONS.—A restoration standard or restoration alternative selected by a trustee shall not be duplicative of or inconsistent with actions undertaken pursuant to section 104, 106, 121, or 129.".

(b) RESPONSE ACTIONS.—

(1) ABATEMENT ACTION.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended by adding at the end the following: "The President shall not take action under this subsection except such action as is necessary to protect the public health and the baseline ecological services of the environment.".

(2) LIMITATION ON DEGREE OF CLEANUP.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)), as amended by section 402(1), is amended by adding at the end the following:

"(7) LIMITATION.—

"(A) IN GENERAL.—The Administrator shall not select a remedial action under this section that goes beyond the measures necessary to protect human health and the baseline ecological services of the environment.

"(B) CONSIDERATIONS.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to, destruction of, or loss of a natural resource resulting from such actions.

"(C) NO LIABILITY.—No person shall be liable for injury to, destruction of, or loss of a natural resource resulting from a response action or remedial action selected by the Administrator.".

SEC. 704. MISCELLANEOUS AMENDMENTS.

(a) CONTRIBUTION.—Section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting "and natural resource damages" after "costs".

(b) STATUTE OF LIMITATIONS.—Section 113(g)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(g)(1)) is amended—

(1) by striking the first sentence and inserting the following:

"(A) IN GENERAL.—Except as provided in paragraphs (3) and (4), no action for damages under this Act may be commenced unless the action is commenced within 3 years after the earlier of—

"(i) the date on which the trustee agency knew or should have known of the injury, destruction, or loss; or

"(ii) the date on which the vessel or facility is proposed for listing on the National Priorities List.";

(2) by striking "With respect to" and inserting the following:

"(B) LISTED FACILITIES.—With respect to";

(3) in subparagraph (B), as designated by paragraph (2), by striking "within" and all that follows through the end of the subparagraph and inserting "by the earlier of—

"(i) the date referred to in subparagraph (A); or

"(ii) the date that is 3 years after the date of completion of the remedial action (excluding operation and maintenance activities).";

(4) in the third sentence—

(A) by striking "In no event" and inserting the following:

"(C) LIMITATION.—

"(i) IN GENERAL.—In no event";

(B) by striking "commenced (i) prior" and inserting "commenced—

"(I) prior"; and

(C) by striking "suit, or (ii) before" and inserting "suit; or

"(II) before"; and

(5) by striking "The limitation in the preceding sentence and inserting the following:

"(ii) APPLICATION.—The limitation stated in clause (i)".

TITLE VIII—MISCELLANEOUS

SEC. 801. RESULT-ORIENTED CLEANUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by inserting after paragraph (10) the following:

"(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

"(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

"(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

"(C) be subject to the requirements of sections 117, 120, 121, and 129 in the same manner and to the same degree as those sections apply to response actions; and

"(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).".

(b) AMENDMENT OF NATIONAL HAZARDOUS SUBSTANCE RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 802. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), as amended by section 408(a)(1)(B), is amended by adding at the end the following:

"(i) NATIONAL PRIORITIES LIST.—

"(1) ADDITIONAL VESSELS AND FACILITIES.—

"(A) LIMITATION.—During each of the 3 12-month periods following the date of enactment of this subsection, the Administrator may add not more than 30 new vessels and facilities to the National Priorities List.

"(B) PRIORITIZATION.—The Administrator shall prioritize the vessels and facilities added under subparagraph (A) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

"(C) STATE CONCURRENCE.—A vessel or facility may be added to the National Priorities List under subparagraph (A) only with the concurrence of the State in which the vessel or facility is located.

"(2) SUNSET.—

"(A) NO ADDITIONAL VESSELS OR FACILITIES.—The authority of the Administrator to add vessels and facilities to the National Priorities List shall expire on the date that is 3 years after the date of enactment of this subsection.

"(B) LIMITATION ON ACTION BY THE ADMINISTRATOR.—At the completion of response actions for all vessels and facilities on the National Priorities List, the authority of the Administrator under this Act shall be limited to—

"(i) providing a national emergency response capability;

"(ii) conducting research and development;

"(iii) providing technical assistance; and

"(iv) conducting oversight of grants and loans to the States.".

SEC. 803. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking "consistent with the remedial action to be taken" and inserting "not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility.";

(2) by striking "$2,000,000" and inserting "$4,000,000"; and

(3) by striking "12 months" and inserting "2 years".

SEC. 804. REMEDIATION WASTE.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end the following:

"(42) DEBRIS.—The term 'debris'—

"(A) means—

"(i) a solid manufactured object exceeding a 60 millimeter particle size;

"(ii) plant or animal matter; and

"(iii) natural geologic material; but

"(B) does not include material that the Administrator may exclude from the meaning of the term by regulation.

"(43) IDENTIFIED CHARACTERISTIC WASTE.—The term 'identified characteristic waste' means a solid waste that has been identified as having the characteristics of hazardous waste under section 3001.

"(44) LISTED WASTE.—The term 'listed waste' means a solid waste that has been listed as a hazardous waste under section 3001.

"(45) MEDIA.—The term 'media' means ground water, surface water, soil, and sediment.

"(46) REMEDIATION ACTIVITY.—The term 'remediation activity' means the remediation, removal, containment, or stabilization of—

"(A) solid waste that has been released to the environment; or

"(B) media and debris that are contaminated as a result of a release.

"(47) REMEDIATION WASTE.—The term 'remediation waste' means—

"(A) solid and hazardous waste that is generated by a remediation activity; and

"(B) debris and media that are generated by a remediation activity and contain a listed waste or identified characteristic waste.

"(48) STATE VOLUNTARY REMEDIATION PROGRAM.—The term 'State voluntary remediation program' means a program established by a State that permits a person to conduct remediation activity at a facility under general guidance or guidelines without being subject to a State order or consent agreement specifically applicable to the person.".

(b) IDENTIFICATION AND LISTING.—Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

"(j) REMEDIATION WASTE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person that manages remediation waste that is an identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste shall be subject to the requirements of this subtitle (including regulations issued under this subtitle, including the regulation for corrective action management units published in section 264.552, Code of Federal Regulations, and the regulation for temporary units published in section 264.553, Code of Federal Regulations, or any successor regulation).

"(2) EXCEPTIONS.—

"(A) REQUIREMENTS UNDER SECTION 3004.—Media and debris generated by a remediation activity that are identified characteristic wastes or listed wastes or that contain an identified characteristic waste or a listed waste shall not be subject to the requirements of section 3004 (d), (e), (f), (g), (j), (m), or (o).

"(B) PERMIT REQUIREMENTS.—No Federal, State, or local permit shall be required for the treatment, storage, or disposal of remediation waste that is conducted entirely at the facility at which the remediation takes place.

"(3) REMEDIATION WASTE SUBJECT TO ORDERS, CONSENT AGREEMENTS, VOLUNTARY REMEDIATION PROGRAMS, AND OTHER MECHANISMS.—

"(A) REQUIREMENTS NOT APPLICABLE.—Notwithstanding paragraph (1), a person that manages remediation waste that—

"(i) is identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste; and

"(ii) is subject to a Federal or State order, Federal or State consent agreement, a State voluntary remediation program, or such other mechanism as the Administrator considers appropriate,

shall not be subject to the requirements of this subtitle (including any regulation under this subsection) unless the requirements are specified in the Federal or State order, Federal or State consent agreement, State voluntary cleanup program, or other mechanism, as determined by the Administrator.

"(B) ENFORCEMENT.—Unless other enforcement procedures are specified in the order, consent agreement, or other mechanism, a person described in subparagraph (A) (except a person that manages remediation waste under a State voluntary remediation program) shall be subject to enforcement of the requirements of the order, consent agreement, or other mechanism by use of enforcement procedures under section 3008.".

(c) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a regulation implementing section 3001(j) of the Solid Waste Disposal Act, as added by subsection (b).

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking "not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994" and inserting "a total of $8,500,000 for fiscal years 1996, 1997, 1998, 1999, and 2000".

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

"(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 132.".

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

"(m) HEALTH AUTHORITIES.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.".

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

"(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

"(B) CONTINUING AVAILABILITY.—Such amounts shall remain available until expended.

"(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

"(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000 not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of section 311(a).

"(B) FURTHER LIMITATION.—No more than 10 percent of such amounts shall be used for training under section 311(a) for any fiscal year.

"(3) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).".

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

"(i) for fiscal year 1996, $250,000,000;

"(ii) for fiscal year 1997, $250,000,000;

"(iii) for fiscal year 1998, $250,000,000;

"(iv) for fiscal year 1999, $250,000,000; and

"(v) for fiscal year 2000, $250,000,000.

"(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.".

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

"(q) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $25,000,000 of the amounts available in the Fund may be used for the purposes of subsection (a)(7) (relating to qualifying State voluntary response programs).

"(r) BROWNFIELD CLEANUP ASSISTANCE.—For each of fiscal years 1996 through 2000, not more than $15,000,000 of the amounts available in the Fund may be used to carry out section 134(b) (relating to Citizen Information and Access Offices).

"(s) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing October 1, 1995, and ending September 30, 2000, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

"(t) RECOVERIES.—Effective beginning October 1, 1995, any recoveries collected pursuant to this Act shall be credited as offsetting collections to the Superfund appropriations account.".

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 902, is amended by inserting after paragraph (9) the following:

"(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

"(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

"(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

"(i) are unallowable due to contractor fraud;

"(ii) are unallowable under the Federal Acquisition Regulation; or

"(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

reimbursement of a potentially responsible party for those costs.".

TITLE-BY-TITLE SUMMARY

TITLE I: COMMUNITY PARTICIPATION

Goal—To empower the citizens who are most adversely impacted by the cleanup of hazardous waste sites with a greater role in the decision making and remedy selection processes to better protect human health and the environment, foster rapid economic redevelopment, and promote expedited restoration of natural resources.

Establishes Community Response Organizations (CROs) comprised of 15–20 local citizens to increase community participation in site cleanups. CROs will: Solicit views and concerns of the affected community; serve as a representative of the local community on issues relating to facility cleanup and land use designations; and serve as an information conduit from the community to the EPA, state, PRPs.

Creates Technical Assistance Grants (TAGs) that are renewable up to $100,000 per facility, increasing the amount currently available by $50,000 per facility. TAG grants would be used by the community to interpret information regarding: The nature of the hazardous substances located at the facility; the facility evaluation; proposed remedial action plans and remedial designs; response actions; and operation and maintenance activities at the facility.

Improves communication with the public through enhanced meeting notification and by providing the public with information regarding site cleanup activities and any incremental risks.

TITLE II: STATE ROLE

Goal—To move decisions regarding site cleanups closer to the affected citizenry.

Empowers states to veto listing of new NPL sites and to de-list existing NPL sites.

Provides maximum flexibility to states to accept all or portions of Federal CERCLA authorities. States may request delegation of authority to perform one or more of the following activities at non-Federal NPL sites: Site investigations and risk analysis; alternatives development and remedy selection (including feasibility studies and issuance of records of decision); remedial design; remedial action and operation and maintenance (including removal actions); liability allocation (including identification of PRPs and issuance of settlement agreements); and enforcement (including compliance orders, cost recovery, and imposition of civil penalties).

Designates the state as the sole regulator and allows the state to use its own remedy selection process at those sites where the state accepts all EPA authority.

Requires the Fund to continue to pay its share of cleanup costs at delegated sites, as long as the selected remedy is protective of human health and the environment and is no more costly than the one that would have been selected under the Federal program.

Authorizes use of the Fund to make capacity building grants to delegated states.

TITLE III: VOLUNTARY CLEANUP

Goal—To provide greater flexibility to communities in protecting human health and the environment and provide incentives for the voluntary cleanup of industrial sites and expedited reutilization and economic redevelopment of urban areas.

Authorizes grants of up to $25 million in yearly funding for states to manage voluntary cleanup programs at non-NPL sites.

Authorizes interest free loans to local governments of up to $200,000 per site to promote "brownfields" redevelopment.

Protects from liability purchasers of contaminated property if they did not contribute to the contamination and conducted appropriate inquiries prior to the purchase.

Limits the liability of lenders or lessors that: Acquire property through foreclosure; hold a security interest in the property; hold property as a lessor pursuant to an extension of credit; or exercise financial control pursuant to the terms of an extension of credit.

Excludes from liability landholders who's property was contaminated by a contiguous NPL site, if they did not contribute to the contamination and are not designated as an owner or operator.

TITLE IV: Selection of Remedial Actions

Goal—To base cleanup decisions on a careful analysis of the actual or plausible risks to human health and the environment.

Requires selection of the remedy that protects human health and the environment in the most cost-effective manner.

Requires remedial actions to be selected according to site specific conditions and risks based on the reasonably anticipated future use of the site. Remedial actions would be selected according to: actual or plausible exposure pathways based on actual or planned future use of the land and water resources (industrial, commercial, residential, etc.); site-specific data, in preference to default assumptions; and where site-specific data are unavailable, an acceptable range of realistic and plausible default assumptions regarding actual or likely human exposures and site-specific conditions, instead of worst case default assumptions.

Requires consideration of the following balancing factors in selecting a remedy: effectiveness in protecting human health; long-term reliability; short-term risks; acceptance by the local community; and technical practicability.

Cuts by half the number of steps required to implement cleanup remedies by establishing the following accelerated remedy selection procss: Facility Evaluation, Remedial Action Planning, and Remedial Action.

Eliminates the preferences for permanence, allowing consideration of all cleanup options at a site that are protective of human health and the environment, including, containment, treatment, institutional controls, natural attenuation, or a combination of these alternatives.

Eliminates the requirement that remedial actions meet applicable, relevant and appropriate requirements ("ARARs").

Requires assessment of the actual or planned future use of the contaminated land and water resources based on a mix of several factors including: (1) current zoning requirements and projected future land uses; (2) site analysis and surrounding land use growth patterns; (3) previous use of the landholdings; and (4) input from the CRO, elected municipal and county officials, local planning and zoning authorities, facility owners and potentially responsible parties.

Establishes a higher level of protection for groundwater that is currently uncontaminated.

Allows certain past records of decision to be modified, if applying the new remedy selection process can demonstrate life-cycle savings of at least 10% over the existing remedy.

Enhances emergency response capabilities by increasing the duration of emergency response actions to 24 months, and increasing the authorized spending cap to $4 million per site.

Allows de-listing and reuse of the uncontaminated portions of NPL sites.

Provides expedited de-listing of NPL sites where construction of the remedy is complete and operation and maintenance activities are continued.

TITLE V: Liability Allocations

Goal—Accelerate cleanup by providing broad based fairness in allocating liability.

Establishes a mandatory, non-binding allocation process for multi-party sites, whereby PRPs would be assessed only for the costs of cleanup associated with their actions. This allocation process would be mandatory at all sites where response actions occurred after June 15, 1995, and would divide unidentifiable shares equally among the parties to the allocation. Shares that are attributable to bankrupt or insolvent parties would be borne by an "orphan share" paid out of the Trust Fund.

Makes available to those PRPs that accept the allocator's finding a 50% tax credit for the PRP's pre-1980 cleanup costs, if the PRP stays on-site to conduct the cleanup. This approach would: provide an incentive for PRPs to accelerate cleanup; significantly decrease litigation by creating incentives for PRPs to settle their liability; provide significant, broad-based relief of pre-1980 liability for most PRPs; avoid creating a "public works" program in Superfund; and ensure greater efficiency by keeping PRPs on-site.

Allows PRPs who conducted response actions before June 15, 1995, to request allocation of shares, but would not allow them to qualify for tax credits or orphan share funding.

Limits liability for religious, charitable, and other "501(c)(3)" organizations.

Assigns the cost of "orphan shares," (which include the shares attributed to bankrupt or dissolved parties) to the Fund. Any PRP unwilling to pay its allocated share would be held liable for any unrecovered costs at the site, including unidentifiable shares. Settling parties would receive complete contribution protection.

Provides for an early dollar settlement for those "de-minimus" parties whose liability is 1% or less total site liability.

Releases from all liability those "de-micromis" parties who contributed not more than 110 gallons of liquid material containing hazardous waste or not more than 200 pounds of solid material containing hazardous waste to a site.

Provides increased protection from liability for response action contractors by excluding them from being labeled "owners or operators" and establishing a negligence standard for their activities at NPL sites.

TITLE VI: Federal Facilities

Goal—Enhance state participation in cleaning up and reutilizing Federal facilities while ensuring the Federal taxpayers get the maximum return for cleanup dollars spent.

Allows delegation of Federal facilities to qualified states, if that state takes the entire site and utilizes the Federal remedy selection process and standards.

Ensures that states: (1) apply cleanup standards that are equivalent to non-Federal cleanup sites; (2) allow uncontaminated or cleaned up parcels of property to be reused as rapidly as possible; and (3) apply a definition of uncontaminated property that includes property where hazardous materials

were once stored, but not released to the environment.

Facilitates use of Federal facilities to promote development and demonstration of innovative cleanup technologies.

TITLE VII: Natural Resource Damages

Goal—Provide for the rapid restoration and replacement of significant natural resources that have been damaged by the release of hazardous materials.

Favors actual restoration of resources over assessing arbitrary, punitive damages.

Eliminates non-use damages. Eliminates all lost use damages for pre-1980 activities. Limits recovery to the restoration of baseline ecological services.

Allows for de novo court review of a trustee's assessment of whether a party is liable and the extent of any such liability.

Requires trustees to give equal consideration to natural attenuation and recovery as a viable restoration method.

Requires selection of the most cost effective method of restoring a resource to the condition that would have existed if not for the release of hazardous material.

Requires that the NRD provisions to receive "double recovery" for damages if compensation has already been provided pursuant to CERCLA or any other federal or state law.

TITLE VIII: MISCELLANEOUS

Requires the Administrator to establish a "results oriented" engineering approach to accelerate response actions, including site evaluations, response goals, and oversight.

Targets limited funds toward those sites currently on the NPL by limiting new NPL listings to 30 sites per year for the next three years and capping the list thereafter.

TITLE IX: Funding

Introduces a new accelerated cleanup tax credit of 50% for PRPs that conduct cleanups.

Authorizes continuation of the Superfund program at $1.75 billion for fiscal years 1996–2000. $1.5 billion from the Trust Fund; and $250 million from general revenue.

Reauthorizes current Superfund taxes: (Corporate Environmental Income Tax, Petroleum Feedstock Tax, and Chemical Feedstock Tax). Assumes continuation of current taxes will generate sufficient revenue to offset accelerated cleanup tax credits.

Mr. CHAFEE. Mr. President, Superfund is broken, and today the Environment and Public Works Committee is putting forward a plan that will fix it. Senator BOB SMITH and his staff on the Superfund subcommittee have produced a remarkable reform package, one deserving of widespread support. I want to make it clear to everyone that Superfund reform will be a priority for the Environment and Public Works Committee for the rest of this year, and we will move to mark up this bill and bring it to the floor as quickly as possible.

Superfund's troubled history and problems are news to no one, but fixing Superfund's plainly evident problems—too much litigation, not enough cleanup, inefficient use of scarce resources, blighted cities—has eluded us now for more than 5 years, as one interest group after another sought their vision of a "perfect" reform. No plan is perfect, but his bill that Senator SMITH and his staff prepared, with the help of my staff, is a tremendous improvement over the status quo. It is all the more remarkable for what it achieves in an era of tightly constrained budgets.

This is real reform for Superfund that we can afford. This bill will:

Streamline the cleanup process by eliminating overlapping studies of contaminated sites.

Require EPA to consider the future use of resources when it decides how clean a site must be. Why clean up a site that will be a parking lot to the same level as a day care center?

Let the States take as much of the Superfund Program as they want or can handle.

Address the Brownfields problem by providing grants and loans to States for voluntary cleanup programs, and assessment of contamination levels at these sites. We also protect potential investors, innocent landowners and lenders so that entrepreneurs will step forward and be able to secure financing.

Eliminate the unfairness of Joint & Several liability by having the fund, and not other parties, pay the share of those parties who cannot be found or are bankrupt.

Provide significant relief to small waste contributors, usually small business, with an expanded de micromis exemption, and expedited, fair de minimis settlements.

Make restoration the goal of natural resource damages recovery, not speculative punitive damages.

Relieve as much of the pain as we can afford on retroactive liability, through the use of a tax credit for costs associated with liability for things people did, legally, before Superfund was enacted in 1980. On this point, I know Senator SMITH wanted to do more, but the facts of the budget frustrated his attempts. I want to salute him. He took the best run at it he could, and then came forward, at some personal political risk, with this fiscally credible plan.

Some will charge that the use of tax credits to relieve some of the unfairness of retroactive liability is corporate welfare. Any such charge about this tax credit proposal is merit-less, as the tax credits are tightly tied to the existing Superfund taxes. In this proposal, the tax credit is fully funded by the Superfund taxes that these corporations pay. It does not come out of general tax revenues. I would point out that, for the past several years, Superfund tax revenues have far outrun Superfund's annual appropriation, resulting in a Superfund trust fund balance of over $3 billion. I would also add that there is something fundamentally unfair about holding people liable for acts that were legal when they occurred. This credit helps to relieve some of that unfairness.

I want to issue an invitation, and a warning, to all those out there who will say, "This does not go far enough," or "This is too much." First, the invitation. This bill is a work in progress. There will be a hearing on it before a markup, so make your views and suggestions known—but move with alacrity, because we will take this up in the committee as soon as we possibly can. Senator SMITH's staff and my staff are ready to work with you on this.

Second, the warning. If we fail, everyone loses. There is no longer a status quo for Superfund—just look at the cut the program took $1.33 billion down to $1 billion in both the Senate and House versions of the EPA appropriations bill. Unless we pass a new Superfund law, we are looking at a $1 billion program, with even less in 1997 and beyond, probably with the existing taxes reauthorized. This will be the lose/lose scenario:

PRP's, and their insurers, lose. If you thought Enforcement First was bad, wait until Enforcement Only. The existing litigation machine rolls on. EPA, without many resources, runs the program by issuing section 106 orders, or suing a handful of parties for cost recovery.

EPA and all the agencies getting money from Superfund lose as the program slowly contracts, losing the expertise we want to keep on technical issues, until all that is left is a handful of lawyers to write those section 106 orders.

Protection of human health and the environment loses, because the pace of federally funded cleanup slows down in the face of declining budgets until the Federal Superfund becomes Enforcement Only.

People paying Superfund taxes lose. Their taxes will probably get extended, but only two-thirds of those taxes will go to Superfund cleanup this year, and less in the future. And corporations paying Superfund taxes can still get sued by EPA or other PRP's. They will pay twice.

So I end with a call for common sense and realistic expectations. When you make suggestions to improve this bill, please furnish us with an estimate of how much it will cost, where the money will come from, and how we can spend the money given the budget caps and firewalls.

I want to assure all the members of the committee, and the Senate, that we will work to accommodate their concerns as we move forward on this bill. This is not a perfect bill, but neither Senator SMITH nor I plan to repeat last year's so-called delicate balance Superfund bill, a deal made off the Hill that was so fragile that could not be changed without the deal falling apart. Some members of the committee have expressed concerns with some provisions in the bill as introduced. Senator KEMPTHORNE has expressed concern about the impact of Superfund on dry

cleaners. Senator WARNER is concerned about the potential impact on recycling operations, and in how the States and Federal Government will control the costs of federal facility cleanups. Senator INHOFE would like to see more protection for acts that occurred in the distant past. I will continue to work with Senator SMITH on issues of concern to me, including groundwater and natural resource damage provisions. I know that other members of the Committee have other concerns as well. We will work to resolve these concerns as we move forward. This bill is no fragile compromise, and we will work within the budget constraints that we must all live with to get the best bill we can.

Again, I want to commend Senator SMITH and his staff for putting this complex bill together and bringing it quickly forward to this point. We have been working together on this since the start of the Congress, and today is an important milestone. It will not be easy to meet the goal we share—passage this year—but it will not be for lack of a continued team effort on this committee.

By Mr. SMITH:

S. 1286. A bill to amend the Solid Waste Disposal Act regarding management of remediation waste, certain recyclable industrial materials, and certain products, coproducts, and intermediate products, and for other purposes; to the Committee on Environment and Public Works.

THE RESOURCE CONSERVATION AND RECOVERY ACT

Mr. SMITH. Mr. President, in addition to the Superfund Accelerated Cleanup bill, I would also like to introduce today a targeted Resource Conservation and Recovery Act—or "rickra"—reform bill. I offer this bill in the hopes that it will supplement and enhance the reforms we are proposing to Superfund.

It is my feeling that these changes are consistent with the goals of the RCRA "Rifle Shot" proposal being discussed within the administration.

My targeted bill is intended to: Provide greater consistency among environmental statutes; make RCRA more user friendly; eliminate costly and ineffective bureaucratic burdens; and maintain, or improve, current protections to human health and the environment.

I feel the provisions of this bill will greatly enhance recycling and reuse of hazardous materials and will begin to provide cohesiveness between the two largest hazardous waste laws—Superfund and RCRA.

We are trying to accomplish three things with this act:

First, remove some recyclable hazardous materials from current RCRA provisions, and instead, subject them to a tailored set of standards which will facilitate the reuse of these materials in an environmentally friendly way.

Under current law, the only option is to discard such materials.

Second, specify a reasonable point at which a material is considered hazardous.

Currently, EPA is required to apply very strict controls once a hazardous material is created, even if it is created very early in a manufacturing process.

This greatly increases the costs of managing wastes, regardless of whether they ever come in contact with the environment.

Third, allow EPA to determine when a hazardous material is no longer considered hazardous.

Under the current law, EPA does not have the authority to tailor its standards to specific risks posed by some hazardous substances.

This greatly increases the cost of treating materials that pose little or no risk.

Mr. President, these changes will not only save money on waste management and cleanup, it will also greatly increase the effectiveness of our waste management laws in protecting human health and the environment. I urge its passage at the earliest possible date.

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. 1286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMEDIATION WASTE.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end the following:

"(42) DEBRIS.—The term 'debris'—

"(A) means—

"(i) a solid manufactured object exceeding a 60 millimeter particle size;

"(ii) plant or animal matter; and

"(iii) natural geologic material; but

"(B) does not include material that the Administrator may exclude from the meaning of the term by regulation.

"(43) IDENTIFIED CHARACTERISTIC WASTE.—The term 'identified characteristic waste' means a solid waste that has been identified as having the characteristics of hazardous waste under section 3001.

"(44) LISTED WASTE.—The term 'listed waste' means a solid waste that has been listed as a hazardous waste under section 3001.

"(45) MEDIA.—The term 'media' means ground water, surface water, soil, and sediment.

"(46) REMEDIATION ACTIVITY.—The term 'remediation activity' means the remediation, removal, containment, or stabilization of—

"(A) solid waste that has been released to the environment; or

"(B) media and debris that are contaminated as a result of a release.

"(47) REMEDIATION WASTE.—The term 'remediation waste' means—

"(A) solid and hazardous waste that is generated by a remediation activity; and

"(B) debris and media that are generated by a remediation activity and contain a listed waste or identified characteristic waste.

"(48) STATE VOLUNTARY REMEDIATION PROGRAM.—The term 'State voluntary remediation program' means a program established by a State that permits a person to conduct remediation activity at a facility under general guidance or guidelines without being subject to a State order or consent agreement specifically applicable to the person.".

(b) IDENTIFICATION AND LISTING.—Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

"(j) REMEDIATION WASTE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person that manages remediation waste that is an identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste shall be subject to the requirements of this subtitle (including regulations issued under this subtitle, including the regulation for corrective action management units published in section 264.552, Code of Federal Regulations, and the regulation for temporary units published in section 264.553, Code of Federal Regulations, or any successor regulation).

"(2) EXCEPTIONS.—

"(A) REQUIREMENTS UNDER SECTION 3004.—Media and debris generated by a remediation activity that are identified characteristic wastes or listed wastes or that contain an identified characteristic waste or a listed waste shall not be subject to the requirements of section 3004 (d), (e), (f), (g), (j), (m), or (o).

"(B) PERMIT REQUIREMENTS.—No Federal, State, or local permit shall be required for the treatment, storage, or disposal of remediation waste that is conducted entirely at the facility at which the remediation takes place.

"(3) REMEDIATION WASTE SUBJECT TO ORDERS, CONSENT AGREEMENTS, VOLUNTARY REMEDIATION PROGRAMS, AND OTHER MECHANISMS.—

"(A) REQUIREMENTS NOT APPLICABLE.—Notwithstanding paragraph (1), a person that manages remediation waste that—

"(i) is identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste; and

"(ii) is subject to a Federal or State order, Federal or State consent agreement, a State voluntary remediation program, or such other mechanism as the Administrator considers appropriate,

shall not be subject to the requirements of this subtitle (including any regulation under this subsection) unless the requirements are specified in the Federal or State order, Federal or State consent agreement, State voluntary cleanup program, or other mechanism, as determined by the Administrator.

"(B) ENFORCEMENT.—Unless other enforcement procedures are specified in the order, consent agreement, or other mechanism, a person described in subparagraph (A) (except a person that manages remediation waste under a State voluntary remediation program) shall be subject to enforcement of the requirements of the order, consent agreement, or other mechanism by use of enforcement procedures under section 3008.".

(c) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a regulation implementing section 3001(j) of the Solid Waste Disposal Act, as added by subsection (b).

SEC. 2. EXCLUSION OF CERTAIN RECYCLABLE INDUSTRIAL MATERIALS AND CERTAIN PRODUCTS, CO-PRODUCTS, AND INTERMEDIATE PRODUCTS.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903), as amended by section 1(a), is amended by adding at the end the following:

"(49) CO-PRODUCT.—The term 'co-product' means a combination of 2 or more materials intentionally produced from a manufacturing or recycling operation for commercial use.

"(50) INTERMEDIATE MATERIAL.—The term 'intermediate material' means a material that results from a manufacturing process the design of which contemplates further processing of the material by the manufacturer or by a toll processor to produce a product or an intermediate product.

"(51) MANUFACTURING.—The term 'manufacturing' means the use of a virgin material or other feedstock to produce a product, co-product, or intermediate product (including all associated ancillary operations) in which—

"(A) the process uses the appropriate equipment to produce the intended product, co-product, or intermediate product;

"(B) the virgin material or other feedstock used in the process meets commercial specifications;

"(C) the virgin material or other feedstock is handled in a manner that is designed to minimize loss of the virgin material or feedstock;

"(D) a contract or record is established by the manufacturer to record or document the receipt and use of the virgin material or other feedstock and the use or sale of the product, co-product, or intermediate product that is produced; and

"(E) the process produces a product, co-product, or intermediate product that meets commercial specifications.

"(52) PRODUCT.—The term 'product' means a material that is produced from a manufacturing or recycling operation for commercial use.

"(53) RECYCLABLE INDUSTRIAL MATERIAL.—The term 'recyclable industrial material' means a material that—

"(A) would constitute an identified characteristic waste or listed waste except for the application of section 3024(a); and

"(B) is intended by a manufacturer, commercial enterprise, or recycler for recycling by use, reuse, or reclamation.

"(54) TOLL PROCESSOR.—The term 'toll processor' means a person that performs any of a variety of manufacturing processes on material owned by a manufacturer.".

(b) EXCLUSION FROM REGULATION OF CERTAIN RECYCLABLE INDUSTRIAL MATERIALS AND CERTAIN PRODUCTS, CO-PRODUCTS, AND INTERMEDIATE PRODUCTS.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C 6921 et seq.) is amended by adding at the end the following:

"SEC. 3024. EXCLUSION FROM REGULATION OF CERTAIN RECYCLABLE INDUSTRIAL MATERIALS AND CERTAIN PRODUCTS, CO-PRODUCTS, AND INTERMEDIATE PRODUCTS.

"(a) CERTAIN RECYCLABLE INDUSTRIAL MATERIALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person that manages recyclable industrial material shall not be subject to the requirements of this subtitle (including regulations).

"(2) EXCEPTIONS.—The following recyclable industrial materials shall be subject to the requirements of this subtitle (including regulations) unless the Administrator determines that regulation under this subtitle is unnecessary:

"(A) A recyclable industrial material that—

"(i) is burned for energy recovery or used to produce fuel; or

"(ii) is otherwise contained in fuel,

if burning for energy recovery or use to produce fuel is not a normal use of the recyclable industrial material.

"(B) A recyclable industrial material that—

"(i) is applied to or placed on land in a manner that constitutes disposal, if such use is not a normal use of the recyclable industrial material; or

"(ii) is used to produce a product that is applied to or placed on land or is contained in a product that is applied to or placed on land, if such use of the recyclable industrial material is not a normal use of the recyclable industrial material.

"(C) A recyclable industrial material that is identified by the Administrator by regulation as being inherently wastelike.

"(b) CERTAIN PRODUCTS, CO-PRODUCTS, AND INTERMEDIATE PRODUCTS.—A product, co-product, or intermediate product shall not be considered to be a solid waste for the purposes of this Act unless the product, co-product, or intermediate product—

"(1) is burned for energy recovery or used to produce fuel or is contained in fuel, if such use is not a normal use of the product, co-product, or intermediate product;

"(2) is used in a manner constituting disposal or used to produce a product or is contained in a product that is used in a manner constituting disposal, if such use is not a normal use of the product, co-product, or intermediate product; or

"(3) is identified by the Administrator by regulation as being inherently wastelike.".

SEC. 3. REGULATION OF CERTAIN RECYCLABLE INDUSTRIAL MATERIALS.

The Solid Waste Disposal Act (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"Subtitle K—Recyclable Industrial Material

"SEC. 12001. RECYCLABLE INDUSTRIAL MATERIAL.

"(a) REQUIREMENTS.—A person that manages recyclable industrial material (other than recyclable industrial material described in section 3024(a)(2)) shall be subject to the following requirements:

"(1) IN GENERAL.—Recyclable industrial material shall not be stored on land but shall be managed in a building, tank, or other containment structure that meets the following requirements.

"(A) IN A BUILDING.—Recyclable industrial material that is managed in a building shall be completely enclosed with a floor, walls, and a roof and shall otherwise be reasonably constructed to prevent exposure to the elements and incorporate appropriate controls and practices to ensure containment of the recyclable industrial material.

"(B) IN A TANK OR OTHER CONTAINMENT STRUCTURE.—A recyclable industrial material that is managed in a tank or other containment structure shall meet the technical requirements of section 279.54 of title 40, Code of Federal Regulations, or any successor regulation, not including the requirements stated in—

"(i) the matter preceding paragraph (a); and

"(ii) paragraphs (a), (f)(2), and (h)(1)(i),

as those paragraphs are designated on the date of enactment of this Act, notwithstanding that the person managing the recyclable industrial material may not be a used oil processor or re-refiner under that section.

"(2) RECYCLING.—A recyclable industrial material shall be recycled within 24 months after the date on which the recyclable industrial material is generated unless the Administrator by regulation establishes a shorter or longer period.

"(3) ADDITIONAL REQUIREMENTS.—

"(A) IN GENERAL.—A recyclable industrial material shall be subject to such requirements, in addition to those described in this section, as the Administrator determines to be necessary.

"(B) CONSIDERATIONS.—In determining whether any additional requirement is necessary, the Administrator shall ensure that the requirement does not discourage the recycling of the recyclable industrial material, consistent with the protection of human health and the environment.

"(b) PERMIT.—A person that manages a recyclable industrial material in accordance with the requirements of subsection (a) shall not be required to obtain a permit to conduct recycling activity.

"(c) DOCUMENTATION.—

"(1) IN GENERAL.—A person that manages a recyclable industrial material shall maintain documentation at the recycling facility to demonstrate that the recyclable industrial material is recycled in accordance with the requirements of this subtitle.

"(2) GUIDANCE.—Not later than 9 months after the date of enactment of this subtitle, the Administrator shall, after opportunity for public comment, publish guidance identifying the criteria to be considered by a person that manages a recyclable industrial material in making the demonstration required by paragraph (1).

"(d) INSPECTION AND ENFORCEMENT.—The Administrator may use the authority under sections 3007 and 3008 to conduct inspections and enforce this Act with respect to a person that manages a recyclable industrial material.

"(e) REFERENCES.—The Administrator shall amend regulations, correspondence, orders, settlement agreements, and other documents as appropriate to reflect the management of recyclable industrial material under this subtitle.".

SEC. 4. POINT OF DETERMINATION.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903), as amended by section 4(a), is amended by adding at the end the following:

"(55) POINT OF DETERMINATION.—The term 'point of determination' means the point at which a decision is made whether a solid waste is an identified characteristic waste or listed waste.".

(b) IDENTIFICATION AND LISTING.—Section 3001(b)(1) of the Solid Waste Disposal Act (42 U.S.C. 6921(b)(1)) is amended by inserting after the second sentence the following: "In addition, the Administrator shall promulgate regulations specifying the point at which a solid waste is an identified characteristic waste or listed waste, which point of determination shall not be before the point at which the waste exits a closed system and is exposed to the environment or is discharged to a waste management unit (as defined by the Administrator), whichever point occurs first.".

SEC. 5. DISCONTINUATION OF REGULATION OF WASTE UNDER SUBTITLE C OF THE SOLID WASTE DISPOSAL ACT.

(a) IDENTIFICATION AND LISTING.—

(1) AMENDMENTS.—Section 3001(f) of the Solid Waste Disposal Act (42 U.S.C. 6921(f)) is amended—

(A) by striking "(1) When" and inserting the following:

"(1) DELISTING OF PARTICULAR WASTES.—

"(A) CONSIDERATION OF FACTORS.—When";

(B) by striking "(2)(A) To the maximum extent practicable the Administrator shall publish in the Federal Register a proposal to grant or deny a petition referred to in paragraph (1)" and inserting the following:

"(B) DECISION.—To the maximum extent practicable, the Administrator shall publish in the Federal Register a proposal to grant or deny a petition under subparagraph (A)";

(C) by striking subparagraph (B) of paragraph (2) as designated on the day prior to the date of enactment of this Act; and

(D) by adding at the end the following:

"(2) GENERIC DELISTING.—

"(A) REGULATION.—The Administrator shall issue a regulation that defines constituent levels below which a solid waste shall not be considered to be a hazardous waste subject to the requirements of this subtitle (including regulations).

"(B) CONSTITUENTS OF CONCERN.—The regulation under subparagraph (A) shall provide that only the constituents that are reasonably expected to be present in solid waste shall be considered in determining whether the solid waste is not considered to be a hazardous waste.".

(2) INTERIM CONSTITUENT LEVELS.—Until the date on which the Administrator issues the regulation under section 3001(f)(2) of the Solid Waste Disposal Act, as added by paragraph (1)(D), the land disposal restriction treatment levels under section 3004(m) of that Act, as in effect on August 31, 1993, shall constitute the constituent levels below which a solid waste shall not be considered to be a hazardous waste.

(b) STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.—Section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) is amended by adding at the end the following:

"(z) SPECIAL STANDARDS FOR HAZARDOUS WASTE.—

"(1) MODIFICATION OF REQUIREMENTS.—Notwithstanding this section and sections 3005(j) and 7004(b), the Administrator may by regulation alter to any extent the requirements of this section or section 3005(j) or 7004(b) for a solid waste that is an identified characteristic waste or listed waste and that contains hazardous constituents in an amount that is not greater than 10 times the amount below which a solid waste shall not be considered to be a hazardous waste.

"(2) REGULATION.—The Administrator—

"(A) shall issue a regulation under paragraph (1) not later than 18 months after the date of enactment of this subsection; and

"(B) in formulating the regulation—

"(i) shall take into account the lower level of risk posed by the wastes described in paragraph (1); and

"(ii) shall ensure that any modified requirements protect human health and the environment.

"(3) 10-TIMES LEVEL.—In issuing the regulation under paragraph (2), the Administrator may alter to any extent the 10-times level for modifying the requirements of this section and sections 3005(j) and 7004 so long as the changed requirements protect human health and the environment.

"(4) INTERIM RULE.—Until the Administrator modifies the regulations under paragraph (1), a person may dispose of a solid waste that is an identified characteristic waste or listed waste and contains hazardous constituents not greater than 10 times the land disposal restrictions treatment levels issued by the Administrator under section 3004(m), as in effect on August 31, 1993, in a hazardous waste management facility that meets the requirements of this section, except that—

"(A) the requirements of subsections (d), (e), (f), (g), (j), and (m) shall not apply;

"(B) the air emission standards issued by the Administrator under section 3004(n), as in effect on December 6, 1995, shall not apply to a tank or other container or to surface impoundment if the average volatile organic concentration of the hazardous waste at the point at which the waste is discharged into the tank, container, or surface impoundment is less than 500 parts per million by weight; and

"(C) the double-liner requirement stated in section 3004(o) may be waived by the Administrator for any monofill if the monofill meets the same requirements as are applicable under section 3005(j).

"(5) PERMIT.—No permit shall be required for storage and treatment in a tank or other container or containment building that meets the requirements of this section.".

SEC. 6. RELATIONSHIP OF THE SOLID WASTE DISPOSAL ACT TO OTHER STATUTES.

Section 1006(b)(1) of the Solid Waste Disposal Act (42 U.S.C. 6905(b)(1)) is amended—

(1) by striking "(1) The Administrator" and inserting the following:

"(1) IN GENERAL.—The Administrator";

(2) by striking the second sentence; and

(3) by adding at the end the following:

"(2) USE OF AUTHORITIES.—If the Administrator determines that a risk to health or the environment associated with the management of solid waste can be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, and the Administrator has a statutory or court-ordered mandate to address that risk to health or the environment within 5 years after the date of enactment of this sentence, the Administrator shall use the other authorities to protect against the risk.".

Mr. LEAHY:

S. 1287. An act to amend chapters 83 and 84 of title 5, United States Code, to provide that Federal employees who are erroneously covered by the Civil Service Retirement System may elect to continue such coverage or transfer to coverage under the Federal Employees Retirement System, and for other purposes.

FEDERAL EMPLOYEE RETIREMENT SYSTEM (FERS) TRANSFER LEGISLATION

• Mr. LEAHY. Mr. President, today I am introducing a bill which offers a legislative solution for a number of Federal employees who have been the unwitting victims of paperwork errors. Over 10 years ago, Congress passed a Public Law 98-369, which eliminated the Social Security exclusion for Federal employees with prior military service. This law was made retroactive to January of that year, and it was up to each Federal agency to find the individual workers who were affected by this law and change them from the old Civil Service Retirement System [CSRS] into the Federal Employee Retirement System [FERS].

Unfortunately, a small but important group of workers have remained in the CSRS retirement system, because of agency error. Over time, these agencies have belatedly discovered employees who are improperly enrolled in CSRS and are forcing them back to FERS. This has been disruptive and unfair to the affected employees, since they are losing many years of contributions to the Thrift Savings Plan, which my colleagues know is critical to any FERS retirement. In many cases, the agencies reluctantly made this switch, but they had no authority to give a waiver to these public servants.

Today I am offering a bill which will allow Federal employees who were inadvertently enrolled in the wrong retirement system to remain in CSRS. It is nearly impossible to make an employee whole after many years of contributing to the wrong retirement system, despite agency efforts to do so. The number of employees affected by my legislation may be small, perhaps as few as several dozen, but we need to correct this oversight so that these workers may enjoy a full retirement.

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. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTION OF FEDERAL RETIREMENT COVERAGE BY EMPLOYEES ERRONEOUSLY COVERED BY THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—(1) Section 8331(1)(x) of title 5, United States Code, is amended by inserting before the semicolon ", except an employee who elects to be covered under this chapter in accordance with section 8347(r)".

(2) Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(r)(1) This subsection shall apply to any employee who—

"(A) is subject to coverage under chapter 84; and

"(B) notwithstanding subparagraph (A), is covered under this chapter as a result of an administrative error of an employing agency or the Office of Personnel Management, through no fault of the employee.

"(2)(A) No later than 180 days after the date on which an employee described under paragraph (1) receives notice of such administrative error, such employee may elect to—

"(i) continue coverage under this chapter; or

"(ii) be subject to coverage under chapter 84, subject to regulations prescribed under paragraph (3).

"(B) An election under subparagraph (A) shall be irrevocable. An employee who fails to make an election under subparagraph (A) shall be subject to coverage under chapter 84, subject to regulations prescribed under paragraph (3).

"(3) The Office of Personnel Management shall prescribe regulations to carry out this subsection.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM; EXCLUSIONS.—Section 8402(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "or" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "or"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) any employee who elects to continue coverage under chapter 83 in accordance with section 8347(r).".

(c) OPEN ENROLLMENT PERIOD.—(1) During the 180-day period beginning on the date of the enactment of this Act, the Office of Personnel Management shall conduct a period of open enrollment under section 8347(r) of title 5, United States Code (as added by subsection (a) of this section).

(2) In addition to any employee to whom section 8347(r) of title 5, United States Code, applies, an employee may make an election during the period of open enrollment under paragraph (1), if such employee—

(A) on the date of the enactment of this Act is participating under the Federal Employees Retirement System under subchapter II of chapter 84 of title 5, United States Code; and

(B) during any period before the date of the enactment of this Act was covered under chapter 83 of title 5, United States Code, as a result of an administrative error of an employing agency or the Office of Personnel Management through no fault of the employee.

(d) REGULATIONS.—The regulations prescribed under section 8347(r)(3) of title 5, United States Code (as added by subsection (a) of this section) shall—

(1) provide that an employee may not have periods of simultaneous coverage under subchapter III of chapter 83 of title 5, United States Code, and subchapter II of chapter 84 of such title; and

(2) include requirements similar to the applicable requirements under title III of the Federal Employees Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599; 5 U.S.C. 8331 note) including requirements relating to—

(A) the interest of a spouse or former spouse under section 301(d) of such Act;

(B) withholdings, deposits, interest, and refunds under section 302 of such Act; and

(C) social security offsets under section 303 of such Act.

By Mr. KERRY:

S. 1290. A bill to reduce the deficit; to the Committee on the Budget.

BUDGET LEGISLATION

• Mr. KERRY. Mr. President, I introduce a "Budget Buster Bill" that strips more than $90 billion from the budget and cuts 40 programs which I consider to be pointless, wasteful, antiquated, or just plain silly.

Our priority is people not "pork" or special interests, and this proposal recognizes the need to cut while at the same time understanding the need to invest in those things that bring this Nation its greatest return.

I know that the budget debate is philosophically driven, and that there are diametrically opposed positions on the legitimate role of government. But no matter where one falls on the political spectrum, it behooves us to point to specific savings that cross philosophical lines which can and should be made.

We came to our senses last week, and in a display of commonsense bipartisanship, we overwhelmingly passed an amendment that cut the mink subsidy. There are other similar programs that we should cut, and this bill cuts them.

It cuts $11 billion for the space station. It cuts $10 billion from defense spending. It saves $360 million by reducing the number of political appointees in the Federal Government; and it cuts 37 other programs.

I know that this bill, in and of itself, won't balance the budget, but it is one Senator's commonsense effort to answer the question, "if you really want to cut the budget, what would you cut and how would you do it?"

Mr. President, there is no magic in this bill, but there is a healthy dose of common sense that seems to be sorely lacking in the ideologically driven budget debate that is speaking to the activist extremes and ignoring the silent middle.

Despite the fact that a huge portion of the public has said they don't like the way we do business; despite the fact that we talk about change but rarely accomplish it; despite the fact that we claim to want bipartisanship and avoid politics as usual, Congress and the President together are willfully moving down a road that is guaranteed to leave most Americans questioning the degree to which people here are in touch.

I find that a profoundly disturbing direction, and I find it contrary to all of the things that people are asking us to try to do. People want us to behave like adults down here. They want an assurance that critical services are not going to be made the poker chips of political gamesmanship.

The point is that there are some basic needs that this country faces and, to the best of my knowledge, most Americans think about having a job and raising their paychecks sufficiently that they have quality of life to be able to enjoy the fruits of their labor.

And most people think that the real concerns they express about making sure their kids have the best education in the world, and that they can walk through a neighborhood that is safe to get to a school that is safe when they get there.

People are concerned about the quality of the education that they're going to get in that school. And yet, the debate in this country has been dominated by the return of a contribution to a campaign from a Republican gay person; the symbolic issue of English as our national language—which it is and ought to be; a constitutional amendment to protect the flag. These truly are not the paramount concerns of Americans but more of the traditional symbols of politics that are beginning to make people question the entire political process.

Americans want to know if we're going to do the job. And the job we were sent here to do is to produce a budget by the end of this month.

Rather than truly working on that budget, we are engaged in a charade where we're going to pass a continuing resolution and a series of appropriation bills without a true legislative effort but with one party ordained to march in lock step to refuse any legislative proposals that might improve it.

I believe that is an unacceptable way to do business and an avoidance of our responsibility.

Frankly, it is time we put the interests of the Nation first, get off the partisan track, and put America back on track.

Mr. President, this is a debate about economic fairness. It is about what we believe in and what we stand for as a nation. It's about the creation and preservation of jobs. It's a debate not about class warfare—rich against poor—but about the working class and how we can legislate in their interests for their future.

It's a debate about commitment to family, about realistic tax policy, about access to education, and investments in our future.

It's about addressing the three deficits we face that I have mentioned many times on this floor: the fiscal deficit, the investment deficit, and the spiritual deficit.

I believe that this debate is fundamentally about how we can grow as an economy, a nation, and a people, and about what the proper role and size of the Federal Government should be.

For my part, any consensus on the budget must recognize four principles: First that we will not compromise our commitment to education, to jobs, to working families, and to senior citizens struggling to make ends meet; that we will not dis-invest in our economic, social, and cultural infrastructure; that we will not dis-invest in necessary technologies and science; and that we will not cut taxes unless and until we say to working Americans that there will be an increase in the minimum wage.

I believe the cuts I am proposing and the bipartisan, commonsense direction in which they take us is in our best interest.•

By Mr. BROWN:

S. 1292. A bill to designate the U.S. Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, CO, as the "Winfield Scott Stratton Post Office," and for other purposes; to the Committee on Governmental Affairs.

THE WINFIELD SCOTT STRATTON POST OFFICE ACT

• Mr. BROWN. Mr. President, today I would like to introduce legislation that would designate the U.S. Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, CO, the Winfield Scott Stratton Post Office.

This designation will honor the memory of a man who contributed greatly to the community of Colorado Springs. Working as a carpenter and prospector for over 18 years, Winfield Scott Stratton was one of the many adventurers who came to Colorado looking for their fortune. In his case, the fortune was a rich deposit of gold in Cripple Creek, CO.

Mr. Stratton's lifestyle changed little after his gold strike. He believed it was the duty of anyone who made a fortune to use his wealth in the development of his community. In keeping with that philosophy, Mr. Stratton dedicated the rest of his life to helping others less fortunate and to advancing the development of Colorado Springs and Colorado.

He purchased and gave Colorado Springs the ground for its city hall; he helped finance a new courthouse; he purchased and upgraded the street railway system; he built the first privately funded building at the Colorado School of Mines; and he endowed the Myron Stratton Home, a foster home for children and impoverished elderly which is still serving the Colorado Springs community today. Thousands of Coloradans today are the direct beneficiaries of Mr. Stratton's generosity.

Regarding this bill, it is noteworthy that Winfield Scott Stratton also purchased the property at 201 East Pikes Peak Avenue and sold it to the Federal Government for half its value on the condition that the Federal Government build the post office which stands there today.

In view of Mr. Stratton's contribution to the existing post office and to Colorado as a whole, it is an entirely fitting and appropriate gesture to name this U.S. Post Office the Winfield Scott Stratton Post Office. He was a man who shared his riches with an entire State, and he left a legacy of love and care which continues today.●

By Mr. MURKOWSKI (for himself, Mr. HELMS, Mr. MCCAIN, and Mr. NICKLES):

S. 1293. A bill to provide for implementation of the Agreed Framework with North Korea regarding resolution of the nuclear issue on the Korean Peninsula, and for other purposes; to the Committee on Foreign Relations.

AGREED FRAMEWORK BETWEEN THE UNITED STATES AND NORTH KOREA LEGISLATION

Mr. MURKOWSKI. Mr. President, today I am introducing legislation, along with Senators HELMS, MCCAIN, and NICKLES, which would provide a means for the Congress to monitor the implementation of the "Agreed Framework between the United States and North Korea" on nuclear issues. This will ensure that when and if we vote funds for that purpose, we know that that money is achieving the agreed objectives. The legislation conditions the availability of U.S. funds for fulfilling the accord on North Korea's abiding by the terms of the Agreed Framework and Confidential Minute in accordance with the schedule set forth in the agreement. Thus it adds necessary specificity to the timing and sequencing of all aspects of the Agreed Framework.

The Agreed Framework is written in traditional diplomatic language, with insufficient detail on the timing and nature of actions which both North Korea and the United States must take to implement it. While I appreciate the Administration's desire to have flexibility in implementing the accord, it will be important that the North Koreans and the Administration understand that the Congress desires greater specificity if it is going to authorize and appropriate funds for this accord.

I would add, Mr. President, that the legislation I am proposing is fully consistent with the Agreed Framework and with current U.S. policy. However, if this legislation causes difficulties for the Administration at some point, the President can waive the provisions of the legislation if he certifies to the Congress that it is vital to the national security interests of the United States to do so.

In sum, the legislation provides the following:

Full political and economic normalization of relations—specifically the exchange of Ambassadors and the total lifting of the economic embargo—with North Korea can occur only after:

IAEA safeguards requirements are met, including inspections of 2 suspected nuclear waste sites.

Progress has been made in talks between North and South Korea.

A more effective, regularized process has been created to return U.S. MIAs from the Korean War, including through joint field activities, as in Vietnam.

North Korea no longer meets the criteria for inclusion on the list of countries the governments of which support international terrorism.

North Korea takes positive steps to demonstrate greater respect for human rights.

North Korea agrees to abide by Missile Technology Control Regime.

All spent fuel has been removed from North Korea to a third country.

North Korea's graphite reactors have been dismantled in a manner that bars reactivation of such reactors and related facilities.

In short, until North Korea proves it is no longer a renegade state and wishes to behave as a normal, respected member of the international community, including through negotiating peacefully with the Republic of Korea concerning the future of the Korean peninsula, we should not establish full economic and political relations.

Interim steps toward full economic and political relations, such as setting up diplomatic liaison offices and lifting certain economic regulatory sanctions, are not restricted under the legislation. In fact, I believe they can help provide incentives for the North Koreans to move ahead in these areas of concern while also giving the Administration useful leverage.

The legislation also provides that the United States will suspend relevant activities described in the Agreed Framework if North Korea reloads its existing 5 megawatt reactor or resumes construction of nuclear facilities other than those permitted to be built under the Agreed Framework.

The legislation also restricts United States direct or indirect support for exports of heavy fuel oil to North Korea if that state does not maintain the freeze on its nuclear program or takes steps regarding that oil which are not permitted under the Agreed Framework.

Finally, the legislation has a reporting requirement to ensure that congressional monitoring of the implementation of the Agreed Framework and that the taxpayers' money is being spent effectively.

I look forward to extensive debate on this legislation and its early passage.

Mr. MCCAIN. Mr. President, as I have often said, I have serious reservations about the October 1994 Nuclear Framework Agreement with North Korea. Therefore, I am pleased to be an original sponsor, with Senator MURKOWSKI and others, of this legislation which would establish needed specificity to the vagaries of the agreement and provide clearly stated incentives for North Korean compliance with its terms.

This legislation would prohibit the use of any U.S. taxpayer dollars to implement the Framework Agreement unless the Congress passes a law authorizing and appropriating the funds. The President would also be required to certify that North Korea is in full compliance with the terms of the Framework Agreement before any authorized funds can be spent.

The legislation would prohibit normalization of diplomatic and economic relations between the United States and North Korea until several conditions are met—conditions which clearly serve our national interests, including the following:

North Korea must fully comply with the IAEA safeguards agreement for its nuclear program.

North Korea must forswear any support for international terrorism, and must demonstrate greater respect for human rights.

North Korea must halt the export of ballistic missiles and related technology and agree to adhere to the Missile Technology Control Regime.

The IAEA has inspected all suspected nuclear waste sites in North Korea.

And most important, in my view, all spent nuclear fuel must be removed

from North Korea, and their existing graphite-based nuclear reactors must be destroyed.

Mr. President, let me take a moment to discuss some of the glaring flaws in the Framework Agreement, which are the principal reasons for my sponsorship of this legislation, and my predictions for the failure of the agreement.

The most charitable appraisal I can give the agreement is that it represents a tendered bribe to North Korea in exchange for a limit on its nuclear weapons program. The underlying problem with the Nuclear Framework Agreement is that it is based not on trust, but on wishful thinking. North Korea has a well-established record of breaking its commitments to the U.S. and to the international community. At least nine times during the past two-and-a-half years, the North Koreans have reneged on their commitments. This agreement relies very heavily on North Korean good faith—indeed, it virtually tempts the North Koreans to break their word. That is its fundamental flaw.

The foolish time lags between North Korea's receipt of the benefits of this agreement and the points at which they are required to prove their good faith will, I believe, prove an irresistible temptation to the North Koreans. This deal is front-end loaded in favor of North Korea. Under the deal, North Korea gets free oil, the benefits of trade and diplomatic relations, two new nuclear reactors, and untold additional benefits, including tacit forgiveness of their blatant violation of the Nuclear Non-Proliferation Treaty—most before incurring any real damage to their nuclear weapons program.

Thus far, North Korea is only required to freeze its nuclear program at Yongbyon, and freeze construction of two larger reactors. Since none of these facilities fueled a single light bulb in North Korea (the Yongbyon reactor was never connected to a power grid), this is not much of a hardship.

The first serious obligation imposed on North Korea under the terms of the agreement will not occur for 3 to 5 years from now. At that time, they must begin to transfer the spent fuel rods to an undisclosed third country. Regrettably, the Administration either doesn't know or refuses to disclose when this transfer will occur and which country is prepared to take the rods. We should insist on the transfer immediately.

At that same time, as much as 5 years in the future, North Korea is supposed to accept its second major obligation—challenge inspections of undisclosed nuclear sites—especially the two suspected nuclear waste sites. These inspections are the only hope we have of determining what happened to the plutonium diverted during reprocessing in 1989. If North Korea reneges on the deal at this point—after receiving all the up-front benefits of the deal—we still won't know the truth about the 1989 refueling of the Yongbyon reactor, and thus the truth about North Korea's nuclear weapons program.

Finally, the dismantlement of any of the North Korean nuclear facilities will not begin until they have received one, fully operational, $2 billion light water reactor. This could be 7 or more years away. And they don't have to complete dismantlement of their nuclear facilities until the second reactor is completed, perhaps at much as 10 years from now.

The harsh truth is that, by the time the North Koreans remove one brick from any of their nuclear facilities, they will have received from the U.S. and our Asian allies as much as 5 million tons of oil, inestimable millions in trade and investment opportunities, the propaganda value of improved relations with the United States—quite possibly at the expense of our relationship with South Korea, and a $2 billion, fully operational, state of the art, light water reactor—the same kind we have pressured Russia and France not to sell to Iran.

The practical effect of providing significant amounts of energy and economic aid to North Korea is to free up scarce hard currency for North Korea to use for almost any purpose—whether it is beefing up their military capability or rebuilding their failing infrastructure. Either way, their economy is almost certainly going to improve, and we may be facing a firmly entrenched Communist regime in North Korea for decades to come.

Given North Korea's long history of broken promises and violated agreements, why wouldn't we expect them to break their word again, after collecting the many benefits of this agreement, and resume the operation of their current facilities after 5 or 8 or 10 years. This legislation would create clearly stated incentives for the North Koreans to honor their commitments under the agreement and dismantle their nuclear weapons program—incentives which were not included in the agreement itself.

Mr. President, although I believe the framework agreement is seriously flawed, I strongly believe that Congress should not overturn the agreement. I do not want the U.S. Congress blamed for something that will really be the result of North Korean duplicity. When this agreement fails, I want it to be clear to all who is responsible for the failure—so that we can proceed immediately to organize international sanctions and other punitive measures which are designed to remove the threat of nuclear proliferation from the Korean Peninsula once and for all. That is what we should have done last year.

At the same time, the American taxpayer should not be expected to underwrite this agreement—with one exception, which I will explain in a moment.

Initially, the administration promised that the only financial commitment undertaken by the United States in the agreement was a one-time shipment of oil worth roughly $5 million. Subsequent to that declaration, we learned that the President sent a letter to Kim Jong Il promising to ask Congress to pay for the new reactors if funding cannot be found elsewhere. To pay for the oil shipment, the administration avoided coming to Congress and took $4.7 million from Defense Department funds, using a little-known authority that is supposed to be used for "emergencies and extraordinary expenses"—and they did it without giving Congress any prior notice.

I should note that this little-known "emergency and extraordinary expenses" authority will not in the future be misused in such a fashion. I was successful in including a provision in the fiscal year 1996 Defense authorization bill which establishes specific notification requirements when the authority is exercised for any expenditure exceeding $500,000. This provision will become law as part of the FY 1996 Defense Authorization Act.

Now, the Administration says that the U.S. financial commitment to this agreement may ultimately amount to $20-30 million per year, or $200-300 million over the ten-year period of the agreement.

Since the Administration claims they did not guarantee North Korea that we will contribute anything more than the agreed upon oil shipment, and since the Administration has already demonstrated its intention to cut Congress out of the loop as much as possible, I think Congress should decline to appropriate any further funds to implement this accord—with one exception. That exception is with respect to the security, safe storage, and subsequent removal from North Korea of the 8,000 spent nuclear fuel rods corroding in a cooling pond at Yongbyon.

I believe we should test North Korea's intentions as early as possible. I believe we should identify a country willing to receive the fuel rods, and ask North Korea to ship them there. Should they comply, the U.S. should pay for the transfer. It's worth the cost, because we will remove from North Korea enough plutonium for 5 or 6 nuclear weapons, and we will have an early—though certainly not a definitive—indicator of how seriously North Korea is taking its commitments under this agreement.

Until the fuel is removed from North Korea, I believe it is imperative to ensure the security and safe storage of the spent fuel. I worked successfully in the Senate Armed Services Committee for a provision allowing up to $5 million of DOE funds to be used to complete work on the safe storage, or canning, of the spent nuclear fuel at the

Yongbyon reactor site. Some of my colleagues wanted to refuse even this small amount of money, but I believe it would be counter-productive to allow the spent fuel to remain in an open and degrading storage pond, when we could at least ensure that it was less easily accessible to North Korea in the event the agreement fails. This provision will become law as part of the FY 1996 Defense Authorization Act.

Mr. President, the legislation I am introducing today, with Senator MURKOWSKI and others, is entirely consistent with the provisions of the Framework Agreement between the U.S. and North Korea. It merely adds specificity to the vagaries of the agreement, as well as incentives for North Korean compliance with the agreement. It also ensures that North Korea realizes a small part of the price it will pay for breaking its word to dismantle its nuclear weapons program. And it permits the President to waive any of its restrictive provisions if he certifies that it is vital to U.S. national security to do so.

I urge my colleagues to support this legislation. It will ensure that the laudable goals of the Framework Agreement are realized by fixing its flaws.

By Mr. JEFFORDS:

S. 1294. A bill to amend title 10, United States Code, to repeal the requirement that amounts paid to a member of the Armed Forces under the Special Separation Benefits Program of the Department of Defense, or under the Voluntary Separation Incentive Program of that Department, be offset from amounts subsequently paid to that member by the Department of Veterans Affairs as disability compensation; to the Committee on Armed Services.

TITLE 10 AMENDMENT LEGISLATION

• Mr. JEFFORDS. Mr. President, I reintroduce a bill to change current law that requires amounts paid to a member of the Armed Forces under the Special Separation Benefits and Voluntary Separation Incentive Programs be offset from amounts subsequently paid to that individual by the Department of Veterans Affairs as disability compensation.

Since the end of the cold war, our country has called on military personnel to participate in several dangerous military operations, most recently in the Persian Gulf, Somalia, and Haiti. These personnel have served our country well. Unfortunately, due to language in the Department of Defense [DOD] Authorization Act for fiscal years 1992 and 1993, veterans who participate in the Department of Defense's downsizing by selecting one of two options, either a special separation bonus [SSB] lump sum payment or a voluntary separation incentive [VSI] monthly payment, are prevented from receiving both disability compensation from the VA and benefits from the SSB and VSI programs until the separation compensation is offset completely. My bill will address this injustice by repealing these provisions and allow for concurrent receipt. It will also be retroactive to December 5, 1991, so service members not able to receive payment concurrently since 1991 will be reimbursed for their lost compensation.

Mr. President, SSB and VSI benefits are for services rendered as well as compensation for the veterans' participation in the DOD's downsizing. VA disability pay is compensation for mental or physical disabilities incurred in that service. These are two separate compensations serving two very different purposes. Therefore, it is unfair to the veteran to offset one payment with another.

Aside from the unfairness of offsetting the costs of unrelated compensation benefits, many veterans who returned from the Persian Gulf war have come down with strange illnesses which are believed to be related to their service in the Persian Gulf. Individuals who have accepted SSB or VSI payments are suffering both physically and financially, as many cannot work under the conditions from which they are suffering. Repealing the offset will help ease this financial suffering.

I urge the Congress to correct this injustice to our Nation's veterans and provide these veterans with the proper care and compensation they deserve.•

By Mr. HELMS (for himself, Mr. FAIRCLOTH, and Mr. WARNER):

S. 1295. A bill to prohibit the regulation of any tobacco products, or tobacco sponsored advertising, used or purchased by the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports association by the Secretary of Health and Human Services or any other instrumentality of the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NASCAR LEGISLATION

Mr. HELMS. Mr. President, North Carolina is the home of professional auto racing and it is on behalf of literally thousands of Tar Heels and millions of other NASCAR racing fans across America that I today offer in the Senate the companion bill of the Motor Sports Protection Act which was introduced in the House on September 6 by the Honorable DAVID FUNDERBURK, who ably represents the Second North Carolina Congressional District.

Mr. President, the announcement last month of plans by the Food and Drug Administration to designate tobacco has created much concern in my State, and other tobacco-producing southern States. This is an example of how Washington bureaucrats increase their regulatory power at the expense of the livelihoods of the Nation's farmers and manufacturers. The FDA's attack on tobacco advertising is sure to have a tremendously adverse effect on NASCAR racing.

The issue is whether companies have a right to advertise their products. Advertising is a lawful act and tobacco is a lawful commodity. Unless and until tobacco is banned, proper advertising of this lawful product must not be denied by bureaucratic wherein.

So, this bill will limit the Federal bureaucracy from imposing advertising restrictions on any sponsors of pro racing. The motor sports industry contributes more than $2 billion to the South's economy every year. Racing fans are hard working, law-abiding Americans—they don't deserve bureaucratic mistreatment.

Mr. President, not too long ago, the "King" of racing Richard Petty retired. He left at a time when his name was synonymous with NASCAR racing. He was a perfect example of what can be accomplished with determination, faith, and family values. Richard Petty's success was built on the cooperation of his family, friend, and companies that supported him throughout his career.

My friend, Richard Petty sends word that he will very much appreciate Senators' support of this bill, and so will I.

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

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

NORTH CAROLINA MOTOR SPEEDWAY,
Rockingham, NC, September 19, 1995.

Hon. JESSE A. HELMS,
Senate Dirkson Office Building,
Washington, DC.

DEAR SENATOR HELMS: I am writing to express my concern about President Clinton's plan to regulate tobacco and their sponsorship of motorsports events at North Carolina Motor Speedway. The FDA's proposed regulation will have a severe impact, not only on the Speedway, but also on Moore, Richmond, and surrounding counties. Loss of sponsorships might mean ticket prices could go up, quality of events and facilities could go down, which could contribute to lower attendance. Our area depends heavily on revenue from those attending motorsports and other sponsored events. Local communities will be an economic loser from reduced attendance at events.

I would appreciate you writing back to me with your views on this important issue. Thank you.

Sincerely,

JO DEWITT WILSON,
President.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. LUGAR, and Mr. COCHRAN):

S. 1296. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan; to the Committee on Finance.

THE QUALIFIED FOOTBALL COACHES PLAN TECHNICAL CORRECTIONS ACT OF 1995

Mr. HATCH. Mr. President, on behalf of myself and Senator BREAUX, I rise today to introduce the Qualified Football Coaches Plan Technical Corrections Act of 1995. We are joined in this effort by Senators LUGAR, and COCHRAN.

As the title indicates, this bill is a technical correction to ensure the proper qualification of a retirement plan for many of America's college football coaches. All of us in this body are in favor of encouraging retirement saving. However, the retirement plan set up for many of these football coaches is in serious jeopardy.

Mr. President, let me explain what brought us to the point we are today on this issue. In 1987, Congress recognized the unique aspects of the coaching profession and passed legislation to permit the American Football Coaches Association [AFCA] to set up and maintain a qualified cash and deferred arrangement under Section 401(k) of the Internal Revenue Code. The bill amended Title I of ERISA to permit such a plan to be treated as a qualified multiemployer plan. Due to the frequency with which football coaches change jobs, legislation was needed to assist them in maintaining a retirement plan that is adequately portable.

In reliance on this legislation, the American Football Coaches Association, which represents over 4,400 college football coaches at 676 schools, sponsored a 401(k) plan for its members that today has over 500 participants.

However, on the same day this legislation was passed, Congress was involved in addressing another problem contained in ERISA that was unrelated to the football coaches retirement plan. The problem was an unfavorable Tax Court ruling that held that the ERISA standard regarding employer withdrawals from pension plans, rather than the standard under the Internal Revenue Code of 1986, applied for purposes of interpreting the Internal Revenue Code. Thus, Congress, in an attempt to reject the holding of the Tax Court as it applied to Title I of ERISA, included a provision stating that Title I and Title IV of ERISA are not appicable in interpreting the Internal Revenue Code of 1986. This, of course, had the unintended consequence of deeming the football coaches retirement plan an invalid plan for purposes of the Internal Revenue Code.

Following the creation of the retirement plan, the coaches association asked the Internal Revenue Service to confirm the tax qualified status of the retirement plan. On three separate occasions, Mr. President, the Internal Revenue Service issued determination letters confirming the tax qualified status of the plan for years 1988, 1989, and 1991. It was not until 1992 that the Internal Revenue Service determined that the 1987 provision invalidates what Congress did in Title I of ERISA to authorize the coaches 401(k) plan. In that year, the IRS changed its position on the exempt status of the coaches' retirement plan and indicated it would revoke the determination letters unless clarifying legislation is passed. The horrible result will be a forced termination of the plan by the end of 1995 which will impose a substantial cost on the football coaches and leave them without a retirement plan.

Mr. President, the original enacting legislation in 1987 was a bipartisan effort cosponsored by 34 Members of the Senate and 151 Members in the House. This clarifying legislation is also a bipartisan effort. This bill eliminate the uncertainty that these coaches have been forced to live with since 1988.

Mr. President, I have requested the Joint Committee on Taxation estimate the revenue impact of this bill. The Joint Committee concluded that this change is technical in nature and would have no revenue impact. However, I do want to point out that if this change is not made, hundreds of coaches will risk the loss of retirement benefits. This is not the message we should send to those who follow in good faith, the actions of a prior Congress.

I wish to commend the Senator from Louisiana, Senator BREAUX, for his leadership on this issue. I urge my colleagues to support this legislation. It is the right thing to do and is long overdue.

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:

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 "Qualified Football Coaches Plan Technical Corrections Act of 1995".

SEC. 2. CLARIFICATION OF TREATMENT OF QUALIFIED FOOTBALL COACHES PLANS.

(a) IN GENERAL.—Subparagraph (F) of section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)(F)) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) For purposes of the Internal Revenue Code of 1986—

"(I) clause (i) shall apply, and

"(II) a qualified football coaches plan shall be treated as a multiemployer collectively bargained plan."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 22, 1987.

By Mr. HATCH (for himself and Mr. D'AMATO)

S. 1297. An Act to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts.

THE REAL ESTATE INVESTMENT TRUST TAX SIMPLIFICATION ACT OF 1995

Mr. HATCH. Mr. President, on behalf of myself and Senator D'AMATO, I rise today to introduce the Real Estate Investment Trust Tax Simplification Act of 1995, legislation to simplify and reform the tax law concerning Real Estate Investment Trusts [REITs]. Similar legislation has been introduced in the House by Representative E. CLAY SHAW, JR. along with many other Representatives.

REITs were designed to allow small investors to invest in large real estate projects that they otherwise could not afford to enter including apartment buildings, office buildings, shopping centers, malls, warehouses, etc. Real Estate Investment Trusts have become a very popular from of investment as indicated by the fact that the market capitalization in the whole industry has risen from $9 billion in 1991 to over $50 billion today.

Mr. President, if a REIT properly follows all of the rules, it is not normally taxed at the entity level, but passes through most items of income to the shareholders to report on their own individual tax returns. However, there are many complexities and uncertainties—minefields, if you will, for the unwary that can inadvertently penalize investors and even the general public in some circumstances. This bill is designed to alleviate these minefields.

Let me share with my colleagues an example of one of these minefields. Under the current rules, in order to gain the benefits of REIT taxation, the investment has to be passive in nature. Hence, the normal procedure is for the REIT to buy the underlying property and lease it out to tenants. However, the REIT must be careful not to provide directly to the tenants any services that are not customary in the real estate business. If this rule is violated, severe consequences can follow. For example, under a literal interpretation of the law, if a REIT that operates a retail mall provides wheelchairs to the customers of the retail tenants, or even assist the tenant in moving into it space, the entity's very status as a REIT could be placed in jeopardy. This is ridiculous and needs to be changed.

Another unnecessary rule, Mr. President, could conceivably cause an entire community to lost its health care facility. Let me explain. Under the current law, if an operator of a health care facility owned by a REIT defaults on its rent payments to the REIT, that health care facility could be shut down for a long period of time, even though there may be other health care operators willing and able to take over the facility. Why? Because current law basically prohibits the REIT from operating the facility itself and, at the same time, artificially reduces the pool of potential operators that can run the health care facility without causing

undue tax problems to the REIT and its owners. This potential problem faces many REITs and many communities inasmuch as REITs currently own about $10 billion of investments in health care facilities around the nation. This bill will eliminate the perverse incentive to shut down such critical facilities in the unfortunate case of foreclosure.

Mr. President, this bill also relaxes some of the current law's onerous penalties for failing to perform some record keeping requirements. Currently a REIT could lose its favored tax status simply by failing to send out or receive back shareholder demand letters for the purpose of verifying the fact that no five or fewer parties own controlling interests in the REIT. So, even though the REIT in fact meets this test, Mr. President, simply by failing to have on file sufficient shareholder letters substantiating this fact, all of the REIT shareholders could face the extremely harsh penalty of REIT disqualification and double taxation.

Rather than penalizing the REIT so severely for this oversight, Mr. president, this bill would impose a $25,000 penalty for failure to comply with this requirement, if the failure is inadvertent in nature. The penalty would rise to $50,000 in the case of willful noncompliance. I believe my colleagues would agree that this approach makes much more sense that the current rules since it serves as an adequate incentive to keep the appropriate records without causing the unsuspecting, innocent investors severe and unnecessary personal tax penalties.

Mr. President, this bill also addresses other problems that are detailed in the summary of the bill that I ask unanimous consent to be included in the RECORD after my remarks.

This bill is not controversial and will have a negligible effect on revenues, according to the Joint Committee on Taxation. It is important to note that this bill is endorsed by the National Association of Real Estate Investment Trusts, which represents a high percentage of the REIT industry. Whenever we can do things to simplify the tax code without causing substantial revenue loss or negative policy consequences, we should do it. Mr. President, this is an opportunity for us to do just that in the area of Real Estate Investment Trusts. I urge my colleagues on both sides of the aisle to join me in reforming and simplifying the tax law regarding this very difficult and complex area of the law.

Mr. President, I ask unanimous consent that the text of the bill and a detailed summary of its provisions be printed in the RECORD.

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

S. 1297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Real Estate Investment Trust Tax Simplification Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—REMOVAL OF TAX TRAPS FOR THE UNWARY

SEC. 101. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

"(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

"(2) FAILURE TO COMPLY.—

"(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

"(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

"(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

"(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect."

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

"(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

"(1) which for a taxable year meets the requirements of section 857(f)(1), and

"(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year."

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting "subject to the provisions of subsection (k)," before "which is not".

SEC. 102. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

"(C) any impermissible tenant service income (as defined in paragraph (7)).."

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

"(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount (other than amounts described in subparagraph (B) or (C) of paragraph (1)) received or accrued directly or indirectly by the real estate investment trust for—

"(i) services furnished or rendered by the trust to the tenants of such property, or

"(ii) managing or operating such property.

"(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property exceeds 1 percent of all amounts received or accrued directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

"(C) EXCEPTIONS.—For purposes of subparagraph (A)—

"(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

"(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 512(a)(2).

"(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the actual direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

"(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association."

SEC. 103. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: "For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership."

TITLE II—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

SEC. 201. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

"(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

"(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

"(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and such holder's credit or refund determined under clause (ii).

"(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

"(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

"(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interest, respectively."

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking "subparagraph (B)" and inserting "subparagraph (B) or (D)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking "by 65 percent" and all that follows and inserting "by the difference between the amount of such includible gains and such holder's credit or refund determined under clause (ii)."

TITLE III—OTHER SIMPLIFICATION

SEC. 301. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

"(A) shall be treated for purposes of this subsection as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

"(B) shall not be treated as a distribution for purposes of subsection (b)(2)(B)."

SEC. 302. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking "on the date which is 2 years after the date the trust acquired such property" and inserting "as of the close of the 3d taxable year following the taxable year in which the trust acquired such property".

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking "or more extensions" and inserting "extension", and

(B) by striking the last sentence and inserting: "Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2)."

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: "A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided in regulations by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year."

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

"For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property."

SEC. 303. SPECIAL FORECLOSURE RULES FOR HEALTH CARE PROPERTIES.

Section 856(e) (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

"(A) ACQUISITION BY LEASE TERMINATIONS.—The term 'foreclosure property' shall include any qualified health care property acquired by a real estate investment trust as the result of the termination or expiration of a lease of such property.

"(B) GRACE PERIOD.—For purposes of qualified health care property of a real estate investment trust qualifying as 'foreclosure property' under subparagraph (A), the qualified health care property shall cease to be foreclosure property on the date which is 2 years after the date such trust acquired such property.

"(C) EXTENSIONS.—If the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in Subparagraph (B) is necessary to the orderly leasing or liquidation of the trust's interest in such qualified health care property, the Secretary may grant one or more extensions of the grace period for such qualified health care property. Any such extension shall not extend the grace period beyond the date which is 6 years after the date such trust acquired such qualified health care property.

"(D) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property, income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

(i) leases existing on the date the real estate investment trust acquired the qualified health care property, or

(ii) leases extended or entered into after the trust acquired such property from lessees pursuant to terms set forth in such existing leases or on terms under which the trust receives a substantially similar or lesser benefit in comparison to the previous lease for such property.

"(E) QUALIFIED HEALTH CARE PROPERTY.—The term 'qualified health care property' means any real property (including interests therein), and any personal property incident to such real property, which—

"(i) is a hospital, outpatient medical clinic, nursing facility, assisted living facility, or other licensed health care facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility, or

"(ii) is necessary or incidental to the use of such a health care facility."

SEC. 304. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(6)(G) (relating to treatment of certain interest rate agreements) is amended to read as follows:

"(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

"(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to hedge any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

"(ii) gain from the sale or other disposition of any such investment,

shall not be taken into account under paragraphs (2), (3), and (4).

SEC. 305. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

"(C) the amount (if any) by which—

"(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

"(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

"(D) amounts includible in income by reason of cancellation of indebtedness."

SEC. 306. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended—

(1) by striking "(other than foreclosure property)" in subclauses (I) and (II) and inserting "(other than sales of foreclosure property or sales to which section 1033 applies)", and

(2) by striking "(as determined for purposes of computing earnings and profits)" in subclause (II) and inserting "(determined without regard to any adjustment for depreciation or amortization)".

SEC. 307. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

"(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

"(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

"(ii) the seller is under the jurisdiction of the court in such case, and

"(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if—

"(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

"(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur."

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by inserting "or appreciation in value" after "gain" each place it appears.

SEC. 308. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking "at all times during the period such corporation was in existence".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS

TITLE I. REMOVAL OF TAX TRAPS FOR THE UNWARY

SEC. 101. SHAREHOLDER DEMAND LETTER

Sections 856(a)(5) and 856(a)(6) require that a REIT have at least 100 beneficial owners, and that it not be "closely held" within the meaning of the personal holding company rules. A REIT that is disqualified because it fails to meet the requirements in section 856(a) generally may not elect REIT status again for a period of 5 years.

In addition, section 857(a)(2) disqualified a REIT for any year in which it does not comply with Internal Revenue Service ("IRS") regulations prescribed to ascertain the "actual ownership" of the REIT's outstanding shares. Sections 1.857–8(d) and (e) of the Income Tax Regulations (the "Regulations") require a REIT to demand, from its shareholders of record, a written statement identifying the "actual owner" (for income tax purposes) of the stock held in such shareholder's name. The Regulations specify which shareholders must be sent such letter, based on the total number of REIT shareholders and the percentage of shares held by each record holder. This demand letter must be sent within 30 days of the close of the REIT's taxable year.

Failure to comply with the rules in Regulations section 1.857–8, through inadvertence or otherwise, technically causes disqualification of REIT status for the taxable year, notwithstanding that the REIT may satisfy the substantive share ownership rules in section 856(a)(6). As in the case of any disqualification under section 856(a), a REIT that is disqualified under the shareholder demand letter regulations may not elect REIT status again for a period of 5 years without IRS consent.

Even those REITs that comply with the demand letter regulations, and are not aware of any violations of the ownership test, cannot know for certain whether they complied with such tests, the ownership information is not in the hands of the REIT and the REIT cannot compel its shareholders to respond to the demand letter. This uncertainty is increased for publicly-traded REITs that have a large portion of their shares held in "street name."

This bill proposes that a failure to comply with the shareholder demand letter regulations should not, by itself, disqualify a REIT if the REIT otherwise establishes that it satisfies the substantive rules involved. Under these circumstances, a $25,000 penalty ($50,000 for intentional violations) would be imposed for any year in which the REIT did not comply with the shareholder demand letter regulations and the REIT would be required, when requested by the IRS, to send curative demand letters. This bill strikes the right balance between the "atomic bomb" consequences of present law and the need to provide a disincentive for REITs not to send out demand letters.

Also under this bill, a REIT would be deemed to satisfy the share ownership requirements in section 856(a)(6) if it complies with the shareholder demand letter regulations and does not know, or have reason to know, of an actual violation of the ownership rules. Thus, a REIT that complies with the regulations, but is unable to discover an actual ownership violation and has no reason to suspect such a violation, would not be disqualified before it has reason to know of such violation. This amendment is vital to protect companies that exercise their best efforts to comply with the ownership rules, but somehow later discover that a technical violation exists.

SEC. 102. PROPERTY MANAGEMENT—DE MINIMIS RULE FOR TENANT SERVICES INCOME.

The REIT tax provisions include several independent contractor rules. The primary rule is found in section 856(d)(2)(C), which generally provides that "rents from real property" do not include amounts received with respect to the property if the REIT furnishes services to the tenants, or manages or operates the property, other than through an independent contractor. Congress modified this rule in 1986 by adding the language at the end of section 856(d)(2)(C). This language permits the REIT to receive amounts for furnishing customary services or managing property, without using an independent contractor, provided such amounts would be excluded from unrelated business taxable income under section 512(b)(3) if received by a section 511(a)(2) exempt organization.

Congress' relaxation of the independent contractor rule has helped the industry in efficiently managing rental properties on a competitive basis. However, certain problems persist. Under the existing language of section 856(d)(2)(C), the receipt of even a *de minimis* amount of non-qualified income or rendering a small amount of impermissible services with respect to a given property may disqualify all rents received with respect to such property. The disqualification of the entire property's rents could jeopardize the REITS's qualified status.

The present independent contractor rule creates significant administrative burdens for REITs because of the need to ensure that no REIT personnel ever perform any disqualifying service. In addition, due to the inherent ambiguity of the rule, significant time and expense are incurred by both REITs and the IRS in applying for and issuing private letter rulings that delineate permissible and impermissible services. Further, even a vigilant and conservative REIT cannot control whether a particular employee performs a service to its tenants that may taint the rents on a property. Last, the present rule unreasonably penalizes a REIT for providing services (which may be directly related to the operation of its property) to a tenant (by tainting all amounts received from that tenant) that it may, with much less chance of disqualification, provide to third parties.

This bill proposes a de minimis exception to the independent contractor rule. This proposal would simplify REIT administration and would remove the risk of disqualifying a REIT that inadvertently performs nominal, although impressible, services. Further, the proposal would not encourage international disregard for the independent contractor rule, because of the relatively small amount of services that it would permit.

The approach taken in this bill would provide a simple, bright line test that the IRS could administer easily.

SEC. 103. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(2)(B) generally disqualifies rents received from any person, if the REIT owns 10% or more of the ownership interests in such person or has an interest equal to 10% or more in the assets or net profits of such person. For purposes of determining the REIT's ownership interest in a tenant, the attribution rules of section 318 apply, except that 10% is substituted for 50% when it appears in subparagraph (C) of section 318(a)(2) and 318(a)(3). Under section 318(a)(3)(A), stock owned, directly or indirectly, by a partner is considered owned by the partnership. In addition, under section 318(a)(3)(C) a corporation is considered as owning stock that is owned, directly or indirectly, by or for a person who also owns more than 50% (10% for REITs) of the stock in such corporation.

The attribution rules may create an unintended result when several persons who own collectively 10% of a REIT's tenant, also own collectively 10% of the REIT. So long as these persons are unrelated and their individual interest in each entity is less than 10%, then no violation of section 856(d)(2) occurs. However, if each of these persons happen to obtain an interest, no matter how small, in the same unrelated partnership,

then the attribution rules may cause the rents received from the tenant to be disqualified under section 856(d)(2). Such a result could occur even though section 318(a)(5)(C) specifically provides that the stock ownership interests of a partner are not to be attributed to another partner via the partnership.

Under one understanding of current law, the problem arises because all of the partners' shares of stock in the tenant are attributed to the unrelated partnership under section 318(a)(3)(A). Since the partnership also is considered as owning the partners' shares in the REIT, section 318(a)(3)(C) treats the REIT as owning all of the shares in the tenant that are deemed held by the partnership. Thus, the rule in section 856(d)(2) is violated.

The potential for disqualification, under one reading of current law, is detailed in the following example: Pension Plan A holds stock representing 10% of the value in REIT. The remaining shares of REIT are publicly held. Pension Plan A and Corporation B each hold a 1% interest by value in Partnership, and the remainder of Partnership's interests are publicly held. Partnership holds various securities in entities other than REIT. Tenant, which leases retail space from REIT, is 10% owned by Corporation B, with the remaining interest publicly-held. Under section 318(A)(3)(A), Partnership is deemed to own A's 10% interest in the value of REIT and B's 10% interest in Tenant. Further, section 318(a)(3)(C) provides that REIT is deemed to own any stock held by its 10% shareholder. As a result, REIT could be deemed to own Partnership's deemed interest in Tenant. If so, the Tenant's rent payments to REIT would be disqualified.

These attribution rules disqualify amounts as rent even when the relationship between the tenant and the REIT is tenuous at best and abuse of the REIT concept is inconceivable. In any event, the rules are largely unenforceable because one partner will not know what the other partners own. The problem is particularly problematic with institutional investors that own small percentage interests in multiple partnerships owning securities and other assets unrelated to a REIT.

One understanding of the interplay between section 318(a)(3)(A) and (a)(3)(C) with the facts described above is equivalent to applying attribution rules to shares of stock held by partners. As noted, this is contrary to the policy set forth in section 318(a)(5)(C), which prohibits the reattribution of stock constructively owned by a partnership (via a partner) to another partner in the partnership. Without this partner-to-partner attribution, neither A nor B in the examples above, directly or indirectly, hold the 10% interest in both REIT and Tenant that section 856(d)(2)(B) requires for disqualification. Congress solved a similar problem of "partner to partner" attribution in another REIT context. In determining whether a REIT is "closely held" for purposes of section 856(a)(6), the attribution rules in section 544 apply. In 1986, Congress enacted section 856(h), which provides in part that the attribution rules in section 544 will apply as if they did not include the phrase "or by or for his partner."

This bill would modify the application of section 318(a)(3)(A) (attribution to partnerships), for purposes of section 856(d)(2), so that attribution would occur only when a partner owns a 25% or greater interest in the partnership. Applying a percentage threshold (rather than suspending entirely the application of section 318(a)(3)(A) would prevent the potentially abusive technique of placing "dummy" partnerships between individuals and the REIT. This is a common sense approach that would simplify monitoring the ownership interests of all involved parties.

TITLE II. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

SEC. 201. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

Under the regulated investment company (("RIC") provisions, RICs (also known as mutual funds) always have been permitted to pass through a credit to their shareholders for taxes paid on retained capital gains. This treatment helps preserve the capital base of the company, while respecting the principle of a single level of taxation.

Under section 857(b)(3)(A)(ii) and section 4981(c)(1)(B), a REIT need not distribute capital gains to its shareholders, but may be subject to tax on such undistributed gains under section 1201(a). A subsequent distribution of such gains is taxable to the REIT's shareholders, resulting in a double tax.

This double tax is inconsistent with the original Congressional intent to create a real estate entity parallel to RICs, and limits a REIT's ability to effectively manage assets. Because of the potential double tax on capital transactions, a REIT usually is compelled to either distribute any sale proceeds or not complete the transaction.

This would amend section 857(b)(3) to mirror the rules applicable to RICs.

TITLE III. OTHER SIMPLIFICATION

SEC. 301. EARNINGS & PROFITS—DISTRIBUTION RULE.

Enacted in 1986, section 857(a)(3) requires newly-electing REITs to distribute, during their first REIT taxable year, earnings and profits ("E&P") that were accumulated in non-REIT years. The ordering rule in section 316 complicates the E&P distribution requirement, by treating all distributions as being made from the most recently accumulated E&P. Under this rule, the unexpected realization of income near the end of the year can convert previous distributions of accumulated E&P into distributions from current E&P. For example, assume a company distributes $200x in November, which represents its current E&P to date ($100x) and its entire accumulated E&P ($100x), and makes no other distributions during the year. If the company earns an additional $10x in December, its accumulated E&P as of the end of the year is $10x, notwithstanding the prior $200x distribution.

The effect of the E&P rule in section 316 could be disastrous for a newly-electing REIT that is required to distribute all of its accumulated E&P during its first REIT year. The year-end receipt of any form of unanticipated income, such as unexpected overages from shopping mall tenants, could cost the new REIT its qualification. Most REITs (and most taxpayers, for that matter) cannot determine precisely the amount of their income before the end of the year. Ordinarily, the receipt of nominal amounts of income near the end of the year do not cause problems for established REITs, since they can use the "subsequent declared dividend" election in section 858 to make sure they meet their annual requirements to distribute 95 percent of their income.

However, the requirement in section 857(a)(3) effectively overrides the 95 percent income distribution requirement, since no accumulated E&P can be distributed until the REIT distributes 100 percent of current E&P. In addition, the section 858 election, which historically was available for all required distributions, cannot be used for section 857(a)(3) distributions since this election is available only for distributions of current E&P.

The ability to retain a small percentage of current earnings and the section 858 election both have been part of the REIT tax rules since 1960. Until 1986, REITs were not required to distribute any portion of their accumulated E&P. These adverse effects of the new accumulated E&P distribution requirement on both of these provisions is an unintended consequence of the 1986 change.

This bill would deem section 857(a)(3) distributions as being made first from accumulated E&P, then from current E&P. This provision would ensure that year-end receipts of unanticipated income would not cause a new REIT to be disqualified. The proposal would not affect the requirement that such REIT also must distribute 95% of its current income, nor would it otherwise alter the traditional ordering rule for E&P distributions.

SEC. 302. FORECLOSURE PROPERTY.

A REIT is permitted to conduct a trade or business using property acquired through foreclosure for 90 days after it acquired such property, provided the REIT makes a foreclosure property election. After the 90-day period, the REIT may no longer conduct such trade or business, except through an independent contractor from whom the REIT does not derive or receive any income. Property is eligible for a foreclosure election if a REIT acquired it through foreclosure on a loan or default on a lease, but not if a REIT acquired it because a lease expired.

If it makes the foreclosure property election in section 856(e)(5), a REIT may hold foreclosure property for resale to customers without being subject to the 100% penalty tax under the prohibited transaction rules. Non-qualifying income from foreclosure property generally is subject to the highest corporate tax rate. The foreclosure property election is valid for 2 years, but may be extended up to 6 years with the IRS' consent. Under section 856(e)(4)(C), foreclosure property status is lost if, at some time after 90 days from the date such property is acquired, the property is used in a trade or business conducted by the REIT (other than through an independent contractor from whom the REIT does not derive any income).

This bill would make the period covered by an election three years and the initial foreclosure property election valid until the last day of the third full taxable year following the election. The present 2-year period is not a realistic time period for disposing of foreclosure property, especially in a depressed real estate market. In addition, this bill would reduce recordkeeping and filing requirements associated with managing foreclosure property and the need for the IRS to review extension requests.

Further, this bill would modify the rule in section 856(e)(4)(C) that requires a REIT to use an independent contractor to manage foreclosure properties. This modification would make the rule parallel to the primary independent contractor rule in section 856(d)(2)(C). This change would reduce the technical complexity and administrative costs associated with managing foreclosure property: it would provide a single, consistent standard for managing both foreclosure and non-foreclosure properties.

SEC. 303. SPECIAL FORECLOSURE RULES FOR HEALTH CARE PROPERTIES.

Health care REITs play an important economic role in both the health care and REIT industries. For example, REITs have invested about $10 billion in health care properties, either as owners or lenders. This

amount represents approximately 13% of the real estate investment by all REITs. These properties range from nursing homes and extended care facilities to acute care facilities.

These REITs face unique problems under the foreclosure property rules when the lessee/operator of a health care facility terminates its lease, either through expiration or default. Unlike most other forms of rental properties, if a health care property lease terminates, it is extremely difficult to close the facility because medical services to patients must be maintained. In fact, a variety of government regulations mandate measures to protect patients' welfare, which greatly restrict the ability to simply terminate the facility. In addition, because of the limited number of qualified health care providers, it can be very difficult to find a substitute provider that also will lease the property.

When a health care REIT acquires property either through a loan foreclosure, lease default, or lease expiration, the REIT must be able to ensure that the facility will remain open beyond the initial 90-day period. For many patients, especially those in rural areas, there may be no available alternative facilities in the locality. Frequently, if space is available in an alternative facility, such facility may not accept government-paid patients (*i.e.*, Medicare, Medicaid or county assistance), which account for 70% of the residents in properties of health care REITs. Patients in facilities owned by health care REITs typically include the frail elderly, the chronically ill and the disabled who require long term care. They cannot, and should not, be evicted and forced to relocate away from supportive family and friends, which could jeopardize their health and cause treatment setbacks.

The 90-day time period during which a REIT is permitted to operate a facility is inadequate for the REIT to conclude a lease with a health care provider. Health care properties typically are acquired in a sale-leaseback transaction in which the original owner continues to operate the facility as a lessee. After this lessee vacates the property, it is very difficult to find a qualified health care provider that is willing to assume not only the operational responsibilities for the facility, but also the long-term financial risks associated with being a lessee. This is particularly true when the original lessee abandoned the facilities because of financial problems.

Regulatory requirements further complicate and delay the releasing process. Potential lessees may be required to obtain up to 30 separate licenses from separate government agencies before they can assume control of a facility. In addition, many states impose certificate of need requirements when facility operators are changed. These proceedings can become adversarial and protracted.

Therefore, in order to keep a health care facility operational after the 90-day period has expired under the foreclosure property rules, a REIT must be able to hire a licensed health care provider that also qualifies as an independent contractor (a party from whom the REIT does not derive or receive any income or profits). The limited pool of licensed providers that could qualify as independent contractors may be dramatically reduced, since many of these providers already lease other health care properties owned by the REIT. As existing lessees of the REIT, these providers generate income to the REIT, and thus may be viewed by the IRS as disqualified from serving as independent contractors with respect to a second REIT property.

The problems that arise from foreclosing on a defaulted lease or mortgage also exist in the case of a health care provider/lessee who abandons the facility upon the expiration of a lease. A final decision whether or not to renew the lease may not be made until expiration occurs, giving the REIT little or no lead time to find a substitute provider/lessee. Even if adequate notice is given to the REIT that the provider/lessee intends to quit the business, this notice does not increase the pool of health care providers that could qualify as independent contractors.

This bill provides that in the case of qualified health care properties, a health care provider will not be disqualified as an independent contractor for purposes of the foreclosure property rules solely because the REIT receives rental income from the provider with respect to one or more other properties. In addition, the bill provides that REIT could make a foreclosure property election with respect to lease expirations of qualified health care properties.

These changes would help ensure that important health care facilities are not forced to be closed because of a technical requirement in the Code. As with any properties that are subject to a foreclosure election, non-rental income realized by the REIT under this proposal would be subject to the highest corporate tax rate.

SEC. 304. PAYMENTS UNDER HEDGING INSTRUMENTS.

In 1988, Congress added section 856(c)(6)(G), which generally provides that income from an interest rate swap or cap agreement used to hedge a variable rate indebtedness is treated as qualifying income under section 856(c)(2). In addition, such agreement is treated as a security for purposes of section 856(c)(4)(A), which limits a REIT's gain on the sale of securities held for less than 1 year to 30% of gross income.

A swap agreement is a contractual arrangement between parties that permits them to convert existing variable rate interest payments or receipts into fixed rates, and vice versa. Thus, swaps may be used to hedge against potential increases in interest rates on debt exposures, as well as to capture higher rates on fixed income streams. Interest rate caps likewise may be used to hedge interest payments or receipts, but such hedge is effective only over a specified range.

There are a number of financial products available, in addition to swaps and caps, that may be important tools in a company's effort to hedge its exposure to increased liabilities and to protect current high returns. As the REIT industry has grown and become more knowledgeable in managing its investments, more and more REITs are using financial instruments of all kinds as a conservative method of managing their interest rate exposure.

A REIT should be permitted to use the wide variety of financial instruments that are available for managing its liability exposures, whether the interest rates are fixed or variable. Financial markets world-wide have undergone revolutionary changes over the past decade. These changes have brought about dramatic liquidity in interest rate and currency markets, which in turn have significantly increased the volatility in these markets.

This bill would amend the REIT rules to allow all types of hedges of REIT liabilities. It would also insure that any income from a hedge mechanism will be excluded from either the numerator or denominator of any of the REIT income tests. This rule would not permit a REIT to speculate in hedging instruments, nor alter the REIT's primary mission to invest in real estate assets.

SEC. 305. EXCESS NONCASH INCOME.

Generally, REITs are required to distribute 95% of their taxable income to shareholders each year. In 1986, Congress recognized the inequity of requiring a REIT to distribute "phantom income" items, in which the REIT recognizes income but receives no corresponding cash. Congress enacted section 857(a)(1)(B) to exclude certain excess noncash income from the distribution requirement.

A REIT has been compelled to return property to a seller rather than accept a cancellation and restructuring of a seller-financed mortgage, because of the REIT's inability to distribute the resulting noncash income. Moreover, REITs often accrue original issue discount ("OID") income resulting from their investments. In addition, REITs are precluded under the current rules from repurchasing bonds at a discount that were issued at rates that are now "above market." This inability to refinance adversely affects the capital requirements for REITs.

Under this bill, all forms of OID and REMIC excess inclusion income (to the extent not offset by distributions), and cancellation of indebtedness income would be treated as excess noncash income for purposes of the distribution requirement in section 857(a). As a matter of policy, these forms of noncash income are indistinguishable from the types that are excepted from the distribution requirement. This bill would extend the special rules for OID income and REMIC excess inclusion income to both accrual basis and cash basis REITs. The bill would not alter the existing rule that imposes an excise tax on certain undistributed REIT income.

In addition, since the proposal would affect only a REIT's distribution requirements, a REIT would not receive a dividends paid deduction with respect to the phantom income. Thus, a REIT might be compelled to pay a corporate level tax to the extent its dividends paid deductions is less than its taxable income. These changes are just a logical extension of the 1986 changes.

SEC. 306. PROHIBITED TRANSACTION SAFE HARBOR.

A REIT may be subject to a 100% tax on net income from sales of property in the ordinary course of business ("prohibited transactions"). In 1986, Congress recognized the need for a bright line safe harbor for determining whether a REIT's property sale constituted a prohibited transaction. Congress further liberalized these rules in 1978 and 1986 to better comport with industry practice and to simplify a REIT's ability to sell long-term investment property without fear of being taxed at a 100% rate.

Because of certain limitations contained in the safe harbor, some of the industry's largest and most successful members cannot use the exception, thus, their ability to responsibly manage their property portfolio is impeded. The most restrictive limitation for these companies is the limitation on the number of sales per year.

The limitation relating to aggregate tax bases penalizes the companies that are the least likely to have engaged in dealer activity. The most successful REITs have typically held their properties the longest, resulting in low adjusted bases due to depreciation or amortization deductions. Thus, the aggregate bases of all the REIT properties will be relatively much lower for purposes of the safe harbor exception than a REIT that routinely turns over its properties every 4 years. Accordingly, the REIT that holds its properties for the longer term is penalized.

Under this bill, any real property asset disposed of as a result of an involuntary conversion (e.g., its destruction, seizure, or condemnation) would not be considered for purposes of determining compliance with the 7 sales per year safe harbor. This change would ensure that a diligent REIT is not removed for the safe harbor as a result of events beyond its control.

In addition, in order not to penalize companies that hold a large number of depreciated properties as long-term investments, this bill would change the alternative aggregate bases exception to use the adjusted bases of properties before reduction for any allowed or allowable depreciation or amortization. This change simply carries out the intent of the safe harbor.

SEC. 307. SHARED APPRECIATION MORTGAGES.

Section 856(j) generally provides that income recognized by a REIT from a shorter holding period is substituted for that of the contract for the purposes of applying the 30% limitation in section 856(c)(4) and the prohibited transaction safe harbor rule of section 857(b)(6)(C)(i). The character of the underlying property as dealer property (i.e., section 1221(1) property) in its holder's hands also is substituted for the shared appreciation mortgage ("SAM") contract's character for purposes of imposing the prohibited transaction tax.

Congress enacted section 856(j) in 1986, partly in response to the REIT industry's request for statutory authority that a REIT may receive interest based on a borrower's sales profits under limited circumstances. As a practical matter, a REIT cannot control the holding period, character or disposition of property underlying a SAM contract that it does not own. Attempts to provide contractual controls on these items give little assurance to a REIT and merely dilute its competitive position as a lender.

This bill would create a safe harbor that would not penalize a REIT lender for events beyond its control, for example, the borrower's bankruptcy. It also would clarify that shared appreciation mortgages can be based on appreciation in value as well as gain.

SEC. 308. WHOLLY OWNED SUBSIDIARIES.

In 1986, Congress recognized that for purposes of limiting liability, investors commonly hold separate parcels of real estate in separate corporations. Congress therefore enacted section 856(i), under which a REIT "qualified subsidiary" that holds property as a separate corporation is ignored for federal tax purposes. To be a qualified subsidiary, the REIT must own 100% of a corporation's stock "at all times during the period such corporation was in existence."

The requirement in the phrase quoted above has presented some problems not envisioned in 1986. For example, several real estate operating companies operating as regular C corporations have elected REIT status since 1991. As is typical with corporations owning real estate, these electing companies had subsidiaries that owned various real estate properties. The IRS was asked whether the existing subsidiaries could be REIT qualifying subsidiaries because before the parent's REIT election, the subsidiaries were not held by a REIT. The IRS has issued several private letter rulings holding that they can so qualify. However, to reach this result, the IRS used the artificial construct of deeming the subsidiaries as being liquidated as of the REIT election and then reincorporated.[2] Similar issues arise if a REIT acquires all of the stock of a non-REIT corporation owning real estate, either in a taxable or tax-free transaction.

[1] "Section" refers to a section of the Internal Revenue Code of 1986, as amended ("Code"), unless otherwise indicated.

[2] *See* PLRs 9527020, 9421034, 9307018, 9205030, 9124041 and 9051043. *See also* PLR 9409035.

There is no sound policy reason why a non-REIT corporation may not become a qualified subsidiary once a REIT owns all of its stock. Under section 857(a)(3)(B), all pre-REIT E&P of the subsidiary should be distributed to the REIT's shareholders before the end of the REIT's taxable year. In addition, all of the subsidiary's pre-REIT built-in gain should be subject to tax under the normal rules of section 337(d).

This bill provides that any corporation could be a qualified subsidiary if a REIT owns all of its shares, regardless of the prior ownership of its shares. Again, this approach is a logical modification of the 1986 change that should remove an unnecessary barrier to REIT acquisitions.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. GREGG, and Mr. SMITH):

S.J.RES. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact; to the Committee on the Judiciary.

VERMONT-NEW HAMPSHIRE INTERSTATE PUBLIC WATER SUPPLY COMPACT LEGISLATION

• Mr. LEAHY. Mr. President, today I am pleased to introduce a joint resolution with Senators JEFFORDS, GREGG and SMITH to allow the States of Vermont and New Hampshire to implement an interstate public water supply compact. Both States have enacted this compact through their State legislature, and the affected towns are currently awaiting congressional approval so that they can move forward in their partnership.

Most members are familiar with compacts since they have become common tools to address local problems. Like all compacts, this one is a binding agreement between States established for the purpose of addressing problems shared by those States. This particular compact allows Vermont and New Hampshire to construct and maintain joint public drinking water systems.

According to the compact in this Senate joint resolution, Vermont and New Hampshire municipalities are granted the authority to apply jointly for federal financing and raise appropriate revenue for the creation of drinking water facilities. The agreement also allows for joint management and maintenance to help cut costs while still meeting minimum health standards for drinking water. While public water projects will be carried out according to eight common guidelines stipulated in the joint resolution, this joint resolution does not create a new governmental authority and does not supersede any existing laws or agreements of member states. Finally, the States of Vermont and New Hampshire initiated and drafted this compact cooperatively and enactment was pursued voluntarily by each legislature.

This compact carries on a tradition of cooperative efforts to meet interstate objectives between Vermont and New Hampshire. These two States currently implement the New Hampshire-Vermont interstate sewage and waste disposal facilities compact. In addition, both States are members of the broader New England interstate water pollution control compact and the Connecticut River Valley Flood control compact. On a national level, literally dozens of compacts have been considered and approved by Congress to address water issues. The Vermont-New Hampshire Public Water Supply compact reflects the principles of previous compacts which have effectively addressed interstate concerns.

We are introducing this bill today in order to satisfy article 1, section 10 of the U.S. Constitution. Article 1, section 10 mandates that "No state shall without the consent of Congress enter into agreement or compact with another state or with a foreign power." The courts have established two reasons for Congressional consent. One is to prevent undue injury to the interest of noncompacting states, the other is to protect the Constitutional interests of the federal government against interference from the states. I believe that this compact serves the interests of the two member states well, does not affect other states, and protects the constitutional interests of the federal government. It is in this spirit that I introduce this joint resolution for the consideration and approval by the U.S. Senate.•

ADDITIONAL COSPONSORS

S. 490

At the request of Mr. GRASSLEY, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 505

At the request of Mr. HARKIN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 505, a bill to direct the Administrator of the Environmental Protection Agency not to act under section 6 of the Toxic Substances Control Act to prohibit the manufacturing, processing, or distribution of certain fishing sinkers or lures.

S. 678

At the request of Mr. AKAKA, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the

private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 690

At the request of Mr. AKAKA, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 690, a bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes.

S. 729

At the request of Mr. LOTT, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 729, a bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, and for other purposes.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 758

At the request of Mr. HATCH, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 830

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 830, a bill to amend title 18, United States Code, with respect to fraud and false statements.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Florida [Mr. MACK] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 969

At the request of Mr. BRADLEY, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1000

At the request of Mr. BURNS, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Arizona [Mr. KYL], the Senator from Georgia [Mr. COVERDELL], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1000, a bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 1000, supra.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1088

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1088, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1250

At the request of Mr. SARBANES, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1250, a bill to amend titles 5 and 37, United States Code, to provide for the continuance of pay and the authority to make certain expenditures and obligations during lapses in appropriations.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

AMENDMENT NO. 2815

At the request of Mr. BIDEN, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from New York [Mr. D'AMATO], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Amendment No. 2815 proposed to H.R. 2076, a bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

AMENDMENT NO. 2817

At the request of Mr. KERREY, the names of the Senator from South Dakota [Mr. DASCHLE], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of amendment No. 2817 proposed to H.R. 2076, a bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

At the request of Mr. ROBB his name was added as a cosponsor of amendment No. 2817 proposed to H.R. 2076, supra.

SENATE CONCURRENT RESOLUTION 28—RELATIVE TO THE D.C. STANDDOWN 1995

Mr. JEFFORDS submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 28

Whereas grassroots community StandDowns help homeless veterans' life on the streets and have provided thousands of homeless veterans with life's necessities including food, clothing, medical attention, legal counseling, mental health treatments and job counseling and referrals;

Whereas the growth of StandDowns has displayed both its popularity and effectiveness as a means of addressing the unique needs of homeless veterans; and

Whereas StandDowns have offered a familiar and comforting atmosphere to as many as 25,000 homeless veterans in the past: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR THE D.C. STANDDOWN '95.

The National Coalition for Homeless Veterans shall be permitted to host a public event on the Upper Senate Park Portion of the Capitol Grounds during the period beginning on October 23, 1995, and ending on October 30, 1995.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Hill Police Board, except that the National Coalition for Homeless Veterans shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the National Coalition for Homeless Veterans is authorized to erect upon the Capitol grounds,

subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Hill Police Board are authorized to make such additional arrangements as may be required to carry out the event under this resolution.

SEC. 5. LIMITATION ON REPRESENTATIONS.

The National Coalition for Homeless Veterans shall not represent, either directly or indirectly, that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the Federal Government of the National Coalition for Homeless Veterans or any services offered by the National Coalition for Homeless Veterans.

• Mr. JEFFORDS. Mr. President, I submit a resolution to authorize the use of the Capitol Grounds for D.C. StandDown '95. D.C. StandDown '95 will involve over 500 staffers and volunteers from public and private sector organizations, including the National Coalition for Homeless Veterans, the Department of Veterans' Affairs, the United States Naval Medical Center, and the Department of Housing and Urban Development. D.C. StandDown '95 will provide hundreds of homeless veterans with food, clothing, medical attention, legal counseling, mental health treatment and job counseling. Because the District of Columbia has the highest number of homeless veterans per capita in the Nation, authorizing the use of the Capitol Grounds for D.C. StandDown '95 is essential.

Veterans' standdowns have proven to be the best way to address the unique needs of veterans and to reach veterans who rarely take advantage of the services they are entitled to. Standdowns have grown in popularity around the country. Over 25,000 homeless veterans have been served in previous standdowns, and I am pleased that passage of my resolution will aid another 350 homeless veterans who seek physical, mental, and employment counseling assistance.

My resolution will permit the National Coalition for Homeless Veterans to host the event on the Upper Senate Park portion of the Capitol Grounds between October 23, 1995, and October 30, 1995. The coalition will be responsible for all expenses and liabilities related to the event. Any effort to erect a stage, sound system or any other structure would need to be approved by the Architect of the Capitol. Finally, the coalition can not characterize passage of this resolution as constituting an endorsement by the Federal Government.

I am pleased that Representative JOSEPH KENNEDY feels as strong as I do about the effectiveness and necessary of veterans' standdowns, as he has agreed to introduce a companion resolution in the House of Representatives. We as a Nation must continue to provide assistance to homeless veterans and foster their eventual return to healthy, self-sufficient and productive lives. I believe that D.C. StandDown '95 will contribute to this return.•

SENATE CONCURRENT RESOLUTION 29—RELATIVE TO JERUSALEM

Mr. DOLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 29

Whereas the Senate wishes to mark the 3000th anniversary of King David's establishment of Jerusalem as the capital of Israel; and

Where as Jerusalem, the City of David, has been the focal point of Jewish life; and

Where as Jerusalem, the City of Peace, has held a unique place and exerted a unique influence on the moral development of Western Civilization; and

Where as no other city on Earth is today the capital of the same country, inhabited by the same people, speaking the same language, and worshipping the same God as it was 3000 years ago;

Resolved by the Senate (the House of Representatives concurring), The architect is directed to make the necessary arrangements for a date in October to be mutually agreed upon by the Speaker of the House and the Majority Leader of the Senate, after consultation with the Minority Leaders of the two houses, for the use of the Rotunda for a celebration of the founding of the city of Jerusalem.

SENATE RESOLUTION 177—TO DESIGNATE NATIONAL MAMMOGRAPHY DAY

Mr. BIDEN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 177

Whereas according to the American Cancer Society, one hundred eighty-two thousand women will be diagnosed with breast cancer in 1995, and forty-six thousand women will die from this disease;

Whereas in the decade of the 1990s, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly five hundred thousand deaths;

Whereas the risk of breast cancer increases with age, with a woman at age seventy having twice as much of a chance of developing the disease than a woman at age fifty;

Whereas 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers of up to two years or more before regular clinical breast examination or breast self-examination (BSE), saving as many as a third more lives: Now, therefore be it

Resolved, That the Senate designate October 19, 1995 as "National Mammography Day."

The Senate requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

Mr. BIDEN. Mr. President, I rise today to submit a resolution designating October 19, 1995 as "National Mammography Day."

Over the course of the past 2 years, I have introduced joint resolutions that designate October 19th as a special day to encourage women to get mammograms as part of the early detection process in the fight against breast cancer. Both times the joint resolution has been signed into law by President Clinton.

This year, the House of Representatives is no longer considering commemoratives. Nevertheless, I feel that the Senate should go on record to continue to educate and raise the consciousness about the importance of early detection and the value of mammography.

Mr. President, according to the American Cancer Society, national figures on breast cancer indicate that, in 1995 alone, 182,000 women will be diagnosed with breast cancer. Forty-six thousand women will succumb to this disease.

My home State of Delaware still ranks among the worst in breast cancer mortality, with an estimated 570 new breast cancer cases and over 150 breast cancer deaths.

Although a cure for breast cancer may be some time away, early detection and treatment are crucial to ensure survival. Studies have shown and experts agree, that mammography is one of the best methods to detect breast cancer in its early stages. Mammograms can reveal the presence of small cancers up to 2 years before regular clinical breast examinations or breast self-examinations [BSE], saving as many as a third more lives of those diagnosed with the disease.

With 50 percent of the breast cancer cases occurring in women over age 65, no women can be considered immune from the disease; in fact, 80 percent of the women who get breast cancer have no family history of the disease.

Mr. President, the resolution I am submitting today sets aside 1 day in the midst of "National Breast Cancer Awareness Month"—to encourage women to receive or sign up for a mammogram, as well as to bring about greater awareness and understanding of one of the key components in fighting this disease.

Once again, I am pleased to sponsor this resolution, and invite all of my colleagues to join me in this effort.

SENATE RESOLUTION 178—DESIGNATING NATIONAL CHILDREN'S DAY

Mr. PRESSLER (for himself, Mr. GRAHAM, Mr. BOND, Mr. CHAFEE, Mr.

D'AMATO, Mr. DOLE, Mr. GORTON, Mrs. KASSEBAUM, Mr. SPECTER, Mr. STEVENS, Mr. WARNER, Mr. THURMOND, Mr. AKAKA, Mr. HOLLINGS, Mr. KERREY, Mr. DASCHLE, Mr. LEVIN, AND Ms. MIKULSKI) submitted the following resolution, which was considered and agreed to:

S. RES. 178

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas the children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans, thus everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved, That the Senate designates the second Sunday in October of 1995 as "National Children's Day" and requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 179—RELATIVE TO THE 50TH ANNIVERSARY OF WORLD WAR II

By Mr. THURMOND (for himself, Mr. DOLE, Mr. ASHCROFT, Mr. BAUCUS, Mr. DOMENICI, Mr. DORGAN, Mr. GORTON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. SANTORUM, Mr. PACKWOOD, Mr. WARNER, Mr. COHEN, Mr. SHELBY, Mr. LOTT, Mr. HATFIELD, Mr. JEFFORDS, Mr. COCHRAN, Mr. BUMPERS, Mr. KOHL, Mr. MACK, Mr. BIDEN, Mr. CRAIG, Mr. SARBANES, Mr. BYRD, Mr. STEVENS, Mr. INHOFE, Mr. WELLSTONE, Mr. LEAHY, Mr. SIMPSON, Mr. BROWN, Mr. ROBB, Mr. INOUYE, Mr. HATCH, and Mr. CAMPBELL) submitted the following resolution; which was considered and agreed to:

S. RES. 179

Concerning a joint meeting of Congress and the closing of the commemorations for the Fiftieth Anniversary of World War II.

Whereas 50 years ago, this Nation had just emerged from a war that found Americans fighting a common foe with 32 allied countries and in which over 17,000,000 Americans served in the military;

Whereas the United States suffered over 670,000 casualties, with more than 290,000 deaths, while over 105,000 Americans were held as prisoners of war by * * *;

Whereas on the home front, Americans mobilized to support the war by increasing the output of manufactured goods by 300 percent and by causing a second agricultural revolution through the efforts and imagination of our people as the American farmers mobilized to support the world;

Whereas the war led to dramatic social changes as more than 19,500,000 women joined the workforce at the Nation's defense plants and 350,000 joined the military;

Whereas the roles of minorities in both the military and industry were changed forever as more opportunities for employment and involvement in the defense of the United States presented themselves;

Whereas the contributions by women, minorities, and all those on the home front were legion;

Whereas the bringing to a close of the commemorations for the Fiftieth Anniversary of World War II should be celebrated across the Nation with programs and activities to thank and honor the World War II generation, our veterans, their families, those who lost loved ones, and all who served on the home front; and

Whereas it is important to educate the generations that followed World War II on the lessons of this horrific conflict and to reaffirm the values of human decency: Now, therefore, be it

Resolved, That—

(1) the Senate and the House of Representatives, by previous agreement, shall assemble in the Hall of the House of Representatives on October 11, 1995, for the purpose of saying to the Nation and the world that the American people will never forget those who served our Nation and saved the world, our veterans, and those who served on the home front as we close the commemoration of the Fiftieth Anniversary of World War II;

(2)(A) November 4, 1995, through November 11, 1995, is designated as a "Week of National Remembrance and the Closing of the Fiftieth Anniversary of World War II", with National Days of Prayer on November 4 and November 5, 1995, and a World War II Education Day across America on November 8, 1995, and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that period with appropriate ceremonies and activities;

(B) commemorations during the "Week of National Remembrance and the Closing of the Fiftieth Anniversary of World War II" shall include the dedication of the future site of the Nation's World War II Memorial in Washington, D.C.;

(3) Veterans Day, November 11, 1995, is designated as a "National Day of Observance and Celebration of the Fiftieth Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities; and

(4) each State Governor and each chief executive of each political subdivision of each State, is urged to issue a proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to participate on November 11, 1995, at 11 a.m., in the ringing of the Bells of Peace and Freedom by striking all bells of the Nation 50 times to signify the 50 years without a world war and the world's hope to achieve another 50 years of peace and freedom.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1996

BINGAMAN AMENDMENTS NOS. 2829–2831

(Ordered to lie on the table.)

Mr. BINGAMAN submitted three amendments intended to be proposed by him to the bill (H.R. 2076) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1996, and for other purposes, as follows:

AMENDMENT NO. 2829

On page 16, line, 26, strike "$790,000,000 and insert "$789,900,000".

On page 120, between lines 9 and 10, insert the following:

COMPETITIVENESS POLICY COUNCIL

For necessary expenses of the Competitiveness Policy Council, $100,000.

AMENDMENT NO. 2830

On page 93, between lines 9 and 10, insert the following:

And also provided, That by May 31, 1996, the State Department will report to the President and to Congress on potential cost savings generated by extending foreign service officer tours of duty in nations for which the State Department requires two-year language study programs, but specifically including China, Korea, and Japan. This study should consider extending terms on the following basis: junior officers from the current two year maximum term to a three-year tour; and mid to senior foreign service officers from the current three year minimum term to four year minimum with a possible employee-initiated one year extension.

AMENDMENT NO. 2831

At the appropriate place, insert the following:

SEC. ___. ENERGY SAVINGS AT FEDERAL FACILITIES.

(a) REDUCTION IN FACILITIES ENERGY COSTS.—

(1) IN GENERAL.—The head of each agency for which funds are made available under this Act shall—

(A) take all actions necessary to achieve during fiscal year 1996 a 5 percent reduction, from fiscal year 1995 levels, in the energy costs of the facilities used by the agency; or

(B) enter into a sufficient number of energy savings performance contracts with private sector energy service companies under

title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) to achieve during fiscal year 1996 at least a 5 percent reduction, from fiscal year 1995 levels, in the energy use of the facilities used by the agency.

(2) GOAL.—The activities described in paragraph (1) should be a key component of agency programs that will by the year 2000 result in a 20 percent reduction, from fiscal year 1985 levels, in the energy use of the facilities used by the agency, as required by section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) USE OF COST SAVINGS.—An amount equal to the amount of cost savings realized by an agency under subsection (a) shall remain available for obligation through the end of fiscal year 2000, without further authorization or appropriation, as follows:

(1) CONSERVATION MEASURES.—Fifty percent of the amount shall remain available for the implementation of additional energy conservation measures and for water conservation measures at such facilities used by the agency as are designated by the head of the agency.

(2) OTHER PURPOSES.—Fifty percent of the amount shall remain available for use by the agency for such purposes as are designated by the head of the agency, consistent with applicable law.

(c) REPORTS.—

(1) BY AGENCY HEADS.—The head of each agency for which funds are made available under this Act shall include in each report of the agency to the Secretary of Energy under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)) a description of the results of the activities carried out under subsection (a) and recommendations concerning how to further reduce energy costs and energy consumption in the future.

(2) BY SECRETARY OF ENERGY.—The reports required under paragraph (1) shall be included in the annual reports required to be submitted to Congress by the Secretary of Energy under section 548(b) of the Act (42 U.S.C. 8258(b)).

(3) CONTENTS.—With respect to the period since the date of the preceding report, a report under paragraph (1) or (2) shall—

(A) specify the total energy costs of the facilities used by the agency;

(B) identify the reductions achieved;

(C) specify the actions that resulted in the reductions;

(D) with respect to the procurement procedures of the agency, specify what actions have been taken to—

(i) implement the procurement authorities provided by subsections (a) and (c) of section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256); and

(ii) incorporate directly, or by reference, the requirements of the regulations issued by the Secretary of Energy under title VIII of the Act (42 U.S.C. 8287 et seq.); and

(E) specify—

(i) the actions taken by the agency to achieve the goal specified in subsection (a)(2);

(ii) the procurement procedures and methods used by the agency under section 546(a)(2) of the Act (42 U.S.C. 8256(a)(2)); and

(iii) the number of energy savings performance contracts entered into by the agency under title VIII of the Act (42 U.S.C. 8287 et seq.).

HATFIELD (AND OTHERS) AMENDMENT NO. 2832

(Ordered to lie on the table.)

Mr. HATFIELD (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. BUMPERS, Mr. HARKIN, and Mr. PELL) submitted an amendment intended to be proposed by them to the bill H.R. 2076, supra, as follows:

On page 162, between lines 6 and 7, insert the following new title:

TITLE VIII—CODE OF CONDUCT ON ARMS TRANSFERS

SEC. 801. SHORT TITLE.

This title may be cited as the "Code of Conduct on Arms Transfers Act of 1995".

SEC. 802. FINDINGS.

The Congress finds the following:

(1) Approximately 40,000,000 people, over 75 percent civilians, died as a result of civil and international wars fought with conventional weapons during the 45 years of the Cold War, demonstrating that conventional weapons can in fact be weapons of mass destruction.

(2) Conflict has actually increased in the post-Cold War era, with 34 major wars in progress during 1993.

(3) War is both a human tragedy and an ongoing economic disaster affecting the entire world, including the United States and its economy, because it decimates both local investment and potential export markets.

(4) International trade in conventional weapons increases the risk and impact of war in an already over-militarized world, creating far more costs than benefits for the United States economy through increased United States defense and foreign assistance spending and reduced demand for United States civilian exports.

(5) The newly established United Nations Register of Conventional Arms can be an effective first step in support of limitations on the supply of conventional weapons to developing countries, and compliance with its reporting requirements by a foreign government can be an integral tool in determining the worthiness of such government for the receipts of United States military assistance and arms transfers.

(6) It is in the national security and economic interests of the United States to reduce dramatically the $1,038,000,000,000 that all countries spend on armed forces every year, $242,000,000,000 of which is spent by developing countries, an amount equivalent to 4 times the total bilateral and multilateral foreign assistance such countries receive every year.

(7) According to the Congressional Research Service of the Library of Congress, the United States supplies more conventional weapons to developing countries than all other countries combined, averaging $14,956,000,000 each year in agreements to supply such weapons to developing countries since the end of the Cold War, compared to $7,300,000,000 each year in such agreements prior to the dissolution of the Soviet Union.

(8) In recent years the vast majority of United States arms transfers to developing countries are to countries with an undemocratic form of government whose citizens, according to the Department of State Country Reports on Human Rights Practices do not have the ability to peaceably change their form of government.

(9) Although a goal of United States foreign policy should be to work with foreign governments and international organizations to reduce militarization and dictatorship and therefore prevent conflicts before they arise, during 4 recent deployments of United States Armed Forces—to the Republic of Panama, the Persian Gulf, Somalia, and Haiti—the Armed Forces faced conventional weapons that had been provided or financed by the United States to undemocratic governments.

(10) The proliferation of conventional arms and conflicts around the globe is a multilateral problem, and the fact that the United States has emerged as the world's primary seller of conventional weapons, together with the world leadership role of the United States, signifies that the United States is in a position to seek multilateral restraints on the competition for and transfers of conventional weapons.

(11) The Congress has the constitutional responsibility to participate with the executive branch of Government in decisions to provide military assistance and arms transfers to a foreign government, and in the formulation of a policy designed to reduce dramatically the level of international militarization.

(12) A decision to provide military assistance and arms transfers to a government that is undemocratic, does not adequately protect human rights, is currently engaged in acts of armed aggression, or is not fully participating in the United Nations Register of Conventional Arms, should require a higher level of scrutiny than does a decision to provide such assistance and arms transfers to a government to which these conditions do not apply.

SEC. 803. PURPOSE.

The purpose of this title is to provide clear policy guidelines and congressional responsibility for determining the eligibility of foreign governments to be considered for United States military assistance and arms transfers.

SEC. 804. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS TO CERTAIN FOREIGN GOVERNMENTS.

(a) PROHIBITION.—Except as provided in subsections (b) and (c), no funds may be made available under any provision of law to provide United States military assistance or arms transfers to a foreign government for a fiscal year unless the President certifies to the Congress for that fiscal year that such government meets the following requirements:

(1) PROMOTES DEMOCRACY.—Such government—

(A) was chosen by and permits free and fair elections;

(B) promotes civilian control of the military and security forces and has civilian institutions controlling the policy, operation, and spending of all law enforcement and security institutions, as well as the armed forces;

(C) promotes the rule of law, equality before the law, and respect for individual and minority rights, including freedom to speak, publish, associate, and organize; and

(D) promotes the strengthening of political, legislative, and civil institutions of democracy, as well as autonomous institutions to monitor the conduct of public officials and to combat corruption.

(2) RESPECTS HUMAN RIGHTS.—Such government—

(A) does not engage in gross violations of internationally recognized human rights, including—

(i) extrajudicial or arbitrary executions;

(ii) disappearances;

(iii) torture or severe mistreatment;

(iv) prolonged arbitrary imprisonment;

(v) systematic official discrimination on the basis of race, ethnicity, religion, gender, national origin, or political affiliation; and

(vi) grave breaches of international laws of war or equivalent violations of the laws of war in internal conflicts;

(B) vigorously investigates, disciplines, and prosecutes those responsible for gross violations of internationally recognized human rights;

(C) permits access on a regular basis to political prisoners by international humanitarian organizations such as the International Committee of the Red Cross;

(D) promotes the independence of the judiciary and other official bodies that oversee the protection of human rights;

(E) does not impede the free functioning of domestic and international human rights organizations; and

(F) provides access on a regular basis to humanitarian organizations in situations of conflict or famine.

(3) NOT ENGAGED IN CERTAIN ACTS OF ARMED AGGRESSION.—Such government is not currently engaged in acts of armed aggression in violation of international law.

(4) FULL PARTICIPATION IN UNITED NATIONS REGISTER OF CONVENTIONAL ARMS.—Such government is fully participating in the United Nations Register of Conventional Arms.

(b) REQUIREMENT FOR CONTINUING COMPLIANCE.—Any certification with respect to a foreign government for a fiscal year under subsection (a) shall cease to be effective for that fiscal year if the President certifies to the Congress that such government has not continued to comply with the requirements contained in paragraphs (1) through (4) of such subsection.

(c) EXEMPTION.—The prohibition contained in subsection (a) shall not apply with respect to a foreign government for a fiscal year if—

(1) the President submits a request for an exemption to the Congress containing a determination that it is in the national security interest of the United States to provide military assistance and arms transfers to such government; and

(2) the Congress enacts a law approving such exemption request.

(d) NOTIFICATION TO CONGRESS.—The President shall submit to the Congress initial certifications under subsection (a) and requests for exemptions under subsection (c) in conjunction with the submission of the annual request for enactment of authorizations and appropriations for foreign assistance programs for a fiscal year and shall, where appropriate, submit additional or amended certifications and requests for exemptions at any time thereafter in the fiscal year.

SEC. 805. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate should hold hearings on controversial certifications submitted under section 804(a) and all requests for exemptions submitted under section 804(c).

SEC. 806. UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS DEFINED.

For purposes of this title, the terms "United States military assistance and arms transfers" and "military assistance and arms transfers" means—

(1) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance), including the transfer of excess defense articles under sections 516 through 519 of that Act;

(2) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training);

(3) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act; or

(4) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act, including defense articles and defense services licensed or approved for export under section 38 of that Act.

HELMS AMENDMENTS NOS. 2833–2837

(Ordered to lie on the table.)

Mr. HELMS submitted five amendments intended to be proposed by him to the bill H.R. 2076, supra, as follows:

AMENDMENT NO. 2833

In lieu of the matter proposed to be inserted by the amendment, insert the following: "':*Provided*, That none of the funds appropriated or otherwise made available under this heading may be available to carry out any purpose other than—

"(1) the abolition of the United States Arms Control and Disarmament Agency on a date which is not later than 60 days after the date of enactment of this Act,

"(2) the transfer to the Secretary of State prior to the abolition of the Agency of all functions vested by law in, or exercised by, the Director of the Agency, the Agency itself, or any officer, employee, or component thereof, immediately prior to the date of transfer, and

"(3) the transfer to the Secretary of State prior to the abolition of the Agency of all personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances or appropriations and other funds employed, used, held, arising from, available to, and to be made available in connection with, functions transferred under paragraph (2).".

AMENDMENT NO. 2834

On page 110, between lines 2 and 3, insert the following new section:

SEC. 405. PROHIBITION ON PROVISION OF UNITED STATES ARMED FORCES TO UNITED NATIONS OPERATIONS.

Section 628 of the Foreign Assistance Act of 1961 shall not apply to the detail, assignment, or other availability of forces of the Armed Forces of the United States to the United Nations or United Nations-related activities, including United Nations peacekeeping activities.

AMENDMENT NO. 2835

On page 110, between lines 2 and 3, insert the following new section:

SEC. . PLAN FOR CONSOLIDATION OF FUNCTIONS OF THE INDEPENDENT FOREIGN AFFAIRS AGENCIES.

(a) WITHHOLDING OF FUNDS.—Of the funds appropriated or otherwise made available in this title—

(1) $36,327,600 for "SALARIES AND EXPENSES" of the Department of State,

(2) $44,564,500 for "SALARIES AND EXPENSES" of the United States Information Agency, and

(3) $4,000,000 for "SALARIES AND EXPENSES" of the United States Arms Control and Disarmament Agency, shall be available only after—

(A) a plan that merges and consolidates the functions and activities of the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency into the Department of State or other appropriate agencies has been submitted to Congress in accordance with subsection (c), and

(B) the Congress has not enacted a joint resolution disapproving the plan in accordance with subsection (d).

(b) RESTRICTION ON SALARIES AND EXPENSES.—None of the funds appropriated or otherwise made available in this title may be expended to finance salaries and expenses for the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency except in accordance with the terms and requirements of sections 402 and sections 605 of this Act.

(c) ADDITIONAL REQUIREMENTS.—A plan described in subsection (a) is a plan—

(1) which is submitted by the President to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives within 60 days of the date of enactment of this Act; and

(2) which contains a certification and accounting by the Director of the Office of Management and Budget that the Director estimates the plan will provide for a savings in budgetary authority in the major budget functional category 150 (relating to international affairs) $2,700,000,000 during the period beginning October 1, 1995 and ending September 30, 1999.

(d) CONSIDERATION OF PLANS.—Any such plan submitted under subsection (c)(1) shall be considered under the procedures of subsections (c), (d), (e), (f), and (g) of section 2908 of Public Law 101–510, except that—

(1) any reference therein to a resolution shall apply to a joint resolution introduced into a House of Congress by the Majority Leader of that House proposing the plan;

(2) the 20-day period referred to in section 2908(c) shall commence on the date the joint resolution is introduced;

(3) one germane floor amendment shall be in order, and debate thereon limited to one hour, equally divided in the usual form;

(4) section 2908(e) shall apply only if the text of the joint resolutions of each House are identical;

(5) if they are not identical, debate on any motion to resolve differences between the Houses and any conference report on such joint resolution shall be limited to one hour; and

(6) debate on any veto message on such joint resolution shall be limited to one hour.

AMENDMENT NO. 2836

On page 95, after line 7, before the period at the end of the line insert the following provisos: ": *Provided further*, That of the funds appropriated or otherwise made available in this paragraph, $36,327,600 shall be available only after a plan that merges and consolidates the functions and activities of the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency into the Department of State or other appropriate agencies has been submitted to Congress, and not disapproved by statutory enactment, in accordance with this paragraph: *Provided further*, That none of the funds appropriated under this title may be expended to finance salaries and expenses for the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency except in accordance with the terms and requirements of sections 402 and sections 605 of this Act: *Provided further*, That such a plan shall be submitted to the Committees on Appropriations and on Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives: *Provided further*, That the

President shall submit such plan within 60 days of the date of enactment of this Act: *Provided further*, That the President's plan shall provide for a budgetary savings in the major budget functional category 150 (relating to international affairs) $2,700,000,000 during the period beginning October 1, 1995 and ending September 30, 1999. *Provided further*, That these savings shall be accounted for and certified by the Director of the Office of the Management and Budget at the time the plan is submitted: *Provided further*, That any such plan submitted under this paragraph shall be considered under the procedures of subsections (c), (d), (e), (f), and (g) of section 2908 of Public Law 101-510, except for the following conditions: That any reference therein to a resolution shall apply to the joint resolution introduced by the Majority Leaders of each House proposing the plan; the 20-day period referred to in section 2908(c) shall commence on the date the joint resolution is introduced; one germane floor amendment shall be in order, and debate thereon limited to one hour, equally divided in the usual form; section 2908(e) shall apply only if the text of the joint resolutions of each House are identical; if they are not identical, debate on any motion to resolve differences between the Houses and any conference report on such joint resolution shall be limited to one hour; and debate on any veto message on such joint resolution shall be limited to one hour".

AMENDMENT NO. 2837

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

SEC. . EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY CLAIMED BY NATIONALS OF THE UNITED STATES.

(a) LIMITATION.—(1) Subject to subsection (b), none of the funds appropriated or otherwise made available by this Act or any other Act for any fiscal year shall be made available for the issuance of a visa to, or the admission to the United States of, any alien who has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a national of the United States, or converts or has converted for personal gain confiscated property the claim to which is owned by a national of the United States.

(2) Nothing in this subsection may be construed or applied as inconsistent with the North American Free Trade Agreement, the General Agreement on Tariffs and Trade, or any other applicable international agreement.

(b) EXCEPTIONS.—Subsection (a) shall not apply to claims arising from territory in dispute as a result of war between United Nations member states in which the ultimate resolution of the disputed territory has not been resolved.

(c) REPORT REQUIREMENT.—(1) The United States Embassy in each country shall provide the Secretary of State with a list of foreign nationals in that country who have confiscated properties of United States citizens and have not fully resolved the cases with the United States citizens.

(2) No later than six months after the date of the enactment of this Act, the Secretary of State shall submit each list provided under paragraph (1) to the appropriate congressional committees.

(3) Not later than one year after the date of the enactment of this Act, and not later than February 1 of each year thereafter, the Secretary of State shall submit to the appropriate congressional committees a list of foreign nationals denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of foreign nationals refused entry to the United States, as a result of this section.

HATCH (AND OTHERS) AMENDMENT NO. 2838

Mr. HATCH (for himself, Mr. DOLE, Mr. REID, Mr. THURMOND, Mr. SPECTER, Mr. KYL, Mr. ABRAHAM, Mrs. HUTCHISON, Mr. GRAMM, Mr. SANTORUM, Mr. GRASSLEY, Mr. BROWN, Mr. D'AMATO, Mr. MCCONNELL, and Mr. HELMS) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place, insert the following new title:

TITLE VIII—PRISON LITIGATION REFORM

SEC. 801. SHORT TITLE.

This title may be cited as the "Prison Litigation Reform Act of 1995".

SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

"§ 3626. Appropriate remedies with respect to prison conditions

"(a) REQUIREMENTS FOR RELIEF.—

"(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

"(B) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

"(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

"(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

"(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

"(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

"(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

"(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The court shall enter a prisoner release order only if the court finds—

"(i) by clear and convincing evidence—

"(I) that crowding is the primary cause of the violation of a Federal right; and

"(II) that no other relief will remedy the violation of the Federal right; and

"(ii) by a preponderance of the evidence—

"(I) that crowding has deprived a particular plaintiff or plaintiffs of at least one essential, identifiable human need; and

"(II) that prison officials have acted with obduracy and wantonness in depriving the particular plaintiff or plaintiffs of the one essential, identifiable human need caused by the crowding.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that

the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy for breach of contract available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under subsection (b)(4); and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a disinterested and objective special master, who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Federal Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) shall make any findings based on the record as a whole;

"(B) shall not make any findings or communications ex parte; and

"(C) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages; and

"(8) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.".

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions.".

SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section.".

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by striking "his" and inserting "the Attorney General's"; and

(2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section.".

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section.".

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

"SEC. 7. SUITS BY PRISONERS.

"(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

"(B) the amount of the fee is proportionately related to the court ordered relief for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is greater than 25 percent of the judgment, the excess shall be paid by the defendant.

"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone or video conference without removing the prisoner from the facility in which the prisoner is confined.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may, in its discretion, require any defendant to reply to a complaint commenced under this section.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Any" and inserting "(a)(1) Subject to subsection (b), any";

(B) by striking "and costs";

(C) by striking "makes affidavit" and inserting "submits an affidavit";

(D) by striking "such costs" and inserting "such fees";

(E) by striking "he" each place it appears and inserting "the person";

(F) by adding immediately after paragraph (1), the following new paragraph:

"(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined."; and

(G) by striking "An appeal" and inserting "(3) An appeal";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess, and when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

"(A) the average monthly deposits to the prisoner's account; or

"(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

"(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

"(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

"(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.";

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief.".

(b) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

(3) by adding at the end the following new paragraph:

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.".

(c) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.".

(d) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

SEC. 805. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

"§ 1915A. Screening

"(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

"(b) GROUNDS FOR DISMISSAL.—On review, the court shall dismiss the complaint, or any portion of the complaint, if the complaint—

"(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

"(2) seeks monetary relief from a defendant who is immune from such relief.

"(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States

Code, is amended by inserting after the item relating to section 1915 the following new item:

"1915A. Screening.".

SEC. 806. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.".

SEC. 807. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1932. Revocation of earned release credit

"In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed solely to harass the party against which it was filed; or

"(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

"1932. Revocation of earned release credit.".

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking "A prisoner" and inserting "Subject to paragraph (2), a prisoner";

(ii) by striking "for a crime of violence,"; and

(iii) by striking "such";

(C) in the third sentence, by striking "If the Bureau" and inserting "Subject to paragraph (2), if the Bureau";

(D) by striking the fourth sentence and inserting the following: "In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree."; and

(E) in the sixth sentence, by striking "Credit for the last" and inserting "Subject to paragraph (2), credit for the last"; and

(2) by amending paragraph (2) to read as follows:

"(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.".

HELMS AMENDMENT NO. 2839

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 2076, supra, as follows:

In the paragraph under the heading "ARMS CONTROL AND DISARMAMENT ACTIVITIES", strike all after "$——" and insert the following: ": *Provided*, That none of the funds appropriated or otherwise made available under this heading may be available to carry out any purpose other than—

"(1) the abolition of the United States Arms Control and Disarmament Agency on a date which is not later than 90 days after the date of enactment of this Act,

"(2) the transfer to the Secretary of State prior to the abolition of the Agency of all functions vested by law in, or exercised by, the Director of the Agency, the Agency itself, or any officer, employee, or component thereof, immediately prior to the date of transfer, and

"(3) the transfer to the Secretary of State prior to the abolition of the Agency of all personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations and other funds employed, used, held, arising from, available to, and to be made available in connection with, functions transferred under paragraph (2).".

BRYAN (AND OTHERS) AMENDMENT NO. 2840

Mr. BRYAN (for himself, Mr. BURNS Mr. HOLLINGS, Mr. MCCONNELL, Mr. INOUYE, Mr. AKAKA, Mr. GRAHAM, Mr. MURKOWSKI, Mr. REID, Mr. BREAUX, Mr. DASCHLE, Mrs. BOXER, Mr. PRESSLER, and Mr. THURMOND.

At the appropriate place, insert the following:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, for implementing the recommendations from the White House Conference on Travel and Tourism and for carrying out the transition of that Administration into a public-private partnership, $12,000,000, to be transferred from the amount for deposit in the Commerce Reorganization Transition Fund (established under section 206(c)(1) of this title) that is made available in the item under the heading "COMMERCE REORGANIZATION TRANSITION FUND" under the heading "GENERAL ADMINISTRATION" under this title, notwithstanding any other provision of law.

SPECTER (AND OTHERS) AMENDMENT NO. 2841

Mr. SPECTER (for himself, Mr. COHEN, Mr. JEFFORDS, Ms. SNOWE, and Ms. MIKULSKI) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 34, strike lines 1 through 7.

GREGG (AND OTHERS) AMENDMENT NO. 2842

Mr. GREGG (for himself, Mr. LIEBERMAN, Mr. DOMENICI, Mr. D'AMATO, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place insert the following:

It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peacekeeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

KOHL (AND OTHERS) AMENDMENT NO. 2843

Mr. KOHL (for himself, Mr. COHEN, and Mr. KERRY) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 15, line 16, strike "$282,500,000" and insert "$202,500,000".

On page 15, line 23, strike "$168,280,000" and insert "$88,280,000".

On page 25, line 19, strike "$100,900,000" and insert "$130,900,000".

On page 25, line 22, insert "$30,000,000 shall be for the Local Crime Prevention Block Grant Program, as authorized by section 30201 of the Violent Crime Control and Law Enforcement Act of 1994;" before "$4,250,000".

On page 27, line 5, strike "$50,000,000" and insert "$30,000,000".

On page 27, between lines 17 and 18, insert the following:

"To carry out chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, $50,000,000, which shall be derived from the Violent Crime Reduction Trust Fund.

On page 30, line 20, strike "$23,500,000" and insert "$43,500,000".

On page 30, line 20, strike "$13,500,000" and insert "$43,500,000".

On page 30, lines 23 through 25, strike "and $10,000,000 shall be derived from discretionary grants provided under part C of title II of the Juvenile Justice and Delinquency Prevention Act" and insert "funded by the Violent Crime Reduction Trust Fund".

On page 31, line 26, strike "$144,000,000" and insert "$164,000,000".

On page 32, line 5, strike "$10,000,000" and insert "$30,000,000".

On page 32, line 8, strike "gangs;" and insert "gangs, of which $20,000,000 shall be derived from the discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs funded by the Violent Crime Reduction Trust Fund;"

On page 64, between lines 22 and 23, insert the following new section:

SEC. 121. EVALUATION OF CRIME PREVENTION PROGRAMS AND DEVELOPMENT OF NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY

(a) EVALUATION OF CRIME PREVENTION PROGRAMS.—The Attorney General shall provide, directly or through grants and contracts, for the comprehensive and thorough evaluation of the effectiveness of the following programs funded by this title:

(1) The Local Crime Prevention Block Grant program under subtitle B of title III of the Violent Crime Control and Law Enforcement Act of 1994.

(2) The Weed and Seed Program.

(3) The Youth Gangs Program under part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) NATIONAL CRIME PREVENTION RESEARCH AND EVALUATION STRATEGY.—

(1) STRATEGY.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall formulate and publish a unified national crime prevention research and evaluation strategy that will result in timely reports to Congress and to State and local governments regarding the impact and effectiveness of the crime and violence prevention initiatives described in subsection (a).

(2) STUDIES.—Consistent with the strategy developed pursuant to paragraph (1), the Attorney General may use crime prevention research and evaluation funds reserved under subsection (e) to conduct studies and demonstrations regarding the effectiveness of crime prevention programs and strategies that are designed to achieve the same purposes as the programs under this section, without regard to whether such programs receive Federal funding.

(c) EVALUATION AND RESEARCH CRITERIA.—

(1) INDEPENDENT EVALUATIONS AND RESEARCH.—Evaluations and research studies conducted pursuant to this section shall be independent in nature, and shall employ rigorous and scientifically recognized standards and methodologies.

(2) CONTENT OF EVALUATIONS.—Evaluations conducted pursuant to this section shall include measures of—

(A) reductions in delinquency, juvenile crime, youth gang activity, youth substance abuse, and other high risk-factors;

(B) reductions in risk factors in young people that contribute to juvenile violence, including academic failure, excessive school absenteeism, and dropping out of school;

(C) reductions in risk factors in the community, schools, and family environments that contribute to juvenile violence; and

(D) the increase in the protective factors that reduce the likelihood of delinquency and criminal behavior.

(d) COMPLIANCE WITH EVALUATION MANDATE.—The Attorney General may require the recipients of Federal assistance under this Act to collect, maintain, and report information considered to be relevant to any evaluation conducted pursuant to subsection (a), and to conduct and participate in specified evaluation and assessment activities and functions.

(e) RESERVATION OF FUNDS FOR EVALUATION AND RESEARCH

(1) IN GENERAL.—The Attorney General shall reserve not less than 2 percent, and not more than 3 percent, of the amounts appropriated to carry out the programs described in subsection (a) in each fiscal year to carry out the evaluation and research required by this section.

(2) ASSISTANCE TO GRANTEES AND EVALUATED PROGRAMS.—To facilitate the conduct and defray the costs of crime prevention program evaluation and research, the Attorney General shall use funds reserved under this subsection to provide compliance assistance to—

(A) grantees under this programs described in subsection (a) who are selected to participate in evaluations pursuant to subsection (d); and

(B) other agencies and organizations that are requested to participate in evaluations and research pursuant to subsection (b)(2).

GRASSLEY (AND KYL) AMENDMENT NO. 2844

Mr. GRASSLEY (for himself and Mr. KYL) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 92, insert between lines 13 and 14 the following new sections:

SEC. 305. (a) Notwithstanding any other provision of law, none of the funds made available under this title shall be used for any conference or meeting authorized under section 333 of title 28, United States Code, if such conference or meeting takes place at a location outside the geographic boundaries of the circuit court of appeals over which the chief judge presides, except in the case of the Court of Appeals for the District of Columbia Circuit, which shall be permitted to host conferences or meetings within a 50 mile radius of the District of Columbia without regard to the geographic boundaries of the circuit.

(b) Of the funds appropriated under this title, no circuit shall receive more than $100,000 for conferences convened under section 333 of title 28, United States Code, during any year.

SEC. 306. (a) Section 333 of title 28, United States Code, is amended—

(1) in the first paragraph, by striking "shall" the first, second, and fourth place it appears and inserting "may"; and

(2) in the second paragraph—

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking ", and unless excused by the chief judge, shall remain throughout the conference".

(b) In the interest of saving taxpayer dollars and reducing the cost of Government, it is the sense of the Senate that the chief judges of the various United States circuit courts should use new communications technologies to conduct judicial conferences.

(c) This section shall apply only to contracts entered into after the date of enactment of this Act.

BUMPERS (AND OTHERS) AMENDMENT NO. 2845

Mr. BUMPERS (for himself, Mr. BROWN, and Mr. DORGAN) proposed an amendment to the bill H.R. 2076, supra, as follows:

At page 116, strike lines 3 through 7.

THE ACCELERATED CLEANUP AND ENVIRONMENTAL RESTORATION ACT OF 1995

SMITH (AND OTHERS) AMENDMENT NO. 2846

(Ordered referred to the Committee on Environment and Public Works.)

Mr. SMITH (for himself, Mr. CHAFEE, Mr. INHOFE, Mr. KEMPTHORNE, Mr. FAIRCLOTH, Mr. BOND Mr. THOMAS, Mr. MCCONNELL, Mr. WARNER, Mr. LOTT, and Mr. GREGG) submitted an amendment intended to be proposed by them to the bill (S. 1285) to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purposes, as follows:

At the end of title IX, add the following:

Subtitle B—Amendments to the Internal Revenue Code of 1986

SEC. 911. 5-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) EXTENSION OF TAXES.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "January 1, 1996" each place it appears and inserting "January 1, 2001":

(A) Section 59A(e)(1) (relating to application of environmental tax).

(B) Paragraphs (1) and (3) of section 4611(e) (relating to application of Hazardous Substance Superfund financing rate).

(2) Paragraph (2) of section 4611(e) of such Code is amended—

(A) by striking "1993" and inserting "1998";

(B) by striking "1994" each place it appears and inserting "1999"; and

(C) by striking "1995" each place it appears and inserting "2000".

(b) INCREASE IN AGGREGATE TAX WHICH MAY BE COLLECTED.—Paragraph (3) of section 4611(e) of such Code is amended by striking "$11,970,000,000" each place it appears and inserting "$22,000,000,000" and by striking "December 31, 1995" and inserting "December 31, 2000".

(c) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking "December 31, 1995" and inserting "December 31, 2000".

(d) EXTENSION OF TRUST FUND PURPOSES.—Subparagraph (A) of section 9507(c)(1) of such Code is amended—

(1) by striking clause (i) and inserting the following:

"(i) paragraphs (1), (2), (5), (6), (7), and (8) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Act of 1995,"; and

(2) by striking clause (iii) and inserting the following:

"(iii) subsections (m), (n), (q), (r), and (s) of section 111 of CERCLA (as so in effect), or".

(e) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS TO TRUST FUND.—Subsection (b) of section 517 of the Superfund Revenue Act of 1986 (26 U.S.C. 9507 note) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a comma, and by adding at the end the following new paragraphs:

"(10) 1996, $250,000,000,

"(11) 1997, $250,000,000,

"(12) 1998, $250,000,000,

"(13) 1999, $250,000,000, and

"(14) 2000, $250,000,000."

(f) COORDINATION WITH OTHER PROVISIONS.—Paragraph (2) of section 9507(e) of the Internal Revenue Code of 1986 is amended by striking "CERCLA" and all that follows through "Acts)" and inserting "CERCLA, the Superfund Amendments and Reauthorization Act of 1986, and the Accelerated Cleanup and Environmental Restoration Act of 1995 (or in any amendment made by any of such Acts)".

SEC. 912. CREDIT FOR CERTAIN EXPENDITURES FOR ENVIRONMENTAL RESPONSE ACTIONS.

(a) CREDIT ALLOWED.—Section 38(b) of the Internal Revenue Code of 1986 (defining current year business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:

"(12) the environmental response expenditures credit determined under section 45C."

(b) ENVIRONMENTAL RESPONSE EXPENDITURES CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of such Code (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45C. ENVIRONMENTAL RESPONSE EXPENDITURES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the environmental response expenditures credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified environmental expenditures paid or incurred by the taxpayer during the taxable year.

"(b) QUALIFIED ENVIRONMENTAL EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified environmental expenditures' means expenditures which are—

"(A) incurred in connection with environmental response actions at a mandatory allocation facility for pre-December 11, 1980 activity, and

"(B)(i) described in subparagraph (A), (B), or (D) of section 107(a)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)), including interest to the extent provided in such section, or

"(ii) incurred to comply with an administrative order or judicial injunction under section 106 of such Act (42 U.S.C. 9606).

"(2) DEFINITIONS.—

"(A) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' has the meaning stated in section 132(a) of such Act.

"(B) PRE-DECEMBER 11, 1980 ACTIVITY.—The term 'pre-December 11, 1980 activity' refers to activity prior to December 11, 1980, with respect to a mandatory allocation facility for which an allocation share is determined under section 132(j)(6)(B) of such Act.

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(c) CREDIT ALLOWED AGAINST 90 PERCENT OF MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) ENVIRONMENTAL RESPONSE CREDITS MAY OFFSET 90 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the environmental response credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) 10 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the environmental response credit).

"(B) ENVIRONMENTAL RESPONSE CREDIT.—For purposes of this subsection, the term 'environmental response credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 45C(a)."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting "or the environmental response credit" after "employment credit".

(d) DEDUCTION ALLOWED FOR UNUSED CREDIT.—Section 196(c) of such Code (defining qualified business credits) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) the onvironmental response expenditures credit determined under section 45C(a)."

(e) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45C. Environmental response expenditures credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

THE DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1996

ABRAHAM (AND HATCH) AMENDMENT NO. 2847

Mr. GRAMM (for Mr. ABRAHAM for himself and Mr. HATCH) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

BIDEN (AND HOLLINGS) AMENDMENT NO. 2848

Mr. GRAMM (for Mr. BIDEN for himself and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2076, supra, as follows:

On the Committee amendment on page 28, line 8, after "for" delete "State and Local Law Enforcement Assistance Block grants pursuant to Title I of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by Section 114 of this Act);" and insert "Public Safety Partnership and Community Policing pursuant to Title I of the Violent Crime Control and Law Enforcement Act of 1994;".

On the Committee amendment on page 38, line 3, delete all after SEC. 114." through to "local sources." on page 43, line 20.

BINGAMAN AMENDMENT NO. 2849

Mr. GRAMM (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 2076, supra, as follows:

AMENDMENT NO. 2849

(Purpose: To reduce the energy costs of Federal facilities for which funds are made available under this Act)

At the appropriate place, insert the following:

SEC. ___. ENERGY SAVINGS AT FEDERAL FACILITIES.

(a) REDUCTION IN FACILITIES ENERGY COSTS.—

(1) IN GENERAL.—The head of each agency for which funds are made available under this Act shall—

(A) take all actions necessary to achieve during fiscal year 1996 a 5 percent reduction, from fiscal year 1995 levels, in the energy costs of the facilities used by the agency; or

(B) enter into a sufficient number of energy savings performance contracts with private sector energy service companies under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) to achieve during fiscal year 1996 at least a 5 percent reduction, from fiscal year 1995 levels, in the energy use of the facilities used by the agency.

(2) GOAL.—The activities described in paragraph (1) should be a key component of agency programs that will by the year 2000 result in a 20 percent reduction, from fiscal year 1985 levels, in the energy use of the facilities used by the agency, as required by section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) USE OF COST SAVINGS.—An amount equal to the amount of cost savings realized by an agency under subsection (a) shall remain available for obligation through the end of fiscal year 2000, without further authorization or appropriation, as follows:

(1) CONSERVATION MEASURES.—Fifty percent of the amount shall remain available for the implementation of additional energy conservation measures and for water conservation measures at such facilities used by the agency as are designated by the head of the agency.

(2) OTHER PURPOSES.—Fifty percent of the amount shall remain available for use by the agency for such purposes as are designated by the head of the agency, consistent with applicable law.

(c) REPORTS.—

(1) BY AGENCY HEADS.—The head of each agency for which funds are made available under this Act shall include in each report of the agency to the Secretary of Energy under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)) a description of the results of the activities carried out under subsection (a) and recommendations concerning how to further reduce energy costs and energy consumption in the future.

(2) BY SECRETARY OF ENERGY.—The reports required under paragraph (1) shall be included in the annual reports required to be submitted to Congress by the Secretary of Energy under section 548(b) of the Act (42 U.S.C. 8258(b)).

(3) CONTENTS.—With respect to the period since the date of the preceding report, a report under paragraph (1) or (2) shall—

(A) specify the total energy costs of the facilities used by the agency;

(B) identify the reductions achieved;

(C) specify the actions that resulted in the reductions;

(D) with respect to the procurement procedures of the agency, specify what actions have been taken to—

(i) implement the procurement authorities provided by subsections (a) and (c) of section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256); and

(ii) incorporate directly, or by reference, the requirements of the regulations issued by the Secretary of Energy under title VIII of the Act (42 U.S.C. 8287 et seq.); and

(E) specify—

(i) the actions taken by the agency to achieve the goal specified in subsection (a)(2);

(ii) the procurement procedures and methods used by the agency under section 546(a)(2) of the Act (42 U.S.C. 8256(a)(2)); and

(iii) the number of energy savings performance contracts entered into by the agency under title VIII of the Act (42 U.S.C. 8287 et seq.).

BINGAMAN AMENDMENT NO. 2850

Mr. GRAMM (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 93, between lines 9 and 10, insert the following:

And also provided, That by May 31, 1996, the State Department will report to the President and to Congress on potential cost savings generated by extending foreign service officer tours of duty in nations for which the State Department requires two-year language study programs, but specifically including China, Korea, and Japan. This study should consider extending terms on the following basis: junior officers from the current two year maximum term to a three-year tour; and mid to senior foreign service officers from the current three year minimum term to four year minimum with a possible employee-initiated one year extension.

BOXER (AND OTHERS) AMENDMENT NO. 2851

Mr. GRAMM (for Mrs. BOXER for herself, Mr. CAMPBELL, and Mr. D'AMATO) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place in the bill, insert the following new section.

SEC. . REPORT ON THE DOPPLER WEATHER SURVEILLANCE RADAR.

(a) STUDY REQUIRED—The Secretary of Commerce shall conduct a study on the Doppler weather surveillance radar (WSR-88D). The study shall include the following elements:

(1) An analysis of the property value lost by property owners within 5 miles of the weather surveillance radar as a result of the construction of the weather surveillance radar.

(2) A statement of the cost of relocating a weather surveillance radar to another location in any case in which the Dept. has been asked to investigate such a relocation.

(b) REPORT—The Secretary shall submit to Congress a report on the study required under section (a) not later than 90 days after the date of enactment of this Act.

BROWN (AND OTHERS) AMENDMENT NO. 2852

Mr. GRAMM (for Mr. BROWN, Mr. KENNEDY, and Mr. KERREY) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place in the bill, add the following new section—

"SEC. . SENSE OF THE SENATE CONCERNING BOOK DONATIONS.

It is the Sense of the Senate that the United States should continue to provide logistic and warehouse support for non-governmental, non-profit organizations undertaking donated book programs abroad, including those organizations utilizing on-line information technologies to complement the traditional hard cover donation program."

COCHRAN AMENDMENT NO. 2853

Mr. GRAMM (for Mr. COCHRAN) proposed an amendment to the bill H.R. 2076, surpa, as follows:

At page 22, add the following at the end of line 9:

"*Provided further*, That no funds appropriated in this Act shall be used to privatize any federal prison facilities located in Forrest City, Arkansas, and Yazoo City, Mississippi."

BURNS AMENDMENT NO. 2854

Mr. GRAMM (for Mr. BURNS) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 74, 18, after "Fund", strike the period and insert the following: ", and of which $1,200,000 shall be available for continuation of the program to integrate energy efficient building technology with the use of structural materials made from underutilized or waste products."

COHEN (AND SNOWE) AMENDMENT NO. 2855

Mr. GRAMM (for Mr. COHEN for himself and Ms. SNOWE) proposed an amendment to the bill H.R. 2076, supra, as follows:

Page 117, line 5 is amended by inserting after "academies" and before the colon, the following: "and may be transferred to the Secretary of Interior for use as provided in the National Maritime Heritage Act (P.L. 103-451)."

COVERDELL (AND OTHERS) AMENDMENT NO. 2856

Mr. GRAMM (for Mr. COVERDELL for himself, Mr. DOLE, Mr. NUNN, Mr. STEVENS, and Mr. INOUYE) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 110, between lines 2 and 3, insert the following:

SEC. 405. FUNDS FOR THE TENTH PARALYMPIAD GAMES.

Of the aggregate amount appropriated under this title for the United States Information Agency under the headings "SALARIES AND EXPENSES", "EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS", and "INTERNATIONAL BROADCASTING OPERATIONS", $5,000,000 shall be available only for the Tenth Paralympiad games for individuals with disabilities, scheduled to be held in Atlanta, Georgia, in 1996, consistent with section 242 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note).

COVERDELL AMENDMENT NO. 2857

Mr. GRAMM (for Mr. COVERDELL) proposed an amendment to the bill H.R. 2076, supra, as follows:

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

SEC. . Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

DODD (AND HOLLINGS) AMENDMENT NO. 2858

Mr. GRAMM (for Mr. DODD for himself and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 29, line 7, strike "$750,000,000" and insert "$2,000,000 for the Ounce of Prevention Council pursuant to subtitle A of title III of the Violent Crime Control and Law Enforcement Act (Public Law 103-322); $748,000,000".

On page 102, line 12, strike "$5,550,000" and insert "$5,800,000".

On page 102, line 18, strike "$14,669,000" and insert "$15,119,000".

At the appropriate place in title IV, insert the following new section:

SEC. 4___. GREAT LAKES FISHERY COMMISSION.

Notwithstanding any other provision of law—

(1) the Department of State shall continue to carry out its authority, function, duty, and responsibility in the conduct of foreign affairs of the United States in connection with the Great Lakes Fishery Commission in the same manner as that Department has carried out that function, duty, and responsibility since the Convention on Great Lakes Fisheries between the United States and Canada entered into force on October 11, 1955; and

(2) the authority, function, duty, and responsibility of the Department of State referred to in paragraph (1) shall not be transferred to any other Federal agency or terminated during any fiscal year in which the Convention referred to in paragraph (1) is in force.

FEINSTEIN AMENDMENT NO. 2859

Mr. GRAMM (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 28, lines 22 and 23, strike "by section 501 of the Immigration Reform and Control Act of 1986" and insert "by section 242(j) of the Immigration and Nationality Act".

On page 64, between lines 22 and 23, insert the following:

SEC. 121. Notwithstanding any other provision of law, amounts appropriated for fiscal year 1996 under this Act to carry out section 242(j) of the Immigration and Nationality Act shall be allocated by the Attorney General in a manner which ensures that each eligible State and political subdivision of a State shall be reimbursed for their total aggregate costs for the incarceration of undocumented criminal aliens during fiscal years 1995 and 1996 at the same pro rata rate.

GORTON AMENDMENT NO. 2860

Mr. GRAMM (for Mr. GORTON) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 85, line 14, add the following new section:

SEC. 207. None of the funds appropriated under this Act or any other law shall be used to implement subsections (a), (b), (c), (e), (g), or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Act.

GRAHAM AMENDMENT NO. 2861

Mr. GRAMM (for Mr. GRAHAM) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 12, between lines 2 and 3, insert the following:

COMMUNITY RELATIONS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $10,638,000: *Provided*, That such additional funds as may be necessary for the resettlement of Cuban and Haitian entrants shall be available to the Community Relations Service, without fiscal year limitation, to be reimbursed from the Immigration Examinations Fee Account: *Provided further*, That, notwithstanding any other provision of this Act, the funds made available pursuant to this Act under the heading "Federal Bureau of Investigation, Salaries and Expenses," shall be reduced by $11,170,000.

On page 12, after line 2, insert the following:

COMMUNITY RELATIONS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $10,638,000: *Provided*, That such additional funds as may be necessary for the resettlement of Cuban and Haitian entrants shall be available to the Community Relations Service, without fiscal year limitation, to be reimbursed from the Immigration Examinations Fee Account: *Provided further*, That, notwithstanding any other provision of this Act, the funds made available pursuant to this Act under the heading "Federal Bureau of Investigation, Salaries and Expenses," shall be reduced by $11,170,000.

GRAHAM (AND OTHERS) AMENDMENT NO. 2862

Mr. GRAMM (for Mr. GRAHAM for himself, Mr. MACK, and Mr. SIMON) proposed an amendment to the bill H.R. 2076, supra, as follows:

Page 19, strike line 7 through line 17 and insert the following: *Provided further*, That the Office of Public Affairs at the Immigration Naturalization Service shall conduct its business in areas only relating to its central mission, including: research, analysis, and dissemination of information, through the media and other communications outlets, relating to the activities of the Immigration Naturalization Service: *Provided further*, That the Office of Congressional Relations at the Immigration and Naturalization Service conduct business in areas only relating to its central mission, including: providing services to Members of Congress relating to constituent inquiries and requests for information; and working with the relevant Congressional committees on proposed legislation affecting immigration matters.

HATCH (AND OTHERS) AMENDMENT NO. 2863

Mr. GRAMM (for Mr. HATCH for himself, Mr. MOYNIHAN, Mr. JEFFORDS, Mr. PELL, Mr. HARKIN, Mr. SARBANES, Mr. STEVENS, and Mr. CAMPBELL) proposed an amendment to the bill H.R. 2076, supra, as follows:

Before the period at the end of the paragraph under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS", insert the following: ": *Provided further*, That funds appropriated or otherwise made available under this heading may be available for the International Labor Organization".

HATCH AMENDMENT NO. 2864

Mr. GRAMM (for Mr. HATCH) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place insert:

SECTION 1. FUNDS TO TRANSPORTATION OF ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION.

Section 1344(b)(6) of title 31, United States Code, is amended to read as follows:

"(6) the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, and the Administrator of the Drug Enforcement Administration;".

HELMS (AND PELL) AMENDMENT NO. 2865

Mr. GRAMM (for Mr. HELMS for himself and Mr. PELL) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place insert:

Section 36(a)(1) of the State Department Authorities Act of 1956, as amended (22 U.S.C. 2708), is amended to delete "may pay a reward" and insert in lieu thereof "shall establish and publicize a program under which rewards may be paid".

HOLLINGS (AND OTHERS) AMENDMENT NO. 2866

Mr. GRAMM (for Mr. HOLLINGS for himself, Mr. ABRAHAM, Mr. LEVIN, Mr. LUGAR, Mr. GLENN, Mr. SIMON, Mr. KOHL, and Mr. LEAHY) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 76, line 20 strike "$55,500,000" and insert in lieu thereof "$62,000,000".

BURNS AMENDMENT NO. 2867

Mr. GRAMM (for Mr. BURNS) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 74, line 18, after "Fund", strike the period and insert the following: ", and of which $1,200,000 shall be available for continuation of the program to integrate energy efficient building technology with the use of structural materials made from underutilized or waste products.".

LEAHY (AND JEFFORDS) AMENDMENT NO. 2868

Mr. GRAMM (for Mr. LEAHY, for himself and Mr. JEFFORDS) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . TRANSFER OF TITLE TO THE RUTLAND CITY INDUSTRIAL COMPLEX.

Notwithstanding any other provision of law (including any regulation and including the Public Works and Economic Development Act of 1965), the transfer of title to the Rutland City Industrial Complex to Hilinex, Vermont (as related to Economic Development Administration Project Number 01-11-01742) shall not require compensation to the Federal Government for the fair share of the Federal Government of that real property.

MACK (AND GRAMM) AMENDMENT NO. 2869

Mr. GRAMM (for Mr. MACK, for himself and Mr. GRAMM) proposed an amendment to the bill H.R. 2076, supra; as follows:

Nothwithstanding any other provision in this Act, the amount for the East-West Center shall be $18,000,000.

On page 116 of the bill, on line 1, strike "$1,000,000" and insert $4,000,000".

McCAIN (AND DORGAN) AMENDMENT NO. 2870

Mr. GRAMM (for Mr. McCAIN, for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the appropriate place, insert the following, "*Provided further*, That of the funds made available under this act or any other Act, no funds shall be expended by the Director of the Administrative Office of the U.S. Courts to implement the National Fine Center prior to March 1, 1996, except for the funds necessary to maintain National Fine Center services at their current level, to complete the conversion of existing cases for the courts participating in the National Fine Center as of the date of enactment of this Act, and to complete the Linked Area network pilot projects in progress as of the date of enactment of this Act.".

McCAIN AMENDMENT NO. 2871

Mr. GRAMM (for Mr. McCAIN) proposed an amendment to the bill H.R. 2076, supra; as follows:

On page 121, after line 24, add the following:

SEC. . It is the Sense of the Senate that the President of the United States should insist on the full complaince of the Russian Federation with the terms of the Treaty on Conventional Armed Forces in Europe and seek the advice and consent of the Senate for any treaty modifications.

SHELBY AMENDMENT NO. 2872

Mr. GRAMM (for Mr. SHELBY) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. LAND TRANSFER.

(a) IN GENERAL.—The Secretary of Commerce, acting through the Assistant Secretary for Economic Development of the Department of Commerce, shall—

(1) not later than January 1, 1996, commence the demolition of the structures on, and the cleanup and environmental remediation on, the parcel of land described in subsection (b);

(2) not later than March 31, 1996, complete the demolition, cleanup, and environmental remediation under paragraph (1); and

(3) not later than April 1, 1996, convey the parcel of land described in subsection (b), in accordance with the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), to the Tuscaloosa County Industrial Development Authority,

on receipt of payment of the fair market value for the parcel by the Authority, as agreed on by the Secretary and the Authority.

(b) LAND PARCEL.—The parcel of land referred to in subsection (a) is the parcel of land consisting of approximately 41 acres in Holt, Alabama (in Tuscaloosa County), that is generally known as the "Central Foundry Property", as depicted on a map, and as described in a legal description, that the Secretary, acting through the Assistant Secretary for Economic Development, determines to be satisfactory.

INOUYE (AND OTHERS) AMENDMENT NO. 2873

Mr. GRAMM (for Mr. INOUYE for himself, Mr. LOTT, Mr. BREAUX, Mr. STEVENS, Mr. ROBB, Mr. JOHNSTON, Ms. MIKULSKI, and Mr. COCHRAN) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 113, line 24, strike "$330,191,000," and insert "$284,191,000.

On page 114, line 3, after "exceed" insert "$29,000,000 may be used for necessary expenses of Radio Free Europe/Radio Liberty, of which not more than".

On page 99, line 26, strike "$250,000,000," and insert "$225,000,000".

On page 116, between lines 12 and 13, insert the following:

MARITIME SECURITY

For necessary expenses of maritime security services authorized by law, $46,000,000, to remain available until expended.

On page 117, line 5, strike "academies:" and insert "academies and may be transferred to the Secretary of the Interior for use in the National Maritime Heritage Grant Program:".

On page 117, strike lines 12 through 24 and insert the following:

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $25,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $500,000,000.

COVERDELL AMENDMENT NO. 2874

Mr. GRAMM (for Mr. COVERDELL) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 110, between lines 2 and 3, insert the following:

SEC. . It is the sense of Congress that, in order to facilitate enhanced command and control of Department of Defense counter-drug activities in the Western Hemisphere, the President should designate the commander of one unified combatant command established under chapter 6 of title 10, United States Code, to perform the mission of carrying out all counter-drug operations of the Department of Defense in the areas of the Western Hemisphere that are south of the southern border of the United States, including Mexico, and the areas off the coasts of Central America and South America that are within 300 miles of such coasts. But not to include the Caribbean Sea.

COCHRAN (AND OTHERS) AMENDMENT NO. 2875

Mr. GRAMM (for Mr. COCHRAN, for himself, Mr. LOTT, and Mr. HEFLIN) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 76, line 25, insert before the period the following: ": *Provided further*, That the National Weather Service shall expend not more than $700,000 to operate and maintain Agricultural Weather Service Centers".

JEFFORDS (AND OTHERS) AMENDMENT NO. 2876

Mr. GRAMM (for Mr. JEFFORDS for himself, Mr. LEVIN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. LEAHY, Mr. D'AMATO, Mr. GLENN, Mr. ROCKEFELLER, Mr. PELL, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 68, line 19, insert ", $7,500,000 of which shall be for trade adjustment assistance" after "$89,000,000".

PRYOR (AND SNOWE) AMENDMENT NO. 2877

Mr. GRAMM (for Mr. PRYOR, for himself, and Ms. SNOWE) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE CONGRESS ON ECONOMIC DEVELOPMENT ADMINISTRATION.

(a) FINDINGS.—The Congress finds that—

(1) assistance from the Economic Development Administration (hereafter in this section referred to as the "EDA") within the Department of Commerce is an investment in the economic vitality of the United States;

(2) funding for the EDA within the Department of Commerce is reduced by almost 80 percent in this Act;

(3) the EDA serves a unique governmental function by providing grants, which are matched by local funds, to distressed urban and rural areas that would not otherwise receive funding;

(4) every EDA $1 invested generates $3 in outside investments, and during the past 30 years preceding the date of enactment of this Act, the EDA has invested more than $15,600,000,000 in depressed communities, creating 2,800,000 jobs in the United States;

(5) the EDA is one of a very few governmental agencies that assists communities impacted by military base closings and defense downsizing;

(6) the EDA has—

(A) become a more efficient and effective agency by reducing regulations by 60 percent;

(B) trimmed the period for application processing down to a 60-day period; and

(C) reduced its operating expenses; and

(7) the House of Representatives, on July 26, 1995, voiced strong bipartisan support for the EDA by a vote of 315 to 110.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the appropriation for the EDA for fiscal year 1996 should be at the House of Representatives-passed level of $348,500,000.

DOLE (AND PRESSLER) AMENDMENT NO. 2878

Mr. GRAMM (for Mr. DOLE for himself and Mr. PRESSLER) proposed an amendment to the bill H.R. 2076, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—Section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended by striking subsection (e) and inserting the following:

"(e) CERTIFICATION.—A certification described in this subsection is a certification by the President to Congress of his determination that:

"(1) the elected Government of Kosova is exercising its legitimate right to democratic self-government, and the political autonomy of Kosova, as exercised prior to 1984 under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia, has been restored;

"(2) systematic violations of the civil and human rights of the people of Kosova, including institutionalized discrimination and structural repression, have ended;

"(3) monitors from the Organization for Security and Cooperation in Europe, other human rights monitors, and United States and international relief officials are free to operate in Kosova and Serbia, including the Sandjak and Vojvodina, and enjoy the full cooperation and support of Serbia and local authorities;

"(4) full civil and human rights have been restored to ethnic non-Serbs in Serbia, including the Sandjak and Vojvodina;

"(5) the Federal Republic of Yugoslavia has halted aggression against the Republic of Bosnia and Herzegovina;

"(6) the Federal Republic of Yugoslavia has terminated all forms of support, including manpower, arms, fuel, financial subsidies, and war material, by land or air, for Serbian separatists and their leaders in the Republic of Bosnia and Herzegovina and the Republic of Croatia;

"(7) the Federal Republic of Yugoslavia has extended full respect for the territorial integrity and independence of the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the former Yugoslav Republic of Macedonia; and

"(8) the Federal Republic of Yugoslavia has cooperated fully with the United Nations war crimes tribunal for the former Yugoslavia, including by surrendering all available and requested evidence and those indicted individuals who are residing in the territory of Serbia and Montenegro.".

(b) FOREIGN ASSISTANCE ACT AMENDMENT.—Section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) is amended by inserting "Serbia and Montenegro," after "Cuba,".

(c) CONFORMING AMENDMENT.—Section 1511(a) of such Act is amended by striking "subsections (d) and (e)) remain in effect until changed by law" and inserting "subsection (d)) remain in effect until the certification requirements of subsection (e) have been met".

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the conditions specified in section 1511(e) of the National Defense Authorization Act for Fiscal Year 1994, as amended by this section, should also be applied by the United Nations for the termination of sanctions against Serbia and Montenegro.

FEDERAL SENTENCING GUIDELINES AMENDMENTS DISAPPROVAL ACT

KENNEDY AMENDMENT NO. 2879

Mr. COATS (for Mr. KENNEDY) proposed an amendment to the bill (S. 1254) to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity; as follows:

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

SEC. . REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations regarding changes to the statutes and Sentencing Guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations:

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) An enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possess a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in 28 U.S.C. 3553(a).

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

THE INTELLIGENCE APPROPRIATIONS AUTHORIZATION ACT FOR FISCAL YEAR 1996

SPECTER AMENDMENT NO. 2880

Mr. COATS (for Mr. SPECTER) proposed an amendment to the bill (S. 922) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the Committee amendment to page 3, lines 18 through 21 of the bill, insert the following:

(c) SCOPE OF SCHEDULE.—For fiscal year 1996, the Schedule of Authorizations referred to in subsections (a) and (b) does not include the Schedule of Authorizations for the Joint Military Intelligence Programs (JMIP).

SPECTER (AND KERREY) AMENDMENT NO. 2881

Mr. COATS (for Mr. SPECTER for himself and Mr. KERREY) proposed an amendment to the bill S. 922, supra; as follows:

On page 11, between lines 14 and 15, insert the following new section:

SEC. 309. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR THE NATIONAL RECONNAISSANCE OFFICE FOR FISCAL YEAR 1996.

The total amount authorized to be appropriated for fiscal year 1996 for the National Reconnaissance Office (NRO) shall be reduced by an amount equal to the amount by which appropriations for the Department of Defense for fiscal year 1996 are reduced to reflect the availability of funds appropriated prior to fiscal year 1996 that have accumulated in the carry forward accounts for that Office.

SPECTER (AND OTHERS) AMENDMENT NO. 2882

Mr. COATS (for Mr. SPECTER, for himself, Mr. KERRY, Mr. BRYAN, and Mr. SHELBY) proposed an amendment to the bill S. 922, supra; as follows:

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

SEC. 310. FINANCIAL MANAGEMENT OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) LIMITATION.—No funds are authorized to be carried over into FY 1997 or subsequent years for the programs, projects, and activities of the National Reconnaissance Office in excess of the amount necessary to provide for the ongoing mission of the NRO for one month."

(b) MANAGEMENT REVIEW.—(1) The Inspector General for the Central Intelligence Agency and the Inspector General of the Department of Defense shall jointly undertake a comprehensive review of the financial management of the National Reconnaissance Office to evaluate the effectiveness of policies and internal controls over the budget of the National Reconnaissance Office, including the use of forward funding, to ensure that National Reconnaissance Office funds are used in accordance with the policies of the Director of Central Intelligence and the Department of Defense, the guidelines of the National Reconnaissance Office, and congressional direction.

(2) The review required by paragraph (1) shall—

(A) determine the quality of the development and implementation of the budget process within the National Reconnaissance Office at both the comptroller and directorate level;

(B) assess the advantages and disadvantages of the use of incremental versus full funding for contracts entered into by the National Reconnaissance Office;

(C) assess the advantages and disadvantages of the National Reconnaissance Office's use of forward funding;

(D) determine how the National Reconnaissance Office defines, identifies, and justifies forward funding requirements;

(E) determine how the National Reconnaissance Office tracks and manages forward funding;

(F) determine how the National Reconnaissance Office plans to comply with congressional direction regarding forward funding;

(G) determine whether or not a contract entered into by the National Reconnaissance Office has ever encountered a contingency which required the utilization of more than 30 days of forward funding;

(H) consider the proposal by the Director of Central Intelligence for the establishment of a position of a Chief Financial Officer, and assess how the functions to be performed by that officer would enhance the financial management of the National Reconnaissance Office; and

(I) make recommendations, as appropriate, to improve control and management of the budget process of the National Reconnaissance Office.

(3) The President shall submit a report to the appropriate committees of the Congress setting forth the findings of the review required by paragraph (1) not later than 90 days after the date of enactment of this Act, with an interim report provided to those committees not later than 45 days after the date of enactment of this Act.

(c) REPORT.—(1) Not later than January 30, 1996, the President shall submit a report to the appropriate committees of the Congress on a proposal to subject the budget of the intelligence community to greater oversight by the executive branch of Government.

(2) Such report shall include—

(A) consideration of establishing by statute a financial control officer for the National Reconnaissance Office, other elements of the intelligence community and for the intelligence community as a whole; and

(B) recommendations for procedures to be used by the Office of Management and Budget for review of the budget of the National Reconnaissance Office.

(d) DEFINITIONS.—As used in this section:

(1) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning

given to the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SPECTER AMENDMENT NO. 2883

Mr. COATS (for Mr. SPECTER) proposed an amendment to the bill S. 922, supra; as follows:

On page 11, strike lines 17 through 21 and insert the following:

SEC. 401. EXTENSION OF THE CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

(a) EXTENSION OF AUTHORITY.—Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4(f)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

(b) REMITTANCE OF FUNDS.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4) is amended by inserting at the end the following new subsection:

"(i) REMITTANCE OF FUNDS.—The Director shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund (in addition to any other payments which the Director is required to make under subchapter III of chapter 83 and subchapter II of chapter 84 of title 5, United States Code), an amount equal to 15 percent of the final basic pay of each employee who, in fiscal year 1998 or fiscal year 1999, retires voluntarily under section 8336, 8412, or 8414 of such title or resigns and to whom a voluntary separation incentive payment has been or is to be paid under this section.".

At the end of title V of the bill, add the following new section:

SEC. 504. ENHANCEMENT OF CAPABILITIES OF CERTAIN INTELLIGENCE STATIONS.

(a) AUTHORITY.—(1) In addition to funds otherwise available for such purpose, the Secretary of the Army is authorized to transfer or reprogram funds for the enhancement of the capabilities of the Bad Aibling Station and the Menwith Hill Station, including improvements of facility infrastructure and quality of life programs at both installations.

(2) The authority of paragraph (1) may be exercised notwithstanding any other provision of law.

(b) FUNDING.—Funds available for the Army for operations and maintenance for any fiscal year shall be available to carry out subsection (a).

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary of the Army determines that an amount to be transferred or reprogrammed under this section would cause the total amounts transferred or reprogrammed in that fiscal year to exceed $1,000,000, the Secretary shall notify in advance the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence, the Committee on National Security, and the Committee on Appropriations of the House of Representatives and provide a justification for the increased expenditure.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of substantial sums of money from the Department of the Army to the Bad Aibling or Menwith Hill Stations.

MIKULSKI AMENDMENT NO. 2884

Mr. COATS (for Ms. MIKULSKI) proposed an amendment to the bill S. 922, supra; as follows:

On page 10, line 7, after "(22 U.S.C. 4008)," insert "and to provide for other personnel review systems,".

On page 10, at the end of line 10 add the following new sentence: "The report shall also contain a description and analysis of voluntary separation incentive proposals, including a waiver of the two-percent penalty reduction for early retirement."

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold an oversight hearing on the views of Alaska Natives on the Reorganization of the Bureau of Indian Affairs and the Indian Health Service. The hearing will take place in Anchorage, AK, on Friday, October 6, 1995, beginning at 2 p.m. The location of the hearing will be the Federal Building at 222 W. 7th Avenue, Anchorage, AK.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, October 26, 1995 at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 231, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; S. 342, a bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado; S. 364, a bill to authorize the Secretary of the Interior to participate in the operation associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado; S. 489, a bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with the town of Grand Lake, CO, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; and S. 608, a bill to establish the New Bedford Whaling National Historical Park in New Bedford, MA.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at 202-224-5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, September 29, 1995, at 10 a.m. in open session, to consider the nomination of Mr. John W. Douglass for appointment as Assistant Secretary of the Navy for Research, Development, and Acquisition.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, September 29, 1995, to conduct a nomination hearing of the following nominees: Dwight P. Robinson, of Michigan, to be Deputy Secretary of Housing and Urban Development; John A. Knubel, of Maryland, to be the Chief Financial Officer of HUD; Hal C. Decell, III, of Mississippi, to be an Assistant Secretary of HUD; Elizabeth K. Julian, of Texas, to be an Assistant Secretary of HUD; Kevin G. Chavers, of Pennsylvania, to be the president of the Government National Mortgage Association; Joseph H. Neely, of Mississippi, to be a member of the board of directors of the Federal Deposit Insurance Corporation; Alicia Munnell, of Massachusetts, to be a member of the Council of Economic Advisors; Norman S. Johnson, of Utah, to be a member of the Securities and Exchange Commission; and Isaac C. Hunt, Jr., of Ohio, to be a member of the Securities and Exchange Commission.

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

COMMITTEE ON FINANCE

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Friday, September 29, 1995, beginning at 11 a.m. in room SH-216, to continue a markup of spending recommendations for the budget reconciliation legislation.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, September 29, 1995, at 9:30 a.m. to hold a closed hearing on intelligence matters.

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

ADDITIONAL STATEMENTS

RETIREMENT OF REPRESENTATIVE NORMAN MINETA

• Mr. SIMON. Mr. President, when the House adjourns today for the Columbus Day recess, it will also mark the end of the congressional career of Representative NORMAN MINETA of San Jose, CA. NORM MINETA and I came to Congress together in January 1975 and over the past two decades he has been a remarkable public servant.

There was cynicism about Washington when we arrived in the Watergate class of 1974 and, sadly, there is loss of faith in our political system today. But there has never been a question about the contributions NORM MINETA has made to make this country a better place.

While ably representing the people of his district, NORM MINETA has also developed a natural, national constituency among Asian-Pacific-Americans. Many people do not realize that the State of Illinois has the fifth largest Asian-American population of any State. Over the years, NORM MINETA and I have worked closely on many issues, particularly those affecting our Asian-Pacific-Americans constituents.

In the 1970s', we worked together on the inclusion of Asian-Americans in the decennial census. In the 1980's, we worked to ensure that Asian Americans were included in the Higher Education Act. In this decade, we have worked on passing hate crimes legislation and saving the immigration preference for brothers and sisters of U.S. citizens, which sadly is being threatened again today. In 1992, he was particularly helpful to me and my staff on extending the important bilingual provisions of the Voting Rights Act.

Perhaps most of all, NORM MINETA will be remembered for his work to do what should have been done long previously by Congress—enactment of the Civil Liberties Act of 1988 providing redress for Japanese-Americans interned during World War II. I was a teenager living on the west coast when that episode occurred in our Nation's history. My family was not uprooted like NORM MINETA's and those of 120,000 Japanese-Americans. But my father, who was a Lutheran minister, spoke out publicly against what was happening to Japanese-Americans. He was criticized for that, but, as I look back, it was one of the things I am most proud of him—standing up for what was right in the face of what was the popular mood.

NORM MINETA has always stood for what is best in public service and I wish him well in his future endeavors.•

AWARDING OF THE PRESIDENTIAL MEDAL OF FREEDOM TO GAYLORD NELSON

• Mr. FEINGOLD. Mr. President, I want to take this opportunity to extend congratulations to Gaylord Nelson, a former Member of this body and a distinguished former Governor of the State of Wisconsin, who is receiving America's highest civilian honor today—the Presidential Medal of Freedom. Gaylord Nelson receives this award in recognition of his lifelong commitment to leadership on issues of environmental protection, and his tremendous efforts to ensure that both our country's public policy and its citizens sustain and preserve America's invaluable natural resources.

Nelson's career is truly a remarkable one, and I am proud to now hold the Senate seat he held with distinction from 1963 to 1981. Gaylord Nelson began his political career in 1948, when he became the first Democratic State senator elected from Dane County in this century. He served three terms in the Wisconsin State senate from 1948 to 1956, acting as the Democratic floor leader for 8 of those years. He was a two-term Governor of my State, elected in 1958, and like the noteworthy accomplishment of his election to State senate, Nelson was Wisconsin's second Democratic governor in this century and, upon reelection in 1960, he became the only Democrat in Wisconsin to win two terms at Governor since 1892. During his gubernatorial tenure, the environment became a priority for the State with the creation of a $50 million outdoor resources acquisition program, putting Wisconsin far ahead in recreational opportunities for the general public.

As those who served with him in this body remember well, Nelson is best described like the main character in Dr. Seuss' children's story The Lorax—the man "who speaks for the trees." During his 18 years of service in the Senate, Gaylord Nelson affected significant change for the "greener" in both our Nation's law and the institution of the Senate itself. He is the co-author of the Environmental Education Act, which he sponsored with the senior Senator from Massachusetts (Mr. KENNEDY), and the Wild and Scenic Rivers Act, and sponsored an amendment to give the St. Croix and the Namekagon Rivers scenic protection. In the wake of Rachel Carson's book Silent Spring, Gaylord Nelson, along with Senator Philip Hart of Michigan, ushered in national attention to the documented persistent bioaccumulative effects of organochlorine pesticides used in the Great Lakes by authoring the ban on DDT in 1972. He was the primary sponsor of the Apostle Islands National Lakeshore Act, one of Northern Wisconsin's most beautiful areas at which I spend a portion of my vacation time with my family every year, and an area which just celebrated its 25th anniversary last month with an event at which Nelson and I both spoke.

Nelson, of course, is best remembered as being the founder of Earth Day. As one of the first Senators to oppose the U.S. military buildup in Vietnam, Gaylord Nelson took his inspiration for Earth Day from the anti-war teach-ins on college campuses. He described in a floor statement on the development of the event:

> It suddenly occurred to me, why not have a nationwide teach-in on the environment.

Gaylord Nelson announced the idea at a speech in Seattle in 1969, and the idea has been a sustained vision for 25 years.

Earth Day is an event which in addition to changing the environmental consciousness of the country, as colleagues who were present will remember, literally stopped the Senate. Members of both bodies voted to adjourn their respective houses in the middle of the legislative week to attend Earth Day events, an adjournment that would be extremely rare today. Here in this body, the CONGRESSIONAL RECORD indicates, at 3:31 p.m. on Tuesday, April 20, 1970, our colleague the senior Senator from West Virginia [Mr. BYRD] adjourned the Senate until Friday, April 23, 1970. In the other body, chamber action was adjourned from the middle of the day on April 21, 1970, the actual date of the first Earth Day, through April 23 of that year.

Gaylord Nelson's environmental activism also changed the way we in Congress run our personal offices. Last year, in an E Magazine interview which Nelson gave for the 25th Anniversary of Earth Day, he described that back in 1970 he believed he was the only person in the Senate to have a full time environmental staffer. In 1995, it is difficult to imagine that there is any Member of this body or the other that does not have a member of their staff designated to handle environmental issues.

After his defeat in the race for a fourth Senate term in 1980, Nelson joined the national conservation group, the Wilderness Society. In 1990, Nelson founded another group in Washington called Green Seal, which he created to certify the environmental claims of consumer products by developing innovative environmentally based product standards and comparing classes of marketed products to those standards.

Mr. President, leadership is not only the willingness to assume the role of being a primary spokesperson on important issues, but what one actually says and does about those issues. With a combination of words and activism, Gaylord Nelson actively used his position to make changes for the better. In a 1994 Chicago Tribune article, Thomas Huffman, a professor of history at St. John's University in Collegeville, MN, observed about Gaylord Nelson:

Almost every campaign speech he [Nelson] gave from 1960 on had an environmental component. Often times that was the whole speech. There were many in his party who thought he was crazy, that it was not really an issue.

Despite the fact that some were skeptical about Nelson's message at first, the directness and forcefulness of his statements are undeniable. In his 1969 book on the environment, entitled America's Last Chance, written after 6 years of service in the Senate, Nelson issues a political challenge:

Through the past decade of work in this field, I have come to the conclusion that the number one domestic problem facing this country is the threatened destruction of our natural resources and the disaster which would confront mankind should such destruction occur. There is a real question as to whether the nation, which has spent some two hundred years developing an intricate system of local, State and Federal Government to deal with the public's problems, will be bold, imaginative and flexible enough to meet this supreme test.

Nelson's message was one of urgency and of bipartisanship. His time in the Senate saw this body establish, under both Republican and Democratic administrations, an Environment and Public Works Committee, pass the majority of our Federal environmental statutes with significant bipartisan support, and create the Environmental Protection Agency. In his speech at the University of Wisconsin on the first Earth Day, Nelson said:

Our goal is an environment of decency, quality, and mutual respect for human creatures and all other living creatures. An environment without ugliness, without ghettos, without discrimination, without hunger, without poverty, and without war.

In recognizing Gaylord Nelson's accomplishments, I hope that all in this body will be mindful of the need to be committed to the protection of the environment and to work in a bipartisan fashion toward that end. I believe that to have this body embrace and resonate his enthusiasm on these issues would be a fitting tribute.•

HISTORIC RECONCILIATION BETWEEN ROMANIA AND HUNGARY

• Mr. LIEBERMAN. Mr. President, this week President Clinton welcomed President Ion Iliescu of Romania at the White House. On this occasion, I would like to call to the attention of my colleagues President Iliescu's initiative to bring about an historic reconciliation between Romania and Hungary.

I know from my visit to Romania, where I was an official observer of the 1992 elections, the Romanian and Hungarian peoples both have rich cultural traditions. As in many parts of Europe and elsewhere, ethnic and cultural traditions in these nations are not bound by national borders. Certain politicians in these nations have sought to repress ethnic and cultural minorities and increase long-standing tensions. Ethnic Hungarians in Romanian Transylvania in particular have been denied full human and civil rights. The tragic conflicts in the former Yugoslavia are a constant reminder of the risks of extreme nationalism and ethnic and cultural divisions.

Mr. President, on August 30, President Iliescu called for an historic reconciliation between Hungary and Romania. In a statesmanlike speech, President Iliescu committed himself and his country to seeking a peaceful solution to the problems which have long damaged normal relations between Romania and Hungary. He cited as his model the Franco-German reconciliation that occurred when Charles de Gaulle and Konrad Adenauer committed their governments and their nations to forgive the past and jointly move forward to help create a more prosperous and more peaceful Europe. It is an important model to emulate.

President Iliescu's overture is welcome news for Romanians and Hungarians, Europeans and Americans.

For the ethnic Hungarians of Transylvania and other minority groups in Romania and Hungary, there is new hope that human rights and freedom of expression will be respected.

For all the people of Hungary and Romania, there is new hope for freedom and democracy, peaceful cooperation, economic growth and integration with the West and its economic and political institutions.

For the people of America and Europe, there is new hope for strengthened economic and political ties which will integrate Hungary and Romania into economic and political institutions on the basis of shared values.

Romania and Hungary must now take real steps to ensure that these hopes are realized. Both governments must work to reach and implement broad and concrete agreements which will guarantee respect for human rights, confirm national borders, and expand opportunities for free and fair trade. Fortunately, this process is underway.

The United States should support reconciliation between Hungary and Romania, and their integration into Western institutions. This reconciliation would mean a more stable world with more economic opportunities for Americans.

Mr. President, I hope that President Iliescu's visit to Washington has strengthened the friendship between our two countries on the basis of a shared interest in freedom and democracy.•

TRIBUTE TO MR. JAMES N. RUOTSALA ON HIS RETIREMENT AS SHERIFF OF HOUGHTON COUNTY, MI

• Mr. LEVIN. Mr. President, I rise today to pay tribute to Mr. James N. Ruotsala. In so doing, I join with the members of his community who are honoring him on October 13, 1995 during a reception commemorating his 28 years of service and his retirement as Sheriff of Houghton County, MI.

James is a native of Hancock, MI and moved as a child to Flat Rock, MI where he graduated from Flat Rock High School in 1962. He entered the U.S. Navy in February of 1963. On January 16, 1965 he married Judith I. Walman and they have five sons: James, John, Jason, Jared, and Justin.

Following his honorable discharge from the service in February of 1967, he returned to the Houghton-Hancock area and began his tenure with the Houghton-County Sheriff Department in March of that year. During his affiliation with the Department he served as a Marine officer, a deputy, a sergeant, and finally as a lieutenant. He was elected Houghton County sheriff and served from 1981 through September 14, 1995.

During 1989 and 1990 Sheriff Ruotsala served as the President of the Michigan Sheriff's Association, and is highly respected by law enforcement personnel throughout the State.

Mr. President, I ask you along with all of my colleagues in the Senate to join with me in honoring this outstanding citizen. His legacy of unselfish service is something we all should strive to emulate.•

GORDON LAU

• Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to my friend and associate, Gordon Lau. Over the years, I have worked closely with Gordon as San Francisco supervisors and as partners in establishing the first Sino-America Sister City relationship between San Francisco and Shanghai. I am proud of what we have managed to accomplish together.

Gordon is a longstanding pillar of the Chinese community in San Francisco and a key leader for crucial non-profits such as the Self-Help for the Elderly and the Chinese Culture Foundation.

Since Gordon graduated from the University of San Francisco Law School he has worked as an attorney and spent a great deal of his time in public service. Gordon was appointed to the San Francisco Board of Supervisors by former Mayor George Moscone in 1977. He later kept his seat in district elections becoming San Francisco's first Asian-American supervisor.

Gordon also served the city of San Francisco as a past board member for the Legal Aid Society, as founding member of San Francisco Lawyers Committee for Urban Affairs and Civil Rights, and as a former San Francisco Port Commissioner and the San Francisco Planning Commission.

I have worked closely with Gordon and the San Francisco-Shanghai Sister

City Committee. Since the creation of this sister city committee in 1979, Gordon has played a crucial role in its development and served, virtually uninterrupted, as its chairman. This partnership is very dear to me and nobody has worked harder to make it the success that it is than Gordon.

Since 1979, there have been 150 exchanges between San Francisco and Shanghai making it not only the first, but most active, sister city relationship between China and the United States. Sister Cities International ranks the San Francisco-Shanghai relationship as the most active of any cities involved in sister city partnerships.

People-to-people relationships are critically important in overall foreign relations. During many complicated times between the United States and China this sister city relationship has provided a strong link between the people of San Francisco and Shanghai.

Since its inception, the San Francisco-Shanghai Sister City Committee has produced 150 projects in art, culture, law, economics, medicine, education, development, trade, investments, and public works. One of the highlights has been business management training program in which San Francisco businesses participate in the training of China's new business leaders. This training of midlevel managers has been pointed to repeatedly as one of the most effective in supporting the economic changes underway in China.

The success of this sister city relationship culminated with the celebration of Shanghai Week in San Francisco this past July, celebrating a 15-year relationship between San Francisco and Shanghai.

Gordon Lau is truly a model of dedication to a community and to a cause. I join with his wonderful wife Mary, a public school teacher in San Francisco, their remarkable daughters, Stephanie, Diane and Carolyn, as well as the people of San Francisco and Shanghai in thanking Gordon for his devotion and hard work.

There are people in life who quietly go about the business of getting things done. Gordon sets a perfect example of what can be accomplished when you believe in what you do and work hard to achieve success. He has worked, year after year, with little fanfare to achieve one of the world's most productive sister city relationships in the world. It is time that we say thank you.•

AWARD OF PRESIDENTIAL MEDAL OF FREEDOM TO WALTER REUTHER

• Mr. ABRAHAM. Mr. president, today the President is awarding, posthumously, the Presidential Medal of Freedom to Walter Reuther. I wish to add my voice to the chorus honoring this fine man, who dedicated his life to helping the working men and women of America. Walter Reuther, son of immigrants, tool and die worker, labor organizer and President of the UAW lived for the union movement.

My own father was a UAW member, so I know full well the many benefits working families gained from Walter Reuther's leadership. Higher wages, better benefits and safer working conditions all resulted from Mr. Reuther's tireless work on behalf of workers. My father achieved the respect he deserved and our family and our neighbors achieved a decent life in part because of Walter Reuther's efforts.

At one point Mr. Reuther was shot in the back for his positions and actions. Despite the dangers, and the pain, he carried on. He refused to be cowed by bullies or by anybody else. He would fight for the workers in whom he believed, no matter what the cost. His determination made him, more than any other man, the one responsible for unionization of the auto industry.

Committed to helping workers, he nonetheless avoided political extremism, purging his own union of its extremist elements and making it safe for good, honest Americans.

Walter Reuther died in 1970. He and his wife were victims of a plane accident. But his union survives, as does his vision of a society in which working men and women are given their proper respect.

On behalf of the people of Michigan allow me to express our gratitude to the President for bestowing this honor on one of our own, and to Walter Reuther for his inspiring contribution to our way of life; a contribution that makes him most worthy of this Presidential Medal of Freedom.•

LOREN TORKELSON

• Mr. BAUCUS. Mr. President, while we all have different people we admire and want to emulate, there are a few individuals that everyone can agree is a true hero and model citizen. Loren Torkelson was one such individual. Loren, a Billings, MT, native, passed away on September 17 in Lexington, KY. He was 54.

In 1966, after graduating from the University of North Dakota, he joined the Air Force and became a pilot. During his second combat tour, he was shot down and taken prisoner. He spent 6 years in the infamous "Hanoi Hilton" suffering constant abuse until his release in 1973. He was a highly decorated officer, receiving two Silver Stars, three flying crosses, 16 Air Medals, the Legion of Merit, the Bronze Star for Valor, the Meritorious Service Medal, and the Air Force Commendation Medal.

Yet for all the hardship he experienced, he acted like a hero in his private life as well. After the war, he earned a law degree from the University of North Dakota. After serving as a judge advocate, he joined and later became a partner in the law firm of Richter and Associates. He spent his legal career as a trial lawyer fighting for individual rights.

His foremost passion was his family. It always came first. He lived a private life, never seeking gratification for his numerous accomplishments. There are few individuals who can lead such an exemplary professional and personal life.

The way in which he lived his life will always be a model for others. He will be sorely missed.•

FRANKENMUTH, MICHIGAN'S 150TH ANNIVERSARY CELEBRATION

• Mr. LEVIN. Mr. President, I am proud to rise to honor the 150th anniversary of the town of Frankenmuth, MI, which we have been celebrating throughout the year. October 6, 1995, which is officially designated as German-American Day, is an especially appropriate time to commemorate this historic milestone in Frankenmuth.

Frankenmuth is a unique community and one of Michigan's largest tourist attractions. It is a quaint Bavarian village which maintains a festival atmosphere year-round. Everything from its authentic architecture to the popular Frankenmuth Bavarian and Oktoberfest celebrations make this community a special place to live in and to visit. Frankenmuth has provided an experience to countless visitors over the years which is rich with history and ethnic culture.

In 1840, the German missionary, Frederick Wyneken, initiated the idea of the founding of Frankenmuth when he wrote an appeal to all the Lutherans in Germany. He asked for their help in teaching Christianity to the Chippewa Indians. Wyneken's call for assistance appealed to Wilhelm Loehe, who was an influential pastor in a country church in Neuendettelsau, Mittelfranken, Kingdom of Bavaria. Loehe championed the idea of sending a mission to the Saginaw Valley to give spiritual comfort to the German pioneers in the area as well as teaching Christianity to the native Americans. Loehe approved a location along the Cass River in Michigan as the site of the mission and named it "Frankenmuth."

Loehe selected Pastor August Cramer, who at the time was teaching German at Oxford, England, to lead the mission. Thirteen people from Bavaria volunteered to be a part of the mission. Frankenmuth's first settlers were mostly farmers. Months before they were to depart for America, the colonists gathered to decide on the congregation's constitution. In it, they proposed to remain loyal to their German-Lutheran background and language.

The mission set sail on April 20, 1845, aboard the SS *Caroline*. The journey across the Atlantic was a treacherous one. The ship encountered violent storms, strong winds, and dense fog which altered its route considerably. By the end of the journey, with their food becoming stale, almost all of the settlers had contracted smallpox. The group reached New York Harbor on June 8, after 50 days at sea. The trip from New York to the Saginaw River would have the settlers travel on four more ships and a train.

When the settlers finally reached the Saginaw Valley, they selected a hilly area as the site of their future settlement because it reminded them of their homeland. On August 18, 1845, nearly 4 months after leaving Mittelfranken, the mission had arrived at its new home. The mission purchased 680 acres of Indian reservation land from the Government for a total of $1,700.

The group quickly began building a combination church-school-parsonage in the form of a large log cabin. The church was named St. Lorenz after their mother church in Germany. The settlers then decided to divide the land into 120-acre farms and cleared the land in order to farm and build their houses.

In 1846 a second group of about 90 emigrants from Germany arrived at Frankenmuth. The new group bought land and built their own homes as well as St. Lorenz Church which was completed on December 26, 1846.

Immigration continued throughout the 1800's, as immigrants arrived to reunite with their relatives. As the town grew, so did its commerce. The new immigrants included woodcarvers, sausage makers, wool processors, millers, and brewers. The community continued its Bavarian heritage as it grew.

After World War II and the development of the interstate highway system, Frankenmuth became a national favorite for tourists. Its unique character as a traditional Bavaria town in the heart of the American Midwest drew Americans of all backgrounds.

Today, Frankenmuth continues to cherish its rich Bavarian heritage. It is a great testament to all of the people of Frankenmuth and their ancestors that they have been able to maintain their town and continue across all of these years to honor the principles on which it was founded. All of us in Michigan and the region have benefitted from the contribution which Frankenmuth and its citizens have made to the diversity of the American fabric.

Mr. President, I am delighted that I will be in the town of Frankenmuth on German-American Day. If there is one place in the United States which could be said to represent what it means to be a German-American, it is Frankenmuth, MI. In fact, Frankenmuth serves to remind us all of our cultural roots and of the rich mosaic of cultural heritage which we have in America.

I am certain that all of my colleagues in the Senate join me in congratulating the Frankenmuth Historical Museum, the Frankenmuth Chamber of Commerce and all of those whose efforts over the years have contributed to this German-American success story.•

WORLD POPULATION AWARENESS WEEK

• Mr. LEAHY. Mr. President, one of the greatest problems facing the world is the staggering rate of population growth. Over 90 percent of all new births take place in developing countries, including many in countries that cannot even feed their people. The Earth's population is projected to double and possibly triple in the next century, with staggering implications for the world's food supply, environment, and the political and economic stability of every country.

It is critically important that we recognize that what we do today will determine the kind of world inhabited by our children and grandchildren. World Population Awareness Week will be held from October 22 to October 29. It will focus on implementing the program of action of the International Conference on Population and Development and educating the public about the dangers of unchecked population growth.

At a time when our foreign aid budget is being slashed, I was encouraged by the Senate's recent passage of my amendment to provide up to $35 million to the United Nations Population Fund (UNFPA). The UNFPA is the largest voluntary family planning agency in the world. With programs in 140 countries, it provides family planning information and services to hundreds of millions of people who would otherwise have no access to family planning. By restoring funding for the UNFPA, the Senate has wisely chosen to support international efforts to reduce rates of population growth.

Mr. President, I ask that a proclamation by Gov. Howard Dean of Vermont proclaiming October 22–29 World Population Week, be printed in the RECORD.

The proclamation follows:

Whereas the world's population of 5.7 billion is increasing by nearly 100 million per year, with virtually all of this growth added to the poorest countries and regions; and

Whereas three billion people—the equivalent of the entire world population as recently as 1960—will be reaching their reproductive years within the next generation; and

Whereas the environmental and economic impacts of this growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and, at the same time, have deleterious repercussions for the standard of living in more affluent regions; and

Whereas the 1994 International Conference on Population and Development in Cairo, Egypt resulted in 180 nations approving a 20-year Program of Action for achieving a more equitable balance between the world's population, environment and resources; and

Whereas World Population Awareness activities this year will focus on implementing the Cairo Conference Program of Action.

Now, therefore, I, Howard Dean, Governor, do hereby proclaim the week of October 22–29, 1995 as World Population Awareness Week.•

RECOGNITION OF MS. EMELIE EAST

• Mr. HOLLINGS. Mr. President, I would just like to take a minute to recognize Ms. Emelie East of our Appropriations Committee staff. Ms. East serves on the minority staff where she is responsible for assisting with four of our subcommittees, including the Commerce, Justice, and State Subcommittee.

Emelie joined the committee this spring when we stole her from Congressman NORM DICKS. Emelie is a native of Seattle, WA, and a graduate of Trinity College in Connecticut.

She has done an outstanding job in staffing this bill. Ms. East is a true professional. I can tell you that she is top rate. She is a credit to this committee and this institution.

On behalf of myself and the subcommittee, I wish to recognize her for a job well done.•

FULBRIGHT PROGRAM IS A WISE INVESTMENT

• Mr. PRYOR. Mr. President, I rise today to voice my support for the Fulbright Program. This worthwhile program was established in 1946 by a great Arkansan, the late Senator J. William Fulbright. I was a great admirer of Senator Fulbright throughout his public and private life. He made significant contributions to my State, to our Nation, and to the world. The educational exchange program that bears his name is just one of many outstanding contributions to education and to world peace that Senator Fulbright made during his 30 years in the Senate.

The Fulbright Program promotes understanding between the United States and other countries. It is the largest, best-known and most prestigious educational exchange program in the world.

Mr. President, this program is a valuable addition to our foreign policy. It would be contrary to our national interests to make significant cuts to this program at this time. It is as relevant today as when it was founded. Over 200,000 students have participated in the program in some 100 countries over the years. It offers Americans invaluable preparation to succeed in a global

economy. This program also provides those from other countries direct exposure to American society and to our political and economic systems. Many Fulbright scholars go on to key positions in Government, business, and education.

The Fulbright program is a cost-effective means of advancing American interests around the world. It involves partnerships between our Nation and other countries. Many of these countries make substantial financial contributions to the Fulbright Program. In addition, a portion of the program costs come from private sources.

Mr. President, the Fulbright Program has enjoyed bipartisan support from Presidents and Congress throughout its history. This program helps maintain American leadership throughout the world. It merits our continued support.•

U.S.S. "CHANDELEUR"

• Mrs. FEINSTEIN. Mr. President, fifty years ago, the ship's company of the Navy seaplane tender U.S.S. *Chandeleur*, AV-10, together with the aviators of the ship's squadrons, proudly participated in the acceptance of the surrender of the Japanese military forces in Honshu, the central island of Japan, at ceremonies in the harbor of Ominato, the final end of the global warfare of World War II.

They had earned this honor by 3 full years of combat and hard work in service to the U.S. fleet, materially contributing to the victory in the Pacific.

The U.S.S. *Chandeleur* was built in South San Francisco and commissioned in San Francisco on November 19, 1942. It sailed immediately for combat operations in the Pacific, not to return to the Golden Gate until November 1945.

During that period, she served as an advanced mobile operating base for several squadrons of seaplanes engaged in bombing, reconnaissance, patrol, search and rescue, and other vital services, extending the "eyes" of the fleet commander far beyond the horizons. The aircraft would not have been able to sustain continual operations without her support. The U.S.S. *Chandeleur* was truly a part of the victory in the Pacific.

For her valiant services, U.S.S. *Chandeleur* was awarded six bronze engagement stars for operations at Guadalcanal, Bougainville, Saipan, Palau, Okinawa, as well as air operations off the coasts of China, Korea, and Japan, and participation in the early occupation of Japan.

During these operations, the ship and crew survived a number of withering attacks by Japanese vessels and aircraft, including a near miss by a Kamikaze bomber off Okinawa, sustaining multiple battle casualties and deaths of her crew members and air crews.

Soon after her return from the Pacific, U.S.S. *Chandeleur* was "mothballed" at the Philadelphia Navy Yard, and later scrapped, but the ship's company and aviators have remained close.

They have gathered periodically in reunions widely separated across the United States, from Boston to San Diego. For their 27th reunion on the 50th anniversary of the victory they so valiantly helped to bring about, they have gathered in the ship's "native" city, San Francisco, where they will be together at the Marine Memorial Club from September 27 through October 1, 1995.

It is fitting that on the 50-year anniversary of this historic mission that the ship's companies and aviators gather once again in the ship's home city of San Francisco. And, on behalf of the United States Senate, I would like to extend my most sincere welcome to those gathering to remember the valiant mission of the U.S.S. *Chandeleur*.•

THE 100TH ANNIVERSARY OF THE VILLAGE OF EMPIRE

• Mr. LEVIN. Mr. President, I rise today to commemorate the 100th anniversary of the village of Empire. The community of Empire has planned many events for this significant milestone.

The Village of Empire is known today as the home of the Sleeping Bear Dunes National Lakeshore Park Headquarters. The residents of Empire are renowned for their friendliness in welcoming over a million visitors to the lakeshore each year. With its beautiful beaches, hiking trails, abundant natural resources, and rich history, Empire is a recreational haven known the world over.

Empire was settled in the mid 1850's. It quickly established itself as a lumbering center, the largest and best equipped hardwood mill in the State. Many Norwegians, recruited to operate the mill, settled here. With the manpower, modern equipment, and plentiful supply of wood, this mill produced up to 10 million feet of lumber each year, and was a model of efficiency across the State.

The village of Empire formally incorporated on October 16, 1895. It was probably named after the *Empire State*, a steamer-sidewheeler that ran aground nearby in 1849, and the *Empire*, a schooner that also ran aground in the area in 1865.

The lumber mill burned in 1917, and the residents of Empire quickly adapted to produce agricultural products. Lands which had been cleared by the lumbering industry were replanted with fruit trees or became grazing for livestock. Empire drew many seasonal workers anxious to work the harvest, and fruit companies and slaughterhouses sent representatives to view and buy the goods Empire produced.

In 1949, the Empire Air Force Station was established. The 752d Aircraft Control and Warning Squadron was assigned 300 personnel, almost doubling Empire's population. This station remained a part of Empire until the 1980's. The former station is now controlled by the FAA and provides essential radar services to the area.

Empire's long and rich history was recognized through the authorization of the Sleeping Bear Dunes National Lakeshore in 1970. The National Park Service has improved the recreational resources in the area, while preserving cultural resources. The partnership between the residents of Empire and the national lakeshore will continue to draw many visitors in the years to come. Michigan is fortunate to boast of the contributions of the village of Empire.•

MEDICARE

• Mr. JEFFORDS. Mr. President, I rise today to address one of the most important legislative changes the Congress will be addressing this year—changes in the way we finance and the way senior citizens and persons with disabilities receive Medicare coverage. I wholeheartedly support reducing the Federal deficit, as well as, moving the Government out of the role of running a health plan, for the elderly and disabled, and into the role of contracting with private health plans. I commend Chairman ROTH and the Finance Committee for its commitment to these very important goals.

Having studied the health care system in the United States for many years I have come to the conclusion that the reason the Government's health care spending is out of control is really twofold. First, is the way we have chosen to pay for and purchase services. When Medicare was designed in the 1960's it was modeled after private Blue Cross fee-for-service plans. The Government paid providers directly for each procedure.

Paying for services rendered at a distance without any effective utilization control has been a disaster. Our failed attempts to control costs, by continuing to cut payments to providers and increasing costs to beneficiaries, is a major reason why our Federal deficit is so exorbitant.

I hope that in our efforts to reduce the deficit, we have not set ourselves up to cut too deeply into the Medicare payment system. Many technical changes have been suggested by the Finance Committee to the reimbursement policies for hospitals and providers. Some of these changes have allocated additional funding to rural areas. I look forward to discussing the total cost impact on Vermont with both the hospital association as well as other provider groups in Vermont, as well as with my colleagues on the Finance Committee.

Second, by segregating the elderly and disabled, into separate risk pools, the Government has become responsible for providing health insurance for the riskiest members of society. This segmentation has not provided any incentives for the private sector to find innovative ways to manage the highest cost cases in the delivery system. Unfortunately, it was the private market's failure to provide affordable coverage on reasonable terms, to the elderly and disabled, that led to the political demand for the Government to create Medicare and Medicaid in the first place.

Providing Medicare beneficiaries a choice of private health plans is a wonderful idea and one that I have been advocating. Hopefully, the impact will not be the same as the greatest criticism against the Federal employee plan. One experience with this program has found adverse selection among plans—that is the people that need the most care seem to migrate to the high option Blue Cross fee-for-service plan—creating an upward cost spiral for members of this plan.

Now I'd like to turn to the two charts I have here. The first chart was duplicated from hearings on the Eisenhower administration's health reinsurance legislation back in 1954. This was before we had Medicare and Medicaid. As you can see, 41 percent of the population had no insurance protection at all and 36 percent of the population had what I would call limited coverage. More startling only 3 percent of the population has what most Americans take for granted today—comprehensive coverage.

Compare this chart with my second chart which does not emphasize the type of coverage but the source of coverage. Over 55 percent of Americans in 1993 had coverage provided through their employer. As you can see, 15 percent of the population is uninsured—compared to 41 percent in 1953. Medicare is the primary insurance for 12 percent of the population and 9 percent of the population receives coverage through Medicaid.

As we tackle one of the biggest problems for the Federal Government, our deficit, we must keep in mind a goal we all agreed to last year—the goal of moving towards universal coverage for all Americans. We must keep in mind that any changes we make to the public programs of Medicare and Medicaid must not add to the rolls of the uninsured, especially if it is due to unintended consequences of our changes to these programs. More uninsured Americans will only increase total costs to the health care system.

We must keep in mind that Medicare and Medicaid were created because proper incentives were never placed in the private market to enable it to accept the risks associated with insuring the elderly and disabled. As we encourage the Medicare population to move into private health plans we must be sure to do what President Eisenhower tried to do over 40 years ago—we must be sure to place the proper incentives in the private market that will encourage it to compete for the chronically ill high cost population on quality and price.

As we move to a system in which we offer Medicare beneficiaries throughout the country greater choice and coordinated care, we must not forget to address the following concerns. First, what types of choices will be available for rural and underserved areas which have little or no penetration of the private managed care marketplace? Second, how can we provide coordinated care for beneficiaries who decide to stay in the current fee-for-service Medicare program? Third, how can we address the bifurcated finances and benefits offered to the aged and disabled population through the Medicare and Medicaid programs?

Many rural and underserved areas of this country, like Vermont, which do not have an over abundance of hospitals and other health providers, have not seen the benefits experienced by a mature managed care marketplace such as Minnesota or Washington. I was very pleased to see that the Finance Committee has recommended that the AAPCC be modified to increase the per month payment per Medicare beneficiary in rural areas. Hopefully, more managed care plans will decide to start up business in rural parts of this country. But this change will take some time.

Market alternative's to managed care health plans have been springing up all over rural America. For example, although Vermont does not have a multitude of managed care health plans operating, providers have been developing networks that offer a continuum of care to Vermonters. Networks that provide acute, home health and residential care. They provide direct medical care, as well as, the personal services needed for individuals to manage their own care needs. This coordination of care is very similar to what Blue Cross of western Pennsylvania is providing its fee-for-service clients through case management. Like Blue Cross, many private sector fee-for-service health plans have begun to provide case management on a voluntary basis to individuals with high-cost conditions, generally chronic or catastrophic care cases. These programs offer greater flexibility in the array of services needed, on a case by case basis, and have proven very cost effective.

HCFA has demonstrated that a small proportion of Medicare beneficiaries account for a high proportion of payments. In 1992, about 9.8 percent—3.5 million—of all Medicare enrollees accounted for 68.4 percent—$82.6 billion—of all Medicare payments. The experience for the last 20 years of the program has shown that 80 percent of the beneficiaries account for only 20 percent of the costs of the Medicare program. In the Medicaid program 30 percent of the population, the aged and disabled, accounts for 70 percent of Medicaid expenditures. Furthermore, this is the cost in the Medicaid Program that is growing the fastest. Finding a means to manage high cost cases in these two programs is essential if we are going to reduce costs in both of these programs.

To add to the distortion and inefficiencies in providing care for elderly and disabled persons is that many of these people are both Medicare beneficiaries and Medicaid recipients. These people are termed dually eligibles today. This creates numerous clinical, operation, and financial problems, particularly as these two programs are taking extraordinary steps to control spending. In order to access the full range of care that is necessary an individual must deal with two very different systems. The care received by a dually eligible consumer is therefore, often fragmented, reimbursement driven, and inappropriate.

Service decisions are routinely made by providers based on which program pays better. This result is not always a care plan that is in the best interest of the consumer or the most cost effective. Because two payors offering distinct yet overlapping benefit packages with different sets of rules are responsible for the same consumer, much confusion exists for all parties. It is often impossible for States to know what service decisions, which ultimately tap Medicaid funding, are being made while the senior citizen is in the Medicare system. Another source of much provider discontent and inefficiency is the dual administration of claims payments. One of the major reasons for this problem is that Medicare and Medicaid claims processing systems are not compatible and Medicare and Medicaid payment policies differ. The result is needless inefficiencies and expense.

As attempts to control Medicare spending and to block grant Medicaid move forward, the problem of dual eligibles becomes an obstacle to achieve both goals. Medicare cannot control the cost of this population unless Medicaid funded services are used to lower Medicare's acute care costs. Medicaid cannot manage and coordinate the care of the elderly and disabled unless it is given responsibility for the full continuum of care. One answer is a case managed system for the dual eligibles which merges Medicare and Medicaid coverage and is administered by the States on Medicare's behalf. This would be a thoughtful approach in addressing the highest cost cases in both programs by replacing the fragmented, costly and inefficient system of today

with an integrated, managed care approach designed to keep people healthier and lower costs for both public programs.

I have been working with Senators KASSEBAUM, COHEN and CHAFEE on this very key issue as we look forward to restructuring our public programs. Once we have created a delivery system that provides high quality, appropriate, cost effective care for the people who need the system the most—we will have restructured a health care system that works for all Americans. Mr. President, I look forward to working with my colleagues on both sides of the aisle in a thoughtful debate on how to modify both Medicare and Medicaid.•

WELFARE REFORM VOTES

• Mr. ABRAHAM. Mr. President, during the Senate's consideration of the welfare reform bill there was often very little time available for Senators to debate the amendments which were offered. I would like to take a moment of the Senate's time now to comment on various votes which were cast during that debate.

Mr. President, no single issue dominated our deliberations more than the subject of illegitimacy. Republican or Democrat. Liberal or Conservative. I believe nearly every Senator emphasized the need for our society to curtail the dramatic rise in illegitimacy—or else face the tragic consequences.

Given our near universal expression of concern and the overwhelming urgency of the situation, the logical question became: What steps do we in Congress take to combat this vexing problem?

A number of proposals were presented for the Senate to consider. There was the family cap: Essentially denying additional benefits to mothers already on welfare for any additional children they have. There was the issue of denying any assistance at all to unwed teen mothers. And there was the illegitimacy ratio bonus which would provide additional financial assistance to States which successfully lowered their out-of-wedlock birth rate.

My general philosophy when it comes to an issue such as welfare reform is to give the States maximum flexibility in designing and operating their own programs. I think this is especially important when dealing with the matter of illegitimacy. While a great deal of attention has been paid to this issue lately, at present, there is no concrete evidence that any specific program or approach has proven to be consistently effective in stemming the tide of illegitimacy.

Mr. President, the States have shown they are best suited to serve as laboratories where experimentation can take place and truly innovative solutions will be found. However, if this is to happen, we must resist the temptation to coerce the States into adopting any one particular approach as the best or only way to combat illegitimacy.

The State of New Jersey has, over the last couple of years, instituted a family cap as part of its welfare program. I applaud their leadership in attempting to reverse the devastating effects of rampant illegitimacy. Nevertheless, there are conflicting reports about the results in New Jersey thus far. At this time, it is unclear what conclusions we in Congress can fairly glean from their experience. Absent credible evidence of success, how can we justify imposing any one approach on every State in the Nation?

A far preferable approach, Mr. President, is to set national goals and give the States incentives to pursue them. This is why I fought to add the illegitimacy ratio bonus mechanism to the welfare reform bill. With the bonus, we are giving States a substantial financial incentive to be vigorous in dealing with their out-of-wedlock birth rates without the constraints of a specific policy regimen. It is intended precisely to reward those States which are innovative, assiduous, and successful. And because the award is so substantial, we included language in the provision protecting against States using abortion as a means of achieving these drops in out-of-wedlock births.

With these thoughts in mind, Mr. President, I voted for the motion to strike the family cap offered by the Senator from New Mexico, Senator DOMENICI. The Dole family cap language required every State to deny cash benefits for additional children born to mothers already on welfare. There was no opt-out available to States. There was no ability for States to modify the cap to suit their circumstances or to get out from under it if unintended consequences ensued.

Many people believe the crisis of illegitimacy is sufficiently dire that dramatic steps must be taken. I concur with that assessment. I simply question the wisdom of forcing all 50 States to adopt a rigid prescription for combatting illegitimacy at the same time we are giving them limited resources and asking them to be creative in designing their own welfare programs. The illegitimacy ratio bonus—providing States the incentive of additional resources if they make use of the flexibility we allow and design effective programs—is I think a better way to induce States to address this problem.

Mr. President, this same rationale persuaded me to vote in favor of the Faircloth amendment which combined a Federal requirement that States deny cash assistance to unwed teen mothers with a State opt-out provision. The reason for requiring States to affirmatively opt-out of the Federal requirement is to ensure that States at least engage in a formal debate on how they plan to address the issue of illegitimacy.

Given the severity of the problem and the catastrophic ramifications of our doing nothing, I do not believe that requiring States to debate the wisdom of this particular proposal is an unnecessary infringement on State prerogatives or flexibility. It is also important to remember that there is nothing in this legislation which would have prevented States from doing this once the bill was passed. Under the Senate bill, States are free to enact such policies, and I suspect a number of them will.

Mr. President, let me stress one final, important point. I have said that I believe States should be given the opportunity to devise and implement their own programs to counter the skyrocketing out-of-wedlock birth rate. I fully expect them to make the most of this opportunity.

Should States either fail to address this issue or to deal with it effectively, I believe the Congress will have no choice but to step in and dictate a more prescriptive approach. Likewise, if particular initiatives yield concrete results at the State level, it would then become more reasonable for the Federal Government to push States to adopt such policies—though not to the exclusion of all other approaches.

Mr. President, another area of concern to many Senators was the issue of requiring States to maintain a level of spending on welfare consistent with that of previous years. I think the proponents of such measures—commonly referred to as "maintenance of effort"—operate out of a genuine concern that States not take advantage of this new Federal-State relationship. Nevertheless, I believe these efforts are misguided for two principal reasons.

First, I believe most of these proposals originate out of the false notion that States, once relieved of massive Federal regulation and oversight of these programs, will immediately begin a race to the bottom. Once States are relieved of a required level of spending, it is argued, they will quickly cut benefits and shift their own resources to other areas. As I have stated on other occasions, I find this argument to be both naive and condescending.

I think our experience in Michigan shows that States—if given the latitude to run their own programs—can be both efficient and compassionate. The first reforms Michigan instituted, once it received the requisite waivers from HHS, were not designed merely to get people off welfare and save money. In fact, the actual effect of many of these initiatives was this: To allow people to stay on welfare and, at the same time, to remain a two-parent family, or, to take a job and earn some additional money, or, in some instances, to facilitate the welfare recipient's eligibility to receive Medicaid, to

which they would not otherwise be entitled.

Far from our State's program being more harsh, I believe we in Michigan have been in many ways more realistic and more compassionate than the Federal Government.

The second reason the rationale behind maintenance of effort requirements is flawed is that they are simply not realistic. Again, I think Michigan's experience is instructive.

Over the last 3 years, Michigan was able to reduce its welfare caseload by approximately 14 percent. In September 1992, our AFDC caseload was almost 222,000 cases and as of August 1995 our caseload has dropped to just over 190,000. Because of this, welfare spending in our State decreased from $485 million in fiscal year 1993 to $451 million in fiscal year 1994—a difference of $34 million or 7 percent. And fiscal year 1995, which is about to end, is expected to be considerably lower than the previous year.

Mr. President, there are those who will argue about whether Michigan's caseload reduction is due to our welfare reform program or our strong economy. Frankly, that misses the point. A strong economy has certainly had a beneficial effect on our welfare caseload. However, even if the caseload reduction were due solely to the State's improved economy, the simple fact remains that there normally would be a correspondingly large reduction in State spending on welfare. And this would occur without any negative impact on the services or benefits available to individuals who remain on welfare.

Why, Mr. President, should a State have to continue to spend the same amount on welfare if its caseload has been reduced by 10 percent, 20 percent or even 30 percent?

Nevertheless, during consideration of the welfare reform bill, the Senate was repeatedly confronted with attempts to impose a maintenance of effort requirement. The original Dole-Packwood bill did not contain a maintenance of effort provision. It was subsequently modified to provide for a 75-percent maintenance of effort for the first 3 years. We then upped that figure to 80 percent, and later extended the effort requirement to 5 years.

Mr. President, I supported those changes because I understood that these were sincere attempts to accommodate Senators with serious concerns about this issue. I was willing to agree to these changes precisely because the level of effort required—75 percent or 80 percent—allowed a reasonable degree of latitude for States to adjust their spending levels to meet exigent circumstances. However, the Breaux amendment—which I opposed—required a 90-percent maintenance of effort or a decrease in the State's AFDC grant proportionate to the amount the State's spending fell below 90 percent of previous levels.

And shortly before final passage, we were asked to vote on the final Dole modification package which contained two additional maintenance of effort provisions. The first one was tied to the additional $3 billion made available to States for child care. To be eligible for these funds, States were required to maintain 100 percent of their fiscal year 1994 spending on AFDC child care —even though they would still have to match these Federal funds at the standard Medicaid matching rate. The second was tied to the contingency fund, for which States were only eligible if they maintained 100 percent of their AFDC spending for fiscal year 1994.

Mr. President, I realize many of my colleagues are concerned about States not carrying their weight, not paying their fair share. This Senator was willing to support a symbolic level of effort—and did. However, I felt the two additional maintenance of effort provisions in the final Dole modification simply went too far. The effect of all of these provisions, I believe, would be to force States to adopt spending priorities that were inconsistent with their caseloads, their costs or other factors.

Why is that a legitimate concern? It amounts to subtle coercion and contradicts what we are purportedly attempting to accomplish by creating the block grant. It violates part of the bargain into which I thought we were entering.

We promised to give States essentially a fixed block of money with which to design and operate their own welfare system. The incentive for the States to run a tough, fair and efficient system was that they could decrease the overall amount they spent on welfare and, thereby, free up some of their own funds for use in other areas. By adopting these various maintenance of effort requirements, we have violated that tacit agreement and—I believe—undermined States' ability to succeed. I think that was a mistake.

It was for that reason I voted "No" on the final Dole modification. However, I still strongly supported the bill on final passage. There are too many other important elements in the legislation. And inclusion of this provision in the bill does not, in my mind, jeopardize the overall feasibility of the welfare block grant scheme.

Finally, Mr. President, there were a number of votes on amendments to Title V of the bill which dealt with the provision of Federal means-tested benefits to non-citizens. Let me briefly address a couple of these.

First, I see no merit or justification—where the U.S. Constitution is silent—in drawing distinctions between naturalized and native-born citizens. Where the Constitution makes distinctions, we must abide by its directives. Beyond that, I believe all citizens, regardless of how they arrived at their citizenship, ought to be treated equally under the law.

America is a nation built by immigrants. It has always served as a shining beacon of freedom to those fleeing tyranny and those seeking opportunity. In the case of my own grandparents, they came here merely looking for an opportunity to build a life for themselves. Once they became U.S. citizens, the place of their birth should have had no bearing on their rights or privileges in this country.

This is why I voted for the amendment offered by the Senator from California, Senator FEINSTEIN, to remove language in the underlying Dole proposal which would deny cash and noncash welfare benefits to naturalized citizens during the "deeming" period. The "deeming" period refers to the time during which the assets of the immigrant's sponsors are counted in evaluating the need for means-tested government assistance.

Mr. President, I believe this amendment is clearly unconstitutional. We are talking about American citizens, not legal aliens. As Senator FEINSTEIN indicated during the debate, the Supreme Court in 1964, in the case Schneider v. Rusk ruled that "the rights of citizenship of the native born and of the naturalized citizens are of the same dignity and coextensive." There can be no rationale for explicitly or implicitly designating as "second-class" citizens individuals who have come by their citizenship legally. It is as simple as that. The Feinstein amendment would have eliminated any disparate treatment once citizenship has been achieved. That is what the Constitution requires, and that is why I supported her amendment.

The other amendments in this area addressed extending federally means-tested benefits to non-citizens. Unlike the issue in the aforementioned Feinstein amendment, in these instances I felt there could be a legitimate policy distinction between citizens and noncitizens. Exact symmetry in our treatment of these groups is not necessary—and, in certain situations, not appropriate.

A second Feinstein amendment dealing with immigration would limit the deeming requirements to only cash and cash-like Federal benefits. Therefore, legal aliens with sponsors would not have to have their sponsor's income taken into consideration when applying for such Federal benefits as Medicaid and Head Start.

This amendment raises three issues. First, the letter of the law is that all legal immigrants entering this country—even those who ultimately plan to stay permanently and become citizens—must assure immigration officials that they will not become public charges while they are here. They must

show sufficient resources either of their own or belonging to their sponsor. While this law has not been diligently enforced, it is important to remember that those are the terms of an immigrant's entrance into our country.

Second, we are in the process of making difficult budget decisions on many programs—including Medicaid and Head Start. Are we prepared to facilitate the ability of non-citizens to gain access to these programs at the same time we are placing limits on the funding available to meet the needs of our own citizens?

Last, the argument is made that, if these people are not eligible for Federal benefits, the States will end up bearing the cost of providing these services. The bill does make exceptions —such as emergency medical care, disaster relief, school lunches, child nutrition, and immunization against disease—so that under certain circumstances the Federal Government will cover the cost of certain benefits. Aside from those instances, States must decide what level of services they are willing to provide, and they are free to spend their resources in those areas as they see fit. I did not see a compelling reason to add to the exceptions already provided for in the bill, and therefore, I could not support the Feinstein amendment.

Senators SIMON and GRAHAM offered an amendment which would have eliminated any retroactivity effect from the Dole bill's provision to increase the deeming requirement in all cases to a 5-year period. Currently, there are some government benefits, education assistance being a primary example, for which non-citizens residing legally in the United States can become eligible earlier than the five year deeming period which exists for most means-tested Federal benefits.

This provision would apply to a relatively narrow segment of people: only legal aliens who have been in this country less than five years and who either are currently receiving some form of assistance or are eligible to receive some form of assistance because the respective deeming period has expired. As I have indicated, immigrants legally admitted to the United States are asked to pledge that they will either be self-supporting or supported by their sponsors.

I regret that some people may be adversely affected by this provision. Nevertheless, it has become too easy in many instances for non-citizens to receive government benefits while our own citizens often go without. At a time when we are making difficult budget cuts which will impact the lives of American citizens, I think we owe it to them to ensure that we are not conferring non-essential benefits to non-citizens. For that reason, I opposed the Simon-Graham amendment on deeming retroactivity.

Mr. President, let me quickly describe a number of other issues which arose during the Senate's consideration of the welfare reform bill.

Formula issues are always among the most contentious of the matters we deal with in the Senate. On welfare reform, this was once again the case. There were two formula-related amendments offered on the floor: the Graham Children's Fair Share formula and the Feinstein Growth Formula Adjustment.

Formulas are usually made up of a number of different variables, but these variables tend to represent three general indexes. These factors are: How wealthy is the State? What has the State's effort in this area been in the past? And what are the State's needs? The formula's end product depends as much on which of these factors you stress most as it depends on the relevant statistics from the State.

In the case of the Graham amendment, the so-called growth States were pitted directly against those States which traditionally had the highest welfare caseload and highest level of expenditures. If the Graham amendment had passed, it would have been devastating to the State of Michigan, and thus I felt compelled to oppose it.

The Feinstein amendment was a closer call. The Feinstein amendment was identical to the House formula, and apparently no State would have lost money under its provisions. In fact, the State of Michigan stood to receive a slight increase under the Feinstein proposal. However, because formula fights are so contentious, if every State only looks at the bottom line, we stand either to make bad policy or to be unable to win passage of the bill.

In the case of the Feinstein amendment, a compromise had already been worked out between the Senator from Texas, Senator HUTCHISON, and the majority leader which addressed many of the concerns of the so-called growth States. This was a fragile compromise and passage of Feinstein amendment would have abrogated it, effectively increasing the likelihood of the Graham amendment passing. That would have been devastating to Michigan. My vote against the Feinstein amendment was an attempt to ensure ultimate passage of the bill while also guaranteeing adequate funding for my State.

The Senator from Illinois, Senator MOSELEY-BRAUN offered two amendments that dealt with cutting off benefits. The first stipulated that the 5-year cumulative time limit on benefits for welfare recipients would not apply if any State did not provide employment, job training, or job counseling to the recipient. The problem with this amendment is that it places the entire burden on the State to provide the work-activity "related services" to the recipient, thus alleviating the individual of any need to exert the effort and responsibility necessary to seek out and obtain job training or employment.

We already have a requirement that States get welfare recipients into work-related activities; it is called the participation rate. States which do not meet this will themselves be sanctioned. Mr. President, if individuals desire to get off welfare and into training or employment, they will find an eager partner in the State welfare agency. For those recipients who are less motivated—or not motivated at all—we need the 5-year time limit. Adopting this amendment would, in my estimation, emasculate the 5-year time limit, and for that reason I opposed it.

The second Moseley-Braun amendment dealt with the consequences of what happens to children if their parents are sanctioned for any reason and lose their benefits. It would have required States to replace the lost benefits with vouchers for goods and services equal to each child's share of the benefits. I am sympathetic to the problem the Senator from Illinois sought to rectify. I am simply concerned that, in this instance, her solution was too far-reaching.

As with "strings" in other areas—for instance illegitimacy—I am reluctant to tell States they must address a potential problem with a particular remedy. States are free, under this bill, to do exactly what this amendment proposes with their own funds. And I believe many will. But by passing this amendment, we would be limiting the options available to the State to address certain exigencies. I believe that would be a mistake, and for that reason I voted against this particular amendment of the Senator from Illinois.

The Senate also considered a similar amendment offered by the minority leader and the Senator from Massachusetts, Senator KENNEDY, which would permit States to use Federal funds to provide non-cash assistance to children whose parents become ineligible for assistance due to the 5-year time limit. As I stated above, States are, of course, perfectly free and capable to provide this assistance with their own funds. However, there is another provision of the Dole bill which could apply in such instances.

The Dole bill does allow States a hardship exemption to protect families from the 5-year time limit when circumstances warrant. In fact, the majority leader, at the request of the minority leader, raised the level of hardship exemptions States can claim from 15 percent to 20 percent precisely to address this concern. So I am confident that sufficient resources and flexibility exist for States to take care of children who may be affected by the 5-year time limit.

Mr. President, I have a lot more faith than apparently is held on the other side of the aisle that Governors and

State legislators—whether they are Republicans or Democrats—will not allow children in their States to suffer. I know that many people believe that will occur. I do not. I believe that any elected official who allows that to take place on their watch will pay the price at the ballot box at the next election. And frankly, Mr. President, there is already considerable suffering occurring under the present system. I do not imagine the States could do much worse.

There were two amendments from the Senator from Maryland that I would like to discuss. One dealt with an issue both she and I had addressed earlier this year in the Labor Committee. Her amendment proposed to strike from the workforce development portion of the welfare bill the repeal of title V of the Older Americans Act which applies to senior community service employment programs. While the workforce development section now has been separated from the welfare reform bill to be taken up as a free-standing measure, let me describe the rationale behind my opposition to the Mikulski amendment.

The existing Senior Community Service Employment program gives approximately $320 million to about 10 national seniors groups. It is then left to those groups to set up programs that benefit the seniors at the State and local level. By many accounts, that presently is not happening. During the Labor Committee's consideration of the workforce development bill, I heard from seniors groups in Michigan. They supported the concept of block granting these funds to the State level precisely because they are not receiving adequate funding under the current structure.

The General Accounting Office reportedly will soon release a report documenting the degree to which these funds fail to ever reach the senior citizens and local seniors groups they are meant to benefit. Reportedly, one fifth of the $320 million is going to administrative costs including salaries, fringe benefits and expenses. Only a fraction of the remainder reaches the grass roots level. This is the type of arrangement that my constituents sent me to Washington to rectify. That is why I supported block granting these funds to the States and why I voted against the Senator from Maryland's amendment.

The second Mikulski amendment was very attractive in theory, but it contained a couple of elements which I could not justify supporting. The purpose of the amendment was noble: to create incentives for families to stay intact and to remove any existing disincentives from the law. Regrettably, one of the incentives was a mandate on States to establish job training and employment programs for non-custodial parents to help them get jobs, earn an income, and pay child support.

That is a laudable objective, Mr. President. However, how do we explain to the lower-middle class working parent, who may already be holding down two or three jobs himself or herself, that we are setting up a new program to provide a dead-beat dad job training when we are not providing them the same opportunity. I think the existing penalties for dead-beat parents—and the additional ones provided in this bill—will give them sufficient incentive, if they are so inclined, to seek out training and work. And there are plenty of existing job training and employment service programs available to meet the needs of any non-custodial parents needing assistance.

Second, this amendment attempted to re-insert into the bill a controversial provision which had already been struck: namely, the $50 pass-through. In most, if not every State, the policy is that when delinquent child support payments are finally collected, the State is first entitled to subtract the costs it incurred in providing assistance to the family while child support was not forthcoming. It then passes any remaining money on to the mother.

This amendment would propose that the first fifty dollars collected in back child support be passed directly through to the mother before the State attempts to defray its costs in caring for the family. Mr. President, State child support agencies oppose this amendment as an added and unnecessary administrative burden and as an obstacle to States' attempts to recoup monies they have spent supporting these families. We are not talking about States taking money which rightfully belongs to others. We are talking about State's being reimbursed for their expenditures when remuneration becomes available, and therefore, being able to support another needy family at a later date. That is entirely reasonable and fair, and thus, I believe such a proposal is misguided.

The Mikulski amendment does contain a provision which I strongly support: the elimination of the 100-hour work limit or the man in the house rule. However, the other aforementioned elements of the amendment are not sound policy to my mind, and therefore, I felt constrained to oppose the amendment.

As an aside, Mr. President, back in 1992 the State of Michigan sought and received a waiver from HHS from the man in the house regulation as well as the work history requirement before families can become eligible for AFDC. Please understand this incongruity: For a two parent family to be eligible for AFDC, one of the parents must have a recent work history, but at the same time, that parent cannot be working more than 100 hours in a given month. That, Mr. President, is why we need to free States from the Federal micro-management which has, I think, plagued our national social policy over the last thirty years.

On another matter, the Senator from New Mexico, Senator BINGAMAN, offered an amendment to increase funding levels for treatment programs for drug abuse and alcohol treatment. Senator BINGAMAN's amendment sought to increase funding for these programs by an additional $300 million. This was after the Majority Leader and the Minority Leader had already included in the final modification package a funding level of $50 million for the next two years. The Senator from New Mexico preferred $100 million for the next 4 years.

Mr. President, it is no secret that substance abuse and alcoholism are severe problems for our society and not simply characteristic of welfare populations. Nevertheless, research confirms that a very sizable segment of the long-term welfare dependent population has either a substance or alcohol abuse problem. Any effective welfare reform program at the State level will have to deal with this dilemma.

The problem, Mr. President, is that we have very limited resources with which to work. If we add $300 million dollars in substance abuse treatment, it will come from one of two places. It can come right off the top of each State's welfare block grant. But this is money already going to the States, and under this amendment, the States would have no option but to use it exclusively for treatment. At least under the Dole proposal, States can assess their own needs in determining what is a reasonable level of expenditure.

The only other recourse we would have is to tell the Finance Committee that they now, during the reconciliation process, need to come up with another $300 million from somewhere. Will it be Medicare? Will it be Medicaid? Who knows? The responsible thing, I believe, Mr. President, is to allow the States to determine their own needs and give them the flexibility to direct the necessary resources to meet that need. For that reason, I voted against the Bingaman amendment.

That same day we also considered a Sense of the Senate amendment by the Senator from Minnesota, Senator WELLSTONE, which stated that "any Medicaid reform enacted by the Senate this year should require that States continue to provide Medicaid for 12 months to families who lose eligibility for welfare benefits because of more earnings or hours of employment."

Mr. President, this is one of those amendments that appears well intentioned and reasonable, but serves, I think, to replicate the type of over-regulation that has hampered our Federal social programs for years. In Michigan, as I have already noted, we were able to secure a waiver from HHS that

would allow us to opt out of a Federal regulation which served to limit people's access to Medicaid. Once Michigan obtained the waiver, between October 1992 and December 1992 over 4,500 cases were transferred from our State Family Assistance Program to Medicaid.

In 1994, Michigan sought another waiver from HHS. The State wanted to eliminate the disincentive which often exists when people face the prospect of losing Medicaid if they find employment and leave AFDC. Michigan proposed to offer a Medicaid "Buy-In" option for individuals whose transitional Medicaid coverage had expired and for whom employer-based health coverage was not available. This program would also cover children for whom a child support order requires the purchase of health coverage. Regrettably, our State has still not received a waiver from HHS so they cannot move forward with this program. Because of this inaction, people in my State go without health care coverage or remain on welfare.

Mr. President, I ask my colleagues: Where is the compassion in that? This program would in fact be even more generous than what the Senator from Minnesota has suggested in his amendment. The State of Michigan was not under duress when it requested this waiver; it was good social policy. It is experiences like this that give me confidence that the States are going to perform much better than people think, and better than the Federal Government has performed in many areas.

Perhaps the amendment of the Senator from Minnesota is not misguided in intent, but I am afraid it is misguided in effect. It states that one particular approach is ideal in all situations. There is not even an allowance for States to deny benefits to individuals earning over a reasonable income limit; it only states "families who lose eligibility" because of "more earnings" should retain their Medicaid eligibility for an additional 12 months. This amendment is simply unrealistic, and it undermines our efforts to give States maximum flexibility in responding to various exigencies. I felt it was necessary to oppose it.

Following the Wellstone amendment, the Senate took up an amendment offered by the Senator from Wisconsin, Senator KOHL. The Kohl amendment would have exempted senior citizens, the disabled, and children from the optional food stamp block grant which is part of the Dole bill. First let me point out that, through burdensome regulations and restrictions, we have already made the "option" for States to elect a food stamp block grant fairly unattractive. This would make it only more so. Imagine the administrative nightmare for a State to run a system in which some of its citizens are in the State program and some are still in the Federal system. That would prove to be unworkable.

There is also the matter of cost. This provision would reportedly cost an additional $1.4 billion. As I have already indicated, it can only come from two places: decreasing the amount going to States in their welfare block grants—meaning less money in assistance—or further reductions in other federal programs like Medicare or Medicaid. I do not believe that either of those results is acceptable, and therefore, I voted against the Kohl amendment.

The Senator from Florida, Senator GRAHAM, offered an amendment which would undermine the tough work requirement in the Dole bill by allowing the Secretary of HHS to modify each State's work participation rate to reflect the varying levels of Federal assistance. I agree that some States are farther along than others in developing a welfare program capable of meeting the ambitious participation rates contained in the Dole bill. However, I also believe that States are given sufficient tools and enough flexibility in this bill to meet these targets in the time allotted.

My concern, Mr. President, is that if we do not have tough, uniform work requirements, States will have every incentive to come up with reasons that these target rates are not achievable. As it now stands, States know what is expected of them, and they are given five years to meet these targets. And we have made a number of changes to facilitate their task. To have accepted this amendment would have set us back considerably from our goal to have people on welfare performing real work. For that reason, I could not support the Graham amendment.

In conclusion, Mr. President, I believe the Senate's passage of this legislation was a momentous occasion. It marked, I think, a watershed in our approach to social policy in this Nation. There were a number of considerable accomplishments in this measure.

We were able to end the "entitlement" status of welfare benefits. The American people have made it clear that they want a welfare system which does more than simply provide government hand-outs. They expect something from the recipient in return—self-discipline, a work ethic, personal responsibility. But it is practically impossible to have real welfare reform without the ability to sanction those recipients who fail to abide by the terms of the program.

As long as welfare is treated as an entitlement—essentially a right and not a benefit—the courts have ruled that the same due process rights exists for the welfare recipient as for a homeowner or property owner. In fact, some would argue it would be easier for the Government to take your property away. Without this legislation, sanctioning recipients who refuse to work will be administratively unduly burdensome if not impossible.

The second major achievement of the welfare bill was to erect a strong work requirement for States to use in developing their programs. We started by giving States difficult targets to reach in the form of work participation rates among welfare recipients—and without exemptions. Exemptions only serve to exaggerate the number of people working in any State. We then crafted a strict definition of what constitutes work so that we could be confident that the States had genuine work programs. Other than those parameters, Mr. President, we tell the States that they are free to determine by themselves how they wish to meet those targets.

Third, while the Senate did not go as far as many people wished, we took a sizable and laudable first step toward addressing the crisis of illegitimacy. We made illegitimacy a core feature of the welfare reform bill, and we gave States a carrot and stick. The carrot comes in the form of the illegitimacy ratio bonus. The stick, I believe, is the inevitability of Congress taking much more drastic, prescriptive actions if States fail to effectively combat their out-of-wedlock birth rates.

Finally, the bill gives the States tremendous latitude and flexibility in designing and running the programs we are block granting and sending back to them. That is critical if the block grant approach is to ever succeed.

For years, many of us have said that the Federal Government does not have all the answers. We have repeatedly proclaimed that too often bureaucrats in Washington have actually created many of our problems or were hindrances to others' attempts at finding solutions.

Mr. President, this Senator simply does not believe that government at any level—Federal, State or local—has the resources or the ingenuity to solve all of our Nation's social problems. That is especially true when we are talking about many of the issues related to welfare reform: illegitimacy, child care, education and job training, paternity establishment and child support.

If all we ask of our welfare system is to provide a safety net for people who have fallen on hard times, then we can content ourselves with Government merely getting money or goods into peoples' hands. However, if we want our welfare system to be one in which individuals needing assistance are given the tools and the opportunities to get off welfare and never return, the assistance we provide has to be more than simply a government hand-out.

To accomplish this will require input from a whole host of other institutions in our society beyond government—our churches, our schools, our businesses,

our civic associations—in essence, our entire community. For too many years, Government has seen itself as the sole purveyor of opportunity for the less fortunate and, in the process, has stifled the efforts of other institutions desirous of sharing the workload. With the passage of this welfare reform bill, we are telling Government that it must begin to share the responsibilities and the resources with other partners in this endeavor.

That is why I believe the legislation we passed last week is such a tremendous accomplishment. I trust the conferees will work diligently to come up with a similarly tough and balanced measure, one that most of us can wholeheartedly support.●

IN RECOGNITION OF THE 30TH ANNIVERSARY OF THE NATIONAL ENDOWMENT FOR THE ARTS

● Mr. JEFFORDS. Mr. President, I would like to take a moment today to mark the 30th anniversary of the National Endowment for the Arts. Thirty years ago, President Lyndon Johnson initiated a program which gave the government a modest role in bringing the arts and culture to all the people of our great nation. Today, 30 years later, this small investment is being called into question, ignoring that the National Endowment for the Arts has made a substantial contribution to the cultural lives of Americans in all corners of the nation. The NEA has lived up to the purposes for which Congress established, specifically, "to ensure that the arts and humanities belong to all people of the United States." This has been no small achievement, and is one which the Endowment can stake claim to—broadening accessibility and increasing the breadth of participation.

For much of our Nation's history, one had to travel to the biggest cities—New York, Chicago, Boston or Los Angeles—to participate and enjoy the best of what the arts had to offer. This is no longer the case. The Endowment has encouraged a real flowering of the arts across the nation and provided the seeds for each community to celebrate its uniqueness and its creativity. While one could not say that the Endowment is the creator of art—certainly the arts would exist and have existed without it—one can safely say it has been a catalyst for ensuring that the very best of the arts are available to even the smallest corner of the nation and to all segments of the population.

All across America, millions of children and their families have had the chance to see the great masterpieces of the visual arts, hear the masterworks of American composers, and read the novels and stories and poems of America's great writers. The gift of the Endowment to our Nation is realized by each person, young and old, whose horizon is broadened through dancing and writing, whose self esteem is reinforced through participation in the arts, who is able to communicate through creating. Bringing the magic and wonder of the arts to all of us, is the triumph of the NEA.

Mr. President, on this 30th anniversary, I would also like to take a moment to pay tribute to one of the founding fathers of the NEA, the distinguished senior Senator from Rhode Island, CLAIRBORNE PELL, who has been a true champion of the arts. He, too, should be recognized on this anniversary for his extraordinary contributions. As a long time supporter of this agency and sponsor of legislation to reauthorize the National Endowment for the Arts in 1995, I am proud to come to the Senate floor and make note of this special day.

Now that it appears that the Endowment is secure, I would like to thank all my colleagues who helped through this difficult time. We should not allow for controversy to overshadow this agency's great accomplishments. It is my hope that the National Endowment for the Arts will continue to serve the American public well into the next century.●

UNANIMOUS CONSENT AGREEMENT—S. 908

Mr. COATS. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader and after the managers of the bill have agreed on the managers' amendment, they turn to the consideration of S. 908, the State Department authorization and reorganization bill; that the managers' amendment be the only amendment in order; that there be a time limitation of 4 hours equally divided on the bill and managers' amendment equally divided between the two managers; that at the conclusion or yielding back of time the managers' amendment be agreed to, the bill be read a third time, that the Foreign Relations Committee be discharged from further consideration of the House companion bill, H.R. 1561, that the Senate turn to its immediate consideration; that all after the enacting clause be stricken and the text of S. 908, as amended, be inserted in lieu thereof, the bill be advanced to third reading, and the Senate proceed to vote on passage of the bill with the preceding occurring without intervening action or debate and that S. 908 be returned to the calendar upon disposition of H.R. 1561.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COATS. Mr. President, I ask unanimous consent that the Senate go into executive session and immediately proceed to the consideration of the following Executive Calendar nominations en bloc: No. 233 through No. 237, 239, 240, 241, 242, 243, 245, 246, 247, 248, and 249 and all nominations on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, the President be immediately notified of the Senate's action, and that any statements relating to any of the nominations appear at the appropriate place in the RECORD and the Senate then immediately return to legislative session.

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

The nominations considered and confirmed en bloc, are as follows:

DEPARTMENT OF STATE

David C. Litt, of Florida, 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 United Arab Emirates.

Patrick Nickolas Theros, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

David L. Hobbs, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

William J. Hughes, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

Michael William Cotter, of the District of Columbia, 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 Republic of Turkmenistan.

A. Elizabeth Jones, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

John K. Menzies, 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 Republic of Bosnia and Herzegovina.

John Todd Stewart, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Peggy Blackford, of New Jersey, 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 Republic of Guinea-Bissau.

Edward Brynn, of Vermont, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Vicki J. Huddleston, of Arizona, 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 Republic of Madagascar.

Eliabeth Raspolic, 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 Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Daniel Howard Simpson, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

John M. Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

James E. Goodby, of the District of Columbia, for the rank of Ambassador during his tenure of service as Principal Negotiator and Special Representative of the President for Nuclear Safety and Dismantlement.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORITY FOR COMMITTEE TO MEET

Mr. COATS. Mr. President, I ask unanimous consent that the Foreign Relations Committee be permitted to meet on Thursday, October 19, 1995, at 2 p.m. for the purpose of considering pending nominations and other committee business.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COATS. Mr. President, I ask unanimous consent that the Senate go into Executive Session and that the Governmental Affairs Committee be immediately discharged from further consideration of the nomination of Ned McWherter; further that the Senate immediately proceed to consider the Ned McWherter nomination and the following calendar Nos. on today's Executive Calendar: numbers 313, 314, 315, 317 through 322, 326, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. FORD. This side has no objections, Mr. President.

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

The nominations considered and confirmed en bloc, are as follows:

U.S. POSTAL SERVICE

Ned R. McWherter, of Tennessee, to be a Governor of the United States Postal Service for the term expiring December 8, 2002.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

John T. Conway, of New York, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1999. (Reappointment)

AIR FORCE

The following named officer for promotion in the Regulator Air Force of the United States to the grade of brigadier general under title 10, U.S.C., section 624:

To be brigadier general

Col. William J. Dendinger, 508-46-3556, United States Air Force.

NAVY

The following named Rear Admirals (Lower Half) in the Supply Corps of the United States Navy for promotion to the permanent grade of Rear Admiral, pursuant to Title 10, United States Code, section 624, subject of qualifications therefore as provided by law:

SUPPLY CORPS

To be rear admiral

Rear Adm. (lh) Ralph Melvin Mitchell, Jr., 146 36 9219, U.S. Navy.

Rear Adm. (lh) Leonard Vincent, 441 42 5018, U.S. Navy.

The following-named Rear Admirals (lower half) in the restricted line of the United States Navy for promotion to the permanent grade of Rear Admiral, pursuant to Title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) Barton D. Strong, 519-46-4260, U.S. Navy.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral

Rear Adm. (lh) Thomas F. Stevens, 568-52-0721, U.S. Navy.

The following named officer for promotion in the Navy of the United States to the grade indicated under title 10, U.S.C., section 624:

SENIOR HEALTH CARE EXECUTIVE

To be rear admiral

Rear Adm. (lh) S. Todd Fisher, 127-32-2160, U.S. Navy.

The following named officer to be placed on the retired list of the United States Navy in the grade indicated under section 1370 of title 10, U.S.C.

To be admiral

Adm. William O. Studeman, 267-58-1625.

The following named officer to be placed on the retired list of the United States Navy in the grade indicated under section 1370 of title 10, U.S.C.

To be vice admiral

Vice Adm. Norman W. Ray, 334-34-5481.

The following named officer for promotion in the Navy of the United States to the grade indicated under title 10, U.S.C., section 624:

MARINE CORPS

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under Title 10, U.S.C., section 601: Maj. Gen. Jefferson D. Howell, Jr., 458-56-9607.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Harris Wofford, of Pennsylvania, to be Chief Executive Officer of the Corporation for National and Community Service.

IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY, PUBLIC HEALTH SERVICE

Air Force nominations beginning Von S. Bashay, and ending Janice L. Engstrom, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1995.

Air Force nominations beginning Michael D. Bouwman, and ending Philip S. Vuocolo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Air Force nominations beginning Gary L. Ebben, and ending Steven A. Klein, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Air Force nominations beginning Maria A. Berg, and ending Warren R. H. Knapp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Air Force nominations beginning Mark B. Allen, and ending John J. Wolf, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Army nominations beginning * John D. Pitcher, and ending Ray J. Rodriquez, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 20, 1995.

Army nominations beginning Gerhard Braun, and ending Robert M. Sundberg, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 3, 1995.

Army nominations beginning John A. Belzer, and ending Chauncey L. Veatch, III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 3, 1995.

Army nominations beginning Robert Bellhouse, and ending Cheryl B. Person, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 3, 1995.

Army nominations beginning Terry C. Amos, and ending Stephen C. Ulrich, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 3, 1995.

Army nominations beginning Jeffrey S. * Almony, and ending David S. Zumbro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 3, 1995.

Army nominations beginning David G. Barton, and ending Denise L. Winland, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1995.

Army nominations of Col. Michael L. Jones, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Army nominations beginning Gerard H. Barloco, and ending Earl M. Yerrick, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Army nominations beginning Lillian A. Foerster, and ending Joann S. Moffitt, which

nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 5, 1995.

Marine Corps nominations beginning Bradley J. Harms, and ending Joseph T. Krause, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1995.

Marine Corps nominations beginning Charles H. Allen, and ending Robert J. Womack, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1995

Marine Corps nominations beginning Douglas E. Akers, and ending Marc A. Workman, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1995

Navy nominations beginning Kyujin J. Choi, and ending Murzban F. Morris, which nominations were received by the Senate and appeared in the Congressional Record of July 20, 1995

Navy nominations beginning Scott A. Avery, and ending Amy M. Witheiser, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1995

Navy nominations beginning Glenn M. Amundson, and ending John F. Nesbitt, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1995

Navy nominations beginning Richard J. Alioto, and ending Frank J. Giordano, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1995

Navy nominations beginning Andrew W. Acevedo, and ending John L. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of August 3, 1995

Navy nominations beginning Jeremy L. Hilton, and ending Clayton S. Christman, which nominations were received by the Senate and appeared in the Congressional Record of September 5, 1995

Navy nominations beginning Gary E. Sharp, and ending Leah M. Ladley, which nominations were received by the Senate and appeared in the Congressional Record of September 5, 1995

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

DISAPPROVE OF AMENDMENTS TO THE FEDERAL SENTENCING GUIDELINES

Mr. COATS. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar No. 194, S. 1254, regarding crack sentences.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1254) to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2879

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] for Mr. KENNEDY proposes an amendment numbered 2879.

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

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

The amendment is as follows:

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

SEC. . REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor) regarding changes to the statutes and Sentencing Guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations:

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs, and consistent with the objectives set forth in 28 U.S.C. 3553(a).

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

Mr. KENNEDY. Mr. President, my amendment to the Abraham bill is designed to keep alive the hope that this Congress will someday soon address the festering issue of racial disparity in our Nation's cocaine sentencing laws.

Few matters are as fundamental to the integrity of the judicial system as maintaining the confidence of the country that it is free from racial bias. That issue has been raised very clearly and very intensely in the O.J. Simpson trial. It is also raised in other serious ways, including by the controversy over the disparity in sentences involving the drug cocaine.

Cocaine is one of the most addictive and dangerous of all illegal drugs, and those who traffic in it deserve tough, lengthy punishment. But if the criminal justice system is to command the respect of all Americans, punishment must not only be tough—it must be fair. Similar defendants must receive similar sentences. We must do all we can to ensure that the Federal criminal justice system is free from even the slightest taint of racial discrimination.

In the 1980's, Congress passed a number of bills to respond aggressively to the drug crisis. But in at least one respect we may have inadvertently created an injustice—the much harsher sentences imposed for crack cocaine than for powdered cocaine.

A mandatory minimum sentence of 5 years is imposed in current law based on the weight of the drug involved. But it takes 100 times more powdered cocaine to trigger the mandatory minimum sentence than crack cocaine.

In other words, a defendant who sells five grams of crack cocaine receives the same mandatory minimum 5-year sentence as a defendant who sells 500 grams of powdered cocaine. Possession of five grams of crack is subject to a 5-year minimum sentence, but possession of five grams of powdered cocaine is subject to only a 1-year maximum sentence.

The overwhelming view of scientists is that this disparity is unjustified. Powder and crack cocaine are two forms of the same drug. Their biological effects are similar. There is no justification for the preposterous 100 to 1 ratio in current law.

99-059 O—97 Vol. 141 (Pt. 19) 24

But the issue goes beyond science. Blacks account for 88 percent of all defendants in crack cases, while blacks, whites, and Hispanics are equally likely to be defendants in powdered cocaine cases. As a result, the minimum sentences mandated for crack cases under the law are imposed overwhelmingly on black defendants.

The current law has caused serious injustices in a number of cases. The Judiciary Committee heard testimony from Arthur Curry, a retired school principal, whose 19-year-old son was sentenced to 20 years without parole for playing a minor role in a drug conspiracy. The FBI called him a "flunky", with below-average intelligence. He had no prior criminal record. But the judge had no choice, and sent 19-year-old Derrick Curry to Federal prison for the next 20 years. That young man's life is destroyed. He'll come out of prison in 20 years a hardened criminal, and the cost to the American taxpayer is enormous.

And Derrick Curry is not alone. A 1994 Justice Department study found that 21 percent of all Federal prisoners are low-level, non-violent drug offenders.

Last year, in response to cases like the Curry case, Congress directed the Sentencing Commission to study the cocaine issue. The Commission produced an excellent report that persuasively demonstrates the irrationality of the 100 to 1 ratio. The Commission has voted to eliminate the disparity, and to strengthen the guidelines in cases involving violence in drug trafficking.

Congress created the Sentencing Commission for the express purpose of eliminating this kind of unwarranted sentencing disparity. The sponsors of the 1984 Sentencing Reform Act, including Senator THURMOND, Senator HATCH, Senator BIDEN, and myself, sought to make sense of the sentencing process and to solve the problem of similar defendants receiving grossly different sentences. The act specifically directed the Commission to ensure that the Federal sentencing system is racially neutral.

The Commission has done an outstanding job. It has carefully examined the empirical and scientific data. It has compiled that information in a comprehensive report, and made appropriate adjustments in the guidelines. To simply reject the Commission's action is to repudiate the sensible process established in the 1984 Act to take politics out of sentencing.

The Commission's proposal provides lengthy punishment for crack defendants based on conduct, not race. The proposed enhancements for using weapons during drug offenses mean that armed drug dealers will be punished more severely. On the average, crack defendants will still receive sentences that are 2½ times longer than defendants in powdered cocaine cases. But the defendants who receive that longer punishment will have earned it by their own conduct, and that's how it should be.

The current disparity is also an example of a basic problem with all mandatory minimum sentences. Congress sets a minimum number of years for a certain crime, without reference to other crimes. A 5-year sentence for selling five grams of crack cocaine may have seemed appropriate to Congress in 1986, but it is illogical and disproportionate when compared to other sentences. With a Sentencing Commission and a guideline system in place, mandatory minimum sentencing laws are unnecessary and often counterproductive. Here, as elsewhere, they prevent the Commission from overseeing the sentencing system fairly.

We've all heard from judges in our States about the problems caused by mandatory minimums. The crack cocaine issue is at the heart of those complaints. If we cannot solve this problem fairly, we may never achieve the goal of a rational sentencing system.

The chief sponsor of the Commission's proposed amendment is Wayne Budd, a Republican who served as the third highest ranking official in President Bush's Justice Department. Before that, as the U.S. attorney in Massachusetts, Wayne Budd put many criminals behind bars. So when a person of Wayne Budd's credentials says that the 100-to-1 ratio is unfair, Congress should take careful notice.

I support Wayne Budd's proposal to completely eliminate the 100-to-1 disparity between crack and powder cocaine. But I recognize that a 1-to-1 ratio is unacceptable to a majority of the Senate. Accordingly, I am reluctantly consenting to passage of the Abraham bill, which would reject the Commission's proposed 1-to-1 ratio. But in an attempt to maintain some momentum for change, my amendment would send the matter back to the Commission with specific directions, including a mandate to revise the ratio in a manner consistent with the ratios governing other illicit drugs.

My amendment not only directs the Commission to change the cocaine sentencing ratio. It also instructs the Commission to ensure that cocaine defendants whose cases involve aggravated circumstances receive enhanced punishment. Unlike mandatory minimums, the guidelines already distinguish, for example, between violent and non-violent defendants, and my amendment would put the Senate firmly on record in favor of the toughest punishment for the worst criminals.

We cannot close our eyes to the distrust with which many African-Americans view the criminal justice system. When the realities behind that perception are identified, they must be remedied. Fixing this ill-considered law is a good place to start, and we should let the Sentencing Commission stay on the job.

Maybe a 1 to 1 ratio is unacceptable to the Senate. But if the Commission recommends a ratio of 5 to 1 or 10 to 1, I hold out hope that Congress will permit that change to become law.

Finally, my amendment also attempts to salvage some progress toward fairness in the application of the money laundering statute.

The current sentencing guidelines for this crime are flawed because they treat technical violations of the money laundering statute as seriously as complex, sophisticated financial crimes. For example, an elderly postal worker who steals a check and deposits it in the bank receives the same punishment as the financial manager of a major drug trafficking operation. The Commission's proposal ensures tough punishment for money laundering but distinguishes the culpability of different defendants.

I support the Commission's proposal on money laundering, but as in the cocaine context, the will of the Senate is clearly to block this amendment due to the self-interested recommendation of the Justice Department. But here, as well, I am reluctant to simply let the Commission's good work perish in vain.

My amendment, therefore, directs the Justice Department to report to Congress on the charging and plea practices of Federal prosecutors with respect to the money laundering statute. I intend to review that study carefully. And if it does not make a compelling case that the Department is addressing the problem itself, I will work to improve the statutes and the sentencing guidelines that cover this unduly elastic crime.

It is inherently difficult for a legislature to grapple with the complex and politically sensitive subject of sentencing. We created a non-political, independent Commission in 1984 for that very reason. Passage of the Abraham bill marks the first time that the Senate has rejected major guideline amendments proposed by the Sentencing Commission, and that development bodes ill for the long-term vitality of the sentencing guideline scheme.

Nonetheless, I retain hope that the decades-long effort to develop a fair and rational sentencing system will continue. The goal of equitable sentencing for the crimes of cocaine sentencing, money laundering and every other offense in the Federal code is not furthered by passage of this bill. But the goal remains in sight, and we must continue to pursue it.

Mr. ABRAHAM. Mr. President, I accept the amendment of the Senator from Massachusetts. As is plain from its language, it does not request the Commission to send new guideline changes. Rather, it requests the Commission's recommendations for how the

laws and guidelines should be changed. That is the course that in my view is appropriate for the Commission to take, since under current law, the sentences are largely dictated by mandatory minimums set by Congress. Accordingly, major changes in this area have to come from Congress, and until such changes are made the guidelines should conform with existing law. Thus, while the amendment does not detract from the Commission's existing statutory authority to propose amendments to the guidelines, that is not what the amendment asks the Commission to send us. Rather, the amendment merely asks for a policy recommendation.

As I indicated on introducing this bill, I have some sympathy with some of the concerns the Commission has raised about present law. In particular, I am concerned that some powder defendants at the top of crack distribution networks seem to be getting lower sentences than retail distributors. I also think that while there is good reason for significant differential treatment of powder and crack, we should have a look more generally at whether the present differential represents the best policy.

In my view, however, the Commission resolved these concerns the wrong way: by lowering sentences for crack, rather than by raising sentences for powder. Along with several of my colleagues, I would like to see these issues addressed from the other end: by raising the sentences for powder distribution. My specific proposal, embodied in the companion bill I sponsored along with Senators KYL, FEINSTEIN, BROWN, and MCCONNELL, is to lower the trigger for powder sentences from 500 to 100 grams for mandatory 5-year sentences, and from 5,000 to 1,000 grams for mandatory 10 year sentences. I believe this resolution of the matter is entirely consistent with the criteria set out in Senator KENNEDY's amendment.

I should only add that I would be very concerned about any resolution of this matter that is predicated on the lowering of sentences for crack distributors. I believe that would send exactly the wrong message: that in the war against crack society blinked. I believe the amendment proposed by Senator KENNEDY is entirely consistent with these views, and I therefore accept his amendment on that basis.

Mr. HATCH. Mr. President, I rise today in support of the amendment to block reductions in penalties for crack dealing proposed by the U.S. Sentencing Commission. If the Congress does not act, those changes will take effect this November 1.

According to the Department of Justice, which has also asked us to block implementation of the changes, the new penalty structure will make base sentences for crack anywhere from two to six times shorter than they are now. The Department of Justice written to tell us that they "strongly support S. 1254" which is "very similar to our proposal.

That is simply irresponsible public policy. It would send a terrible message both to crack dealers and to communities trying to fight back against the crack trade.

No one, not even the Sentencing Commission, denies that the brunt of crack's social consequences have fallen on poor, urban, minority residents. Given what crack has done to our cities, it frankly amazes me to hear people arguing for lower sentences. Especially from people who wouldn't for one moment tolerate an open-air crack market in their neighborhood in Scarsdale or Chevy Chase.

The Commission's own report, moreover, acknowledges that crack's psychoactive effects are far more intense than powder cocaine, which means that crack is far more additive.

Members of the Sentencing Commission are concerned that the current sentencing structure creates a perception of unfairness because most convicted crack dealers are Africans-Americans, whereas a majority of convicted powder dealers are white or Hispanic. I am sensitive to these concerns. This Congress will deal severely and aggressively with any indication that prosecution or sentencing is being driven by racial considerations. We will not tolerate any racial discrimination in our criminal justice system.

But Mr. President, it is also important to remember that the number of people convicted for crack violations each year is just 3,430. I am more concerned, to be blunt, about the millions of people living in our cities whose quality of life is being ruined. These people have equal rights to safe neighborhoods.

To those who say the Federal Government is locking up tens of thousands of nonviolent, low-level offenders, let me say this: We studied that question. What we found was that out of the 3,430 crack defendants convicted in 1994, the number of youthful, small-time crack offenders with no prior criminal history and no weapons involvement, sentenced in Federal courts, was just 51. The median crack defendant was convicted of trafficking 109 grams—more than 2,000 "rocks" or doses. Only 10 percent of crack defendants had trafficked less than 2-3 grams of crack—the equivalent of 40-60 doses.

And finally, on Tuesday, September 12, HHS released alarming figures showing drug use up sharply among our young people. Mr. President, this is not the time to be sending the message that we are weakening social sanctions against the drug trade.

One additional point. The amendment would also block another set of proposed changes—relating to money laundering—offered by the Sentencing Commission. Here too, the Commission's amendments would dramatically lower the penalties for many money laundering offenders, including those engaged in the laundering of proceeds of both financial and drug offenses.

Under the current guidelines, for instance, an offender who launders $110,000 worth of proceeds would face a range of 37-46 months. Under the Commission's proposed changes, the guideline range would be just 21-27 months in prison. An offender who laundered $110,000 worth of illegal drug proceeds would receive a sentence of 51-63 months under the current guidelines. The Commission's amendments would change that to 33-41 months.

The money laundering guidelines need to be reviewed, but the changes recommended by the Commission are simply too sweeping. As with the amendments to lower crack sentences, the Department of Justice has urged us to reject the money laundering proposal.

I urge my colleagues to join me in supporting this legislation.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2879) was agreed to.

Mr. COATS. 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.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally

exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

Mr. COATS. 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.

INTELLIGENCE AUTHORIZATION ACT OF FISCAL YEAR 1996

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 164, S. 922, the intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 922) to authorize appropriations for fiscal year 1996 for intelligence and intelligence related activities of the United States Government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with an amendment to insert the part printed in italics on page 3, so as to make the bill read:

S. 922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 1996 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1996, for the conduct of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany ( ) of the One Hundred and Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

(c) SCOPE OF SCHEDULE.—The Schedule of Authorizations referred to in subsections (a) and (b) is only the Schedule of Authorizations for the National Foreign Intelligence Program (NFIP).

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1996 under section 102 of this Act when the Director determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)), exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate prior to exercising the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 1996 the sum of $98,283,000.

(2) Funds made available under paragraph (1) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1997.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Staff of the Director of Central Intelligence is authorized 247 full-time personnel as of September 30, 1996. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During the fiscal year 1996, any officer or employee of the United States or any member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1996 the sum of $213,900,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. APPLICATION OF SANCTIONS TO INTELLIGENCE ACTIVITIES.

The National Security Act of 1947 (50 U.S.C.401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"SEC. 801. DELAY OF SANCTIONS.

"Notwithstanding any other provision of law, the President may delay the imposition of a sanction related to the proliferation of weapons of mass destruction, their delivery

systems, or advanced conventional weapons when he determines that to proceed without delay would seriously risk the compromise of a sensitive intelligence source or method or an ongoing criminal investigation. The President shall terminate any such delay as soon as it is no longer necessary to that purpose.

"SEC. 802. REPORTS.

"Whenever the President makes the determination required pursuant to section 801, the President shall promptly report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the rationale and circumstances that led the President to exercise the authority under section 801 with respect to an intelligence source or method, and to the Judiciary Committees of the Senate and the House of Representatives the rationale and circumstances that led the President to exercise the authority under section 801 with respect to an ongoing criminal investigation. Such report shall include a description of the efforts being made to implement the sanctions as soon as possible and an estimate of the date on which the sanctions will become effective.".

SEC. 304. THRIFT SAVINGS PLAN FORFEITURE.

(a) IN GENERAL.—Section 8432(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the employee's annuity, or that of a survivor or beneficiary, is forfeited pursuant to subchapter II of chapter 83 of this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to offenses upon which the requisite annuity forfeitures are based occurring on or after the date of enactment of this Act.

SEC. 305. AUTHORITY TO RESTORE SPOUSAL PENSION BENEFITS TO SPOUSES WHO COOPERATE IN CRIMINAL INVESTIGATIONS AND PRECAUTIONS FOR NATIONAL SECURITY OFFENSES.

Section 8312 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the spouse of an employee whose annuity or retired pay is forfeited under this section or section 8313 after the enactment of this subsection shall be eligible for spousal pension benefits if the Attorney General determines that the spouse fully cooperated with Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the employee.".

SEC. 306. AMENDMENT TO THE HATCH ACT REFORM AMENDMENTS OF 1993.

Section 7325 of title 5, United States Code, is amended by adding after "section 7323(a)" the following: "and paragraph (2) of section 7323(b)".

SEC. 307. REPORT ON PERSONNEL POLICIES.

(a) REPORT REQUIRED.—Not later than three months after the date of enactment of this Act, the Director of Central Intelligence shall submit to the intelligence committees of Congress a report describing personnel procedures, and recommending necessary legislation, to provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), and termination based on relative performance, comparable to section 608 of the Foreign Service Act of 1980 (22 U.S.C. 4008), for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps.

(b) COORDINATION.—The preparation of the report required by subsection (a) shall be coordinated as appropriate with elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

(c) DEFINITION.—As used in this section, the term "intelligence committees of Congress" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 308. ASSISTANCE TO FOREIGN COUNTRIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds authorized to be appropriated by this Act may be used to provide assistance to a foreign country for counterterrorism efforts if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

(b) DEFINITION.—As used in this section, the term "appropriate congressional committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF THE CIA VOLUNTARY SEPARATION PAY ACT.

Section 2(f) of the CIA Voluntary Separation Pay Act is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

SEC. 402. VOLUNTEER SERVICE PROGRAM.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end of the following new section:

"SEC. 20. VOLUNTEER SERVICE PROGRAM.

"(a) Notwithstanding any other provision of law, the Director of Central Intelligence is authorized to establish and maintain a program during fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 retired annuitants who serve without compensation as volunteers in aid of the review by the Central Intelligence Agency for declassification or downgrading of classified information under applicable Executive Orders covering the classification and declassification of national security information and Public Law 102-526.

"(b) The Agency is authorized to use sums made available to the Agency by appropriations or otherwise for paying the costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of the review by the Agency of classified information, including, but not limited to, the costs of training, transportation, lodging, subsistence, equipment, and supplies. Agency officials may authorize either direct procurement of, or reimbursement for, expenses incidental to the effective use of volunteers, except that provision for such expenses or services shall be in accordance with volunteer agreements made with such individuals and that such sums may not exceed $100,000.

"(c) Notwithstanding the provision of any other law, individuals who volunteer to provide services to the Agency under this section shall be covered by and subject to the provisions of—

"(1) the Federal Employees Compensation Act; and

"(2) chapter 11 of title 18, United States Code,

as if they were employees or special Government employees depending upon the days of expected service at the time they begin their volunteer service.".

SEC. 403. AUTHORITIES OF THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) REPORTS BY THE INSPECTOR GENERAL.—Section 17(b)(5) of the Central Intelligence Act of 1949 (50 U.S.C. 403q) is amended to read as follows:

"(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to paragraph (2). A copy of all such reports shall be furnished to the Director.".

(b) EXCEPTION TO NONDISCLOSURE REQUIREMENT.—Section 17(e)(3)(A) of such Act is amended by inserting after "investigation" the following: "or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken".

SEC. 404. REPORT ON LIAISON RELATIONSHIPS.

(a) ANNUAL REPORT.—Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) annually submit to the intelligence committees a report describing all liaison relationships for the preceding year, including—

"(A) the names of the governments and entities;

"(B) the purpose of each relationship;

"(C) the resources dedicated (including personnel, funds, and materiel);

"(D) a description of the intelligence provided and received, including any reports on human rights violations; and

"(E) any significant changes anticipated.".

(b) DEFINITION.—Section 606 of such Act is amended by adding at the end the following:

"(11) The term 'liaison' means any governmental entity or individual with whom an intelligence agency has established a relationship for the purpose of obtaining information.".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. COMPARABLE OVERSEAS BENEFITS AND ALLOWANCES FOR CIVILIAN AND MILITARY PERSONNEL ASSIGNED TO THE DEFENSE INTELLIGENCE AGENCY.

(a) TITLE 10.—Title 10, United States Code, is amended—

(1) in section 1605(a), by striking "and" after "Defense Attache Offices" and inserting "or"; and

(2) in section 1605(a), by inserting ", and Defense Intelligence Agency employees assigned to duty outside the United States," after "outside the United States,".

(b) TITLE 37.—Title 37, United States Code, is amended—

(1) in section 431(a), by striking "and" after "Defense Attache Offices" and inserting "or"; and

(2) in section 431(a), by inserting ", and members of the armed forces assigned to the Defense Intelligence Agency and engaged in intelligence related duties outside the United States," after "outside the United States".

SEC. 502. AUTHORITY TO CONDUCT COMMERCIAL ACTIVITIES NECESSARY TO PROVIDE SECURITY FOR AUTHORIZED INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking "1995" and inserting "2001".

SEC. 503. MILITARY DEPARTMENTS' CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT SYSTEM: ACQUISITION OF CRITICAL SKILLS.

(a) ESTABLISHMENT OF TRAINING PROGRAM.—Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1599. Financial assistance to certain employees in acquisition of critical skills

"(a) TRAINING PROGRAM.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Departments' Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense established under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

"(b) FUNDING OF TRAINING PROGRAM.—Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end thereof the following:

"Sec. 1599. Financial assistance to certain employees in acquisition of critical skills.".

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623, the following new section:

"§ 624. Disclosures to FBI for counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power, and

"(B) is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title,

any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after the item relating to section 624 the following:

"624. Disclosures to FBI for counterintelligence purposes.".

TITLE VII—TECHNICAL CORRECTIONS

SEC. 701. CLARIFICATION WITH RESPECT TO PAY FOR DIRECTOR OR DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE APPOINTED FROM COMMISSIONED OFFICERS OF THE ARMED FORCES.

Section 102(c)(3)(C) of the National Security Act of 1947 (50 U.S.C. 403(c)(3)(C)) is amended—

(1) by striking "A" before "commissioned" and inserting "An active duty";

(2) by striking out "(including retired pay)";

(3) by inserting "an active duty" after "payable to"; and

(4) by striking "a" before "commissioned".

SEC. 702. CHANGE OF OFFICE DESIGNATION IN CIA INFORMATION ACT.

Section 701(b)(3) of the CIA Information Act of 1984 (50 U.S.C. 431(b)(3)) is amended by striking "Office of Security" and inserting "Office of Personnel Security".

AMENDMENT NO. 2880 TO THE COMMITTEE AMENDMENT

(Purpose: To exclude from the Schedule of Authorizations the Joint Military Intelligence Programs)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. SPECTER, proposes an amendment numbered 2880 to the committee reported amendment.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the Committee amendment to page 3, lines 18 though 21 of the bill, insert the following:

(c) SCOPE OF SCHEDULE.—For fiscal year 1996, the Schedule of Authorizations referred to in subsections (a) and (b) does not include the Schedule of Authorizations for the Joint Military Intelligence Programs (JMIP).

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

The amendment (No. 2880) was agreed to.

The PRESIDING OFFICER. Without objection the committee amendment, as amended, is agreed to.

The committee amendment, as amended, was agreed to.

AMENDMENTS NOS. 2881, 2882, 2883, 2884, EN BLOC.

Mr. COATS. Mr. President, I send four amendments to the desk and ask they be considered en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes en bloc amendments Nos. 2881, 2882, 2883, 2884.

The amendments are as follows:

AMENDMENT NO. 2881

(Purpose: To reduce the total amount of funds authorized to be appropriated for the National Reconnaissance Office to offset the availability of certain prior year appropriations)

On page 11, between lines 14 and 15, insert the following new section:

SEC. 309. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR THE NATIONAL RECONNAISSANCE OFFICE FOR FISCAL YEAR 1996.

The total amount authorized to be appropriated for fiscal year 1996 for the National Reconnaissance Office (NRO) shall be reduced by an amount equal to the amount by which appropriations for the Department of Defense for fiscal year 1996 are reduced to reflect the availability of funds appropriated prior to fiscal year 1996 that have accumulated in the carry forward accounts for that Office.

Mr. SPECTER. Mr. President, At this time, I join with my colleagues in offering two amendments to address concerns about financial practices and management at the National Reconnaissance Office. The first amendment will reduce the amount authorized to be appropriated for the National Reconnaissance Office in order to eliminate excess carry-forward funds in fiscal year 1996. As the Members are aware, the Conference Committee on the Defense Appropriations Act for Fiscal Year 1996 recently reduced the NRO appropriation in an amount equal to the excess funds accumulated in the carry-forward accounts. The amendment ensures that the cut in Fiscal Year 1996 appropriations for NRO is also reflected in the authorization. The second amendment is designed to prospectively address the NRO carry-forward accounts and financial management generally by imposing a statutory cap of 1 month on carry-forward accounts (in line with DOD general policy); requiring a joint review by the Inspectors General for CIA and DOD of NRO's financial management to evaluate the effectiveness of policies and internal controls over the NRO budget; and requiring the President to report no later than January 30, 1996 on a proposal to subject the budget of the intelligence community to greater executive branch oversight, including the possibility of a statutory financial control officer and greater OMB review of the NRO budget. The President shall also report on the impact, if any, on national security brought about by reduction in the carry forward accounts at NRO.

These amendments address an issue that the committee first identified in 1992 but which has received a good deal of press attention in the past several days and has raised questions about the National Reconnaissance Office's financial management practices. It has been alleged that the NRO has accumulated more than $1 billion in unspent funds without informing the Pentagon, CIA, or Congress. It has been further alleged that this is one more example of how intelligence agencies sometimes use their secret status to avoid accountability. These are serious charges which the committee has been looking into, most recently with a closed hearing on Wednesday, September 27, at which we questioned Mr. George Tenet and Mr. Keith Hall from the Office of the Director of Central Intelligence, and Mr. Jeff Harris and Mr. Jimmie Hill, the Director and Deputy Director of the NRO.

As I have noted, the Intelligence Committee first identified this issue in 1992 when it determined that NRO had accumulated an unusually large sum of funds in some of its forward-funding accounts. Some forward funding, generally up to 1 month, is normal for NRO research and development accounts to cover unforseen overruns on contracts and bridge any gaps in fiscal year funding that may result from a delay in appropriations. NRO assured the committee in 1992 that the excessive funds that had accumulated would be eliminated within 4 years. We now understand that this obligation was not fulfilled. Hence, our amendment reduces the funds in conformance with the appropriations bill.

Let me emphasize, however, that while public attention has focused on one element of those practices—those that involve the carry-forward accounts in the National Reconnaissance Office, a broader inquiry is being undertaken by the Intelligence Committee and is reflected in the second amendment related to the NRO. It is important to determine if the NRO's past financial management practices in this area have been as tight as they should have been. While the NRO sits in the Department of Defense, it is a critical element of the national intelligence community. Thus, it is also essential that we gain an understanding of any management practices which need to be changed in order to strengthen the role of the Director of Central Intelligence so that he can manage more completely the intelligence community. These are some of the issues the Intelligence Committee

will be examining in the coming months as it reviews the intelligence community's role in the post-cold-war world and how that community should be restructured or refocused to meet the challenges of this changed environment.

Mr. President, acknowledging that this is just one step in a broader effort to address legitimate public concerns about the NRO and the intelligence community as a whole, I urge adoption of these amendments.

AMENDMENT NO. 2882

(Purpose: To provide for improvements in the financial management of the National Reconnaissance Office)

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

SEC. 310. FINANCIAL MANAGEMENT OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) LIMITATION.—No funds are authorized to be carried over into FY 1997 or subsequent years for the programs, projects, and activities of the National Reconnaissance Office in excess of the amount necessary to provide for the ongoing mission of the NRO for one month."

(b) MANAGEMENT REVIEW.—(1) The Inspector General for the Central Intelligence Agency and the Inspector General of the Department of Defense shall jointly undertake a comprehensive review of the financial management of the National Reconnaissance Office to evaluate the effectiveness of policies and internal controls over the budget of the National Reconnaissance Office, including the use of forward funding, to ensure that National Reconnaissance Office funds are used in accordance with the policies of the Director of Central Intelligence and the Department of Defense, the guidelines of the National Reconnaissance Office, and congressional direction.

(2) The review required by paragraph (1) shall—

(A) determine the quality of the development and implementation of the budget process within the National Reconnaissance Office at both the comptroller and directorate level;

(B) assess the advantages and disadvantages of the use of incremental versus full funding for contracts entered into by the National Reconnaissance Office;

(C) assess the advantages and disadvantages of the National Reconnaissance Office's use of forward funding;

(D) determine how the National Reconnaissance Office defines, identifies, and justifies forward funding requirements;

(E) determine how the National Reconnaissance Office tracks and manages forward funding;

(F) determine how the National Reconnaissance Office plans to comply with congressional direction regarding forward funding;

(G) determine whether or not a contract entered into by the National Reconnaissance Office has ever encountered a contingency which required the utilization of more than 30 days of forward funding;

(H) consider the proposal by the Director of Central Intelligence for the establishment of a position of a Chief Financial Officer, and assess how the functions to be performed by that officer would enhance the financial management of the National Reconnaissance Office; and

(I) make recommendations, as appropriate, to improve control and management of the budget process of the National Reconnaissance Office.

(3) The President shall submit a report to the appropriate committees of the Congress setting forth the findings of the review required by paragraph (1) not later than 90 days after the date of enactment of this Act, with an interim report provided to those committees not later than 45 days after the date of enactment of this Act.

(c) REPORT.—(1) Not later than January 30, 1996, the President shall submit a report to the appropriate committees of the Congress on a proposal to subject the budget of the intelligence community to greater oversight by the Executive branch of Government.

(2) Such report shall include—interalia

(A) consideration of establishing by statute a financial control officer for the National Reconnaissance Office, other elements of the intelligence community, and for the intelligence community as a whole; and

(B) recommendations for procedures to be used by the Office of Management and Budget for review of the budget of the National Reconnaissance Office.

(d) DEFINITIONS.—As used in this section:

(1) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given to the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

Mr. BRYAN. Mr. President, I rise to express deep concerns regarding an example of financial mismanagement and waste within the intelligence community. I offered an amendment to the fiscal year 1996 intelligence authorization bill that has been accepted by the full Intelligence Committee and by the Senate. This amendment is intended to put a stop to the rampant mismanagement of funding at the National Reconnaissance Office.

Mr. President, there is a disturbing sense of deja vu as I stand here on the floor today. One year ago, I was shocked to learn that the National Reconnaissance Office was constructing a massive headquarters facility out near Dulles Airport in Virginia. Not only did this facility include floor space far in excess of what was necessary, but the record showed a disturbing lack of candor in informing the congressional oversight committees regarding the scope and expense of this project.

Last week, the public was informed of another example of gross financial mismanagement by the NRO. As the papers reported, the NRO has accumulated more than $1.5 billion in unspent appropriations. In this time of severe budgetary constraints, when we are cutting Medicare, Medicaid, veterans' benefits, student loan assistance, it is inexcusable that an agency can be hoarding well over a billion dollars.

My amendment includes a number of provisions to ensure this situation is resolved and does not occur again.

First, my amendment directs that the NRO may not carry over more than 1 month in funds into a subsequent fiscal year.

Second, my amendment requires the Department of Defense and Central Intelligence Agency inspectors general to undertake a comprehensive NRO financial management review. This review will not only cover the issue of carry-forward funding, but will also examine the overall effectiveness of policies and internal controls over the NRO budget. The amendment also requires that the IG report is unclassified, and can be released to the public.

Finally, my amendment directs the President to report to the Intelligence Committees early next year on a proposal to subject the budget of the intelligence community to greater executive branch oversight. The report must include procedures to allow the Office of Management and Budget to have full review of the NRO budget.

I recently received a call from Director of Central Intelligence Dr. John Deutch on this issue. I was pleased by Dr. Deutch's comments in which he agreed that stronger financial controls over the NRO are necessary. Dr. Deutch also stated that he was not aware of the size of this carry-forward account either in his previous position as Deputy Secretary of Defense, or in his current position.

It is unfortunate that this amendment is necessary. But these latest revelations do great damage to the public's trust, and to the credibility of the NRO and the intelligence community as a whole. The NRO seems to be an agency that is out of control, with no intention of correcting its ways. Hopefully, opening the NRO budget to increased scrutiny will help restore confidence in the ability of the NRO to accomplish its important mission.

Thank you, and I yield the floor.

AMENDMENT NO. 2883

(Purpose: To enhance the capabilities of certain intelligence stations, and to extend the Central Intelligence Agency Voluntary Separation Pay Act)

On page 11, strike lines 17 through 21 and insert the following:

SEC. 401. EXTENSION OF THE CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

(a) EXTENSION OF AUTHORITY.—Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4(f)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

(b) REMITTANCE OF FUNDS.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4) is amended by inserting at the end the following new subsection:

"(i) REMITTANCE OF FUNDS.—The Director shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund (in addition to any other payments which the Director is required to make under subchapter III of chapter 83 and subchapter II of chapter 84 of title 5, United States Code), an amount equal to 15 percent of the final basic pay of each employee who, in fiscal year 1998 or fiscal year 1999, retires voluntarily under section 8336, 8412, or 8414 of such title or resigns and to whom a voluntary separation incentive payment has been or is to be paid under this section.".

At the end of title V of the bill, add the following new section:

SEC. 504. ENHANCEMENT OF CAPABILITIES OF CERTAIN INTELLIGENCE STATIONS.

(a) AUTHORITY.—(1) In addition to funds otherwise available for such purpose, the

Secretary of the Army is authorized to transfer or reprogram funds for the enhancement of the capabilities of the Bad Aibling Station and the Menwith Hill Station, including improvements of facility infrastructure and quality of life programs at both installations.

(2) The authority of paragraph (1) may be exercised notwithstanding any other provision of law.

(b) FUNDING.—Funds available for the Army for operations and maintenance for any fiscal year shall be available to carry out subsection (a).

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary of the Army determines that an amount to be transferred or reprogrammed under this section would cause the total amounts transferred or reprogrammed in that fiscal year to exceed $1,000,000, the Secretary shall notify in advance the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence, the Committee on National Security, and the Committee on Appropriations of the House of Representatives and provide a justification for the increased expenditure.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of substantial sums of money from the Department of the Army to the Bad Aibling or Menwith Hill Stations.

Mr. SPECTER. Mr. President, I offer this amendment along with the vice chairman to address two issues that arose after the committee markup of this bill. The first provision of the amendment is intended to assist the Department of the Army as it assumes Executive Agent responsibility for the Bad Aibling and Menwith Hill stations.

Specifically, this provision would permit the Department of the Army to use up to $2 million of appropriated O&M funds per annum, at Menwith Hill and Bad Aibling, to rectify infrastructure and quality of life problems. The amendment make clear that it would in no way obviate or modify current law or practice with regard to reprogramming amounts in excess of $2 million.

At the present time, the Army is prohibited by 31 U.S.C. section 1301, from using appropriated funds to support an NSA installation, notwithstanding the fact that the Army has become the Executive Agent for these field sites. Although the Director of Central Intelligence could use his special authorities under section 104(d) of the National Security Act of 1947, the procedures available under that law are extremely time consuming and were not intended to accommodate relatively minor transfers of funds.

A good example of the problems that this amendment is intended to rectify is contained in a memorandum prepared by a joint NSA/Army inspection team entitled. "DoD Child Development Program Inspection Report" dated June 23, 1995. The memo, which describes the childcare facility at Menwith Hill station states:

The Child Development Center (CDC), originally constructed as a office building, is a 35 year old dilapidated structure with major health and safety violations. The CDC capacity of 89 children cannot accommodate the increasing demands for child care. The current station population includes 289 children ages four and under. As a result of the conversion from a civilian to a military facility, the demographics are changing to younger, junior enlisted personnel with many single parents who will rely on based-provided child care. There are no similar facilities available on the economy... Six major deficiencies, those that severely affect health, safety, and the well-being of staff were identified in this inspection. All five categories relating to health and safety were in major violation.

Last fall, two members of the committee staff visited the Menwith Hill Station and toured its Child Development Center. Their views are fully consistent with the findings described in this memo. The staff can also attest to the fact that there are many other maintenance and qualify of life issues at these two facilities, particularly Menwith Hill, that need to be urgently addressed.

My colleagues should understand that this legislation was requested by the Department of the Army and enjoys the full support of the Director of the National Security Agency. It is also worth noting that the Department of the Army has consulted with the Senate Appropriations and Armed Services Committees and encountered no objections.

I ask unanimous consent that a letter from Admiral McConnel requesting this legislation, and the memorandum I quoted from earlier, be included in the RECORD at this point.

The second provision in this amendment is designed to offset the direct spending cost of the extension of the authority provided for in the CIA Voluntary Separation Pay Act as provided in section 402 of our bill. Specifically, it establishes procedures to conform with the pay-as-you-go provision, section 252, of the Balanced Budget and Emergency Deficit Control Act, by requiring the Director of Central Intelligence to remit to the Treasury an amount equal to 15 percent of the final basic pay of each employee who, in fiscal year 1998 or fiscal year 1999, retires voluntarily or who resigns and to whom a voluntary separation incentive payment has been or is to be paid.

Mr. President, I urge the adoption of this amendment.

AMENDMENT NO. 2884

(Purpose: To require a description and analysis of voluntary separation incentive proposals in the report required by the legislation and for other purposes)

On page 10, line 7, after "(22 U.S.C. 4008),"insert "and to provide for other personnel review systems,".

On page 10, at the end of line 10 add the following new sentence: "The report shall also contain a description and analysis of voluntary separation incentive proposals, including a waiver of the two-percent penalty reduction for early retirement."

Mr. SPECTER. Mr. President, on June 14, 1995, my distinguished colleague and vice chairman of the Select Committee on Intelligence [SSCI], Senator KERREY, and I filed a bill which authorizes appropriations for fiscal year 1996 for the intelligence activities and programs of the United States Government. The Select Committee on Intelligence approved the bill by a unanimous vote on May 24, 1995, and ordered that it be favorably reported. The bill was subsequently referred to the Senate Armed Services Committee [SASC] for up to 30 days, as it has been every year. The Armed Services Committee reported the bill at the end of the 30-day period, on August 4, 1995, with one amendment.

This bill would: Authorize appropriations for fiscal year 1996 for first, the intelligence activities and programs of the United States Government; second, the Central Intelligence Agency Retirement and Disability System; and third, the Community Management Account of the Director of Central Intelligence; authorize the personnel ceilings as of September 30, 1996, for the intelligence activities of the United States and for the Community Management Account of the Director of Central Intelligence; authorize the Director of Central Intelligence, with Office of Management and Budget approval, to exceed the personnel ceilings by up to 2 percent; permit the President to delay the imposition of sanctions related to proliferation of weapons of mass destruction when necessary to protect an intelligence source or method or an ongoing criminal investigation; provide for forfeiture of the U.S. Government contribution to the Thrift Savings Plan under the Federal Employees Retirement System [FERS], along with interest, if an employee is convicted of national security offenses; restore spousal benefits to the spouse of an employee so convicted if the spouse cooperates in the investigation and prosecution; allow employees of the excepted services to take an active part in certain local elections; amend the Fair Credit Reporting Act to permit the Federal Bureau of Investigation to obtain consumer credit reports necessary to foreign counterintelligence investigations under certain circumstances and subject to appropriate controls on the use of such reports; and make certain other changes of technical nature to existing law governing intelligence agencies.

As it does annually, the committee conducted a detailed review of the administration's budget request for the National Foreign Intelligence Program [NFIP] for fiscal year 1996. The committee also reviewed the administration's fiscal year 1996 request for a new intelligence budget category, called the Joint Military Intelligence Program [JMIP]. The committee's review

included a series of briefings and hearings with the Director of Central Intelligence [DCI], the Acting Deputy Assistant Secretary of Defense for Intelligence and Security, and other senior officials from the Intelligence Community, numerous staff briefings, review of budget justification materials and numerous written responses provided by the Intelligence Community to specific questions posed by the committee.

In addition to its annual review of the administration's budget request, the committee performs continuing oversight of various intelligence activities and programs, to include the conduct of audits and reviews by the committee's audit staff. These inquiries frequently lead to actions initiated by the committee with respect to the budget of the activity or program concerned.

The Intelligence Committee's consideration of the authorization bill this year coincides with a major review effort by this committee, its House counterpart, and a Presidential Commission mandated by Congress last year. This review is aimed at examining how changes in the world, particularly since the fall of the Soviet Union, should be reflected in the roles and missions of the Intelligence Community. A major part of this examination will include determining how the Intelligence Community might better be organized to accomplish those changing roles and missions.

While this review by the committee in not likely to conclude until early next year, one of the issues already emerging is the need for stronger, more coherent management of the Intelligence Community. The nominal head of the community, the DCI, must become the de facto head of the community—with the authority to make adjustments and trade-offs between its disparate elements. One example of a problem resulting, in part, from the lack of unified management is the disconnect between the vast amounts of intelligence we are now capable of collecting and our capacity for analyzing and disseminating that intelligence in a way that is useful for decisionmakers. We cannot afford to continue spending money in one area without ensuring that its objectives are not frustrated by inadequate funding in another. Yet, it is difficult to strike the necessary balance if you do not have the authority to move funding from one area to another.

The same principle is at work in congressional oversight, where a comprehensive and coherent review of intelligence programs is essential. When the SSCI was established in 1976, the Senate, in Senate Resolution 400, chose to give the committee jurisdiction over all intelligence activities, including those of the Department of Defense. "Intelligence activities" are defined very broadly in the charter legislation, but expressly exclude "tactical foreign military intelligence serving no national policymaking function." Over the years, this has been interpreted to mean that programs and activities funded in the [TIARA]—which stands for tactical intelligence and related activities—budget category have been authorized by the Armed Services Committee in the Defense authorization bill, with the SSCI providing recommendations in a letter to the SASC. All activities funded in the NFIP, or National Foreign Intelligence Program, have been authorized by the Intelligence Committee in the Intelligence Authorization Act, which is automatically referred sequentially to the Armed Services Committee before going to the floor.

Traditionally, this breakdown between the strictly tactical activities supporting the battlefield commander—which are logically subject to Armed Services oversight—and activities serving some broader national policymaking function—over which integrated oversight by the Intelligence Committee is essential—has worked well and our two committees have cooperated very closely. Today, however, I believe both committees recognize that it is increasingly difficult to classify intelligence systems as either strictly national or strictly tactical. The same images of Bosnia taken by aerial reconnaissance can be used simultaneously by Admiral Smith to protect our pilots, by Assistant Secretary of State Holbrooke to show his interlocutors the true situation on the ground, and by the President's National Security Advisor to determine if a change in policy is indicated. U-2 photography of Iraq helps the commanders of our joint task forces enforce the no-fly zones in northern and southern Iraq. Ambassador Madeleine Albright uses the same images to great effect in convincing other countries on the United Nations Security Council to keep in force the sanctions against Iraq.

Budget politics has also contributed to the blurring of the two budget categories. Over the last 5 years the executive branch has moved programs from the national portion of the budget into the tactical, at least in part to get out from under a perceived spending "ceiling" on the national budget. When the administration created the new JMIP budget category this year, a number of these formerly NFIP programs were included.

The committees acknowledge that a number of the programs in this new budget category serve important national policymaking functions and previously have been authorized by this committee—programs like the U-2 spyplane and unmanned aerial vehicles such as those that have provided important intelligence on Bosnia to the decisionmakers at State and in the White House. However, this new budget category also contains some programs that are tactical in nature and would normally have been within the sole jurisdiction of the Armed Services Committee.

When considering how to approach this new budget category for fiscal year 1996, the Intelligence Committee turned to Senate Resolution 400. We determined that the national policymaking-related activities in JMIP meant that it did not fit that statute's definition for items excluded from committee jurisdiction. Thus, the SSCI used the expertise developed from day-to-day oversight of all intelligence activities to formulate authorization recommendations for all of the activities in this program. When the SASC received our bill on sequential, as it routinely does, that committee disagreed with our assertion of authorization jurisdiction.

The Armed Services Committee took the position that the Intelligence Committee had no oversight interest in the JMIP programs and voted to offer an amendment to the Intelligence authorization bill to strip it of all JMIP authorization.

After extensive discussion, we have arrived at a compromise that will allow the Intelligence authorization bill to move forward, recognize the national interest served by the oversight of each of the committees—SSCI and SASC—and set up a mechanism for addressing these issues in the coming year. In order to resolve the disagreement for this year and bring this bill before the Senate in a timely fashion, we have agreed that the Armed Services Committee will authorize and conference JMIP for fiscal year 1996. The Intelligence Committee has provided its JMIP recommendations to the Armed Services Committee, and I think the two committees concur on the details of almost every JMIP activity for this year.

At the same time, the chairmen and ranking members of the two committees agree that this action does not reflect a determination that Senate Resolution 400 does not provide authorizing jurisdiction for the Intelligence Committee over JMIP. It is, rather, a compromise to allow this bill, this year, to go to the floor.

Left unresolved, then, its how the Senate should conduct oversight and authorization of the Intelligence Community in today's changing world. As I have previously noted, there have been significant changes over the years that have been reflected in the way intelligence activities are budgeted. In the coming years, we see even greater change. Our committee, the House Intelligence Committee, and the Brown Commission on Intelligence Roles and Capabilities, are examining what changes should be made in the intelligence community in the post-cold-

war world. Together, these efforts comprise the greatest opportunity to improve U.S. intelligence since 1947. Budget categories, and many other familiar features of today's intelligence landscape, are likely to change still further. To make sure that the Senate's authorization process appropriately reflects the changes that have already occurred and that may be coming, Senator KERREY and I, together with Chairman THURMOND and Senator NUNN, have directed our staffs to form a working group to recommend to the two committees how authorization responsibilities should apply to specific categories or activities.

Mr. President, we will be prepared for the future, and I think the Senate and the country will be the beneficiaries of our collaboration. I am most grateful for the vast knowledge and the attitude of constructive cooperation which the President pro tempore and Senator NUNN brought to this problem.

Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, I rise to describe a bill which has not attracted much attention this year, the intelligence authorization bill for fiscal year 1996. This year the intelligence bill is not the venue for controversies over the foreign policy issues or levels of national security spending, but it is an important piece of legislation nonetheless.

Much has been written about the Presidential Commission and congressional and private sector studies underway to redefine and reorganize the intelligence community. Few have noted that no matter what the outcome of all this discussion, the actual intelligence community, with its real and serious continuing requirements to keep our leaders informed and our military warned, must be budgeted and guided to do its job.

This bill provides the budget authorization and the priorities our intelligence professionals need for the year ahead.

The bill attempts to fix the imbalance between collection, which we have a great deal of, and processing, where we see shortfalls.

The bill supports efforts to track the transnational targets, threats like terrorism, weapons proliferation, and narcotrafficking, which are directed against us from many countries.

The bill acknowledges the indispensable role of intelligence in monitoring the arms control treaties we entered into, and it funds the systems which provide that intelligence.

The bill supports innovative technologies and the leveraging of private sector achievements and market requirements for the benefit of intelligence.

The bill supports research and development for the agencies whose mission depends on technology, and it addresses the growing imbalance between rising personnel costs and the shrinking availability of research funds.

The intelligence authorization bill also closes some of the remaining loopholes noted in the aftermath of the Ames case. The Intelligence Committee wants to make sure Americans who commit espionage forfeit all the financial gains from their espionage and from their pretense of being loyal American officials. Consequently the bill would require forfeiture of a convicted spy's Thrift Savings Account, if the spy were a civil servant. The bill also provides for the innocent spouse of a convicted spy to keep some of his or her assets, provided he or she cooperates with the authorities regarding the espionage case. Access to personal financial data was a problem in the Ames case, so the bill would permit FBI to have access to consumer credit reports on a suspected spy earlier in the investigative process.

CIA has been criticized for retaining Ames in the clandestine service long after his mediocrity was apparent. Although the great majority of intelligence personnel I meet are clearly talented people making a contribution to their country, the intelligence community's retention of the few people whose performance would get them fired in the private sector is a problem we need to fix. Consequently the bill asks the Director of Central Intelligence to implement an up-or-out policy across the intelligence community, similar to the policies of the State Department and the military. Such a provision would be one of the few positive outcomes of the Ames case. Not only would it strengthen personnel quality, it would also help the intelligence agencies manage their retention and overstrength problems.

The bill supports counterintelligence programs because America has secrets worth protecting, and those secrets are threatened by foreign intelligence services and Americans who would sell those secrets to them. As former DCI Woolsey explained to the committee in our first hearing of this Congress, no one can guarantee that Ames was the last of his breed. Given human nature and the size of the intelligence community, it is likely we will see more espionage cases. We don't need witch hunts. We do need vigilance and deterrence.

Many people presumed that the end of the cold war meant the end of spying and secrecy, and the Ames case led them to ask why the material being protected mattered any more. Of course, the costs of Ames' treachery in human lives alone is enough to justify his sentence. A life sentence for what he did is merciful, in my view. But there are additional reasons why our secrets are important, and must be protected.

Simply put, our ability to monitor and predict threats to this country is essential to saving the lives of Americans. Whether intelligence brings the warning of a strategic attack or accidental missile launch, or an impending terrorist attack, or the decision of some foreign leader to develop a clandestine program of biological weapons, our national lives and our individual lives hinge, in part, on the capabilities of the intelligence community. I urge my colleagues to support the intelligence authorization bill.

We buy many expensive things in the name of national security which are never used in combat. We buy some things the Pentagon doesn't even want. Their defenders justify them with theories. The contributions of intelligence are not theoretical. I can take any Member to CIA or the NSA or the NRO or over to the Joint Intelligence Center at the Pentagon and demonstrate how intelligence is being used today to inform and support U.S. policy and U.S. military operations.

We read in the September 27 Washington Post how crucial intelligence is to NATO operations over Bosnia, and how the intelligence is getting to the warfighter so much faster than in the gulf war. The gulf war itself was a triumph of dominant battlefield awareness, to use the current catchphrase. General Schwartzkopf knew vastly more about the enemy and the situation than the Iraqis did about us, and we all saw on television the fruits of that superior intelligence. With these events so fresh on our consciousness it is easy to forget that as essential as it is to support the military with intelligence, the priority customer for intelligence in peacetime must be the President and the policymakers around him.

Who, more than the President, needs a clear understanding of our vulnerabilities and our opportunities? With the best intelligence, the President can shape a policy that addresses the weaknesses of our adversaries and the requirements of our allies. Intelligence is the key to effective policy, and effective policy ought to achieve its goal, most of the time, without the need to employ our Armed Forces in combat. In my view, preventing the war, getting what we want without the war, is far better than having the war. You can't do that without dominant knowledge.

Once the President has formed the policy, intelligence can also help in its execution. To keep the U.N. Security Council solid in keeping sanctions against Iraq, Ambassador Albright last year showed U-2 photographs of Saddam Hussein's new palaces and continuing weapons programs to ten of her foreign colleagues on the Security Council. Similar images of the killing fields of Bosnia are pinpointing the atrocities there and will be useful as evidence in war crimes trials. United States showed the world North Korea's

true purposes at the nuclear facility at Yong Byon.

As these and many other daily cases show, intelligence is a national asset. It plays a national role every day, whether or not our military is engaged somewhere. There used to be a clear distinction between national and tactical intelligence, but the line is blurred today. Increasingly, the same agencies and collection systems that produce intelligence for the national policymaker also support the military, even at the tactical level. The same U-2 mission can bring back information on a Bosnian Serb air defense mission, intelligence for the local NATO, and simultaneously take pictures of refugee flows or mass graves that our policymakers and diplomats can use in their negotiating efforts. This growing dual capability of intelligence is often overlooked by those who associate intelligence exclusively with military operations.

The annual authorization process is a time to ask how our intelligence efforts can maximize their contribution to the nation. There are new directions I believe intelligence must take.

First, intelligence must get closer to its customers. The age of ivory-tower analysis is over. Intelligence managers have been much more responsive to customers in recent years, but more must be done. I would even consider physically moving teams of analysts right into the customers' offices. The intelligence community must also make maximum use of computer-based interactive communication with its customers. The analysts need to get into the customers' heads, so to speak. The challenge is to do so without taking on the policy biases of the customer, because the intelligence must not only be useful and responsive to the customer, it must also be absolutely honest. When the President's policy isn't working, or the efforts of the customer's organization are backfiring, the analyst must tell it like it is. Not all the bravery in national security takes place on the battlefield.

Second, intelligence should be predictive, even risking that its predictions could occasionally be wrong. It should look to the margins of likely future events and trends and analyze the less likely events which would most endanger U.S. interests. As the devaluation of the Mexican peso demonstrated, the less likely events nonetheless sometimes happen, and they can have a deep impact on Americans.

Third, intelligence must adapt to a world which has not only seen the end of Communism, but which is best suited for small, fast-moving, entrepreneurial organizations, a world which puts its greatest premium on knowledge, and a world in which the market, not the government, drives the improvement of technology. This new world brings Director Deutch many new tasks. He must develop his human collectors, planning ten or more years in advance for their peak usefulness, in the same way we acquire satellites. He must modify the personnel management culture that periodically moves people for its own internal bureaucratic purposes. Similarly, the managers of military intelligence personnel must find a place in their services for the handful of military personnel who have mastered foreign languages and cultures. We cannot have a first class HUMINT service without nurturing the people who serve in it, both civilian and military.

The explosion of commercial technology presents big potential advantages to the intelligence community, and it fundamentally challenges traditional methods of procurement. The traditional way to procure intelligence technology is for the government to pay for the research, development, and testing, as well as for the finished product. Consequently, the collection systems and processing and dissemination equipment for the Intelligence community cost the Government a lot of money. The unit cost is also high because the intelligence community buys relatively few of the finished items.

The Government tends to buy hundreds of something unique and pays millions for each one. The commercial world buys millions of something broadly available and pays hundreds for each one. The challenge is to find commercial applications for intelligence equipment, and thus reduce the government's acquisition cost. The Intelligence Committee has supported this approach for several years, starting with permitting U.S. companies to offer one-meter space imagery and imaging systems to the commercial market. Another trailblazing effort is ongoing at David Sarnoff Laboratories in Princeton, NJ, where researchers have created image analysis equipment which simultaneously answers the needs of intelligence analysts looking for evidence of weapons on the ground and the needs of radiologists looking for evidence of tumors in mammograms. In both uses, this equipment saves lives. It also provides a model for the intelligence community on how to procure the latest equipment more cheaply.

I have spoken about how our intelligence capability should adapt itself to the world of today. Under the leadership of one of the most capable executives and scientists in the country, this adaptation will proceed swiftly. I only wish the authority of the DCI over other agencies were stronger, so they could get the benefit of strong, centralized leadership. That is an issue for another day. My point today is the central, day-to-day importance of intelligence. The lives of individuals and at times our national life depends on its excellence, it is an essential function of government, and we are not about to block grant it to the states. That is why the intelligence authorization bill is an important piece of legislation.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Pennsylvania. Mr. President, the Armed Services Committee and the Intelligence Committee have worked closely together over the past nineteen years, and that cooperation is going to grow even closer in the years ahead. The Armed Services Committee greatly appreciates the advice of the Intelligence Committee regarding tactical intelligence programs.

I agree with the distinguished chairman of the Intelligence Committee that the creation of the JMIP budget category is a sign of the times. All the programs in JMIP have been previously found in the tactical category, but several were recently in the national category and others have clear national, as well as tactical, application. In fact, there are very few intelligence activities today that do not have potential benefit for both the policymaker and the tactical military commander. For that reason, the Intelligence Committee sought to have a formal role in authorizing and overseeing JMIP.

I believe that the Committee on Armed Services should be the committee of jurisdiction for JMIP for fiscal year 1996. The Armed Services Committee benefited this year from the Intelligence Committee's work on JMIP, and in almost every case we agreed with the Intelligence Committee. Our close working relationship has resulted in general agreement on the JMIP issues and an efficient allocation of the work to be done.

However, I also agree that this decision to allow JMIP to be authorized in the Defense Authorization bill rather than the Intelligence Authorization bill this year does not reflect a judgment on the scope of authority provided to the Intelligence Committee by Senate Resolution 400.

There is great change on the horizon for intelligence. Major reorganization may occur next year, and our legislative process must keep pace with it. My colleagues on the Committee on Armed Services and I look forward to working with the Intelligence Committee to determine the best way for the Senate to authorize and oversee the JMIP next year, as well as any new categories of intelligence programs that may come out of the newly reorganized intelligence community.

Mr. President, I thank the Senator from Pennsylvania and the Senator from Nebraska for their cooperation, and I yield the floor.

Mr. KERREY. Mr. President, I rise to endorse the views of my chairman and Chairman THURMOND. Continued close collaboration between the Intelligence Committee and the Armed Service

Committee can only result in the best possible intelligence for the military, together with greater efficiency.

Although the two committees disagree on this jurisdictional issue, in fact the cooperative process worked quite well this year on JMIP. The Intelligence Committee studied the individual JMIP programs in the context of all intelligence activities and the Armed Services Committee looked at them in terms of the military's requirements. On the substance, the two committees are, as usual, in broad agreement. We disagree on one program. I think the merits of that argument are on the side of the Intelligence Committee, but I agree that the Armed Services Committee should have the last word on authorizing programs whose normal function is support to tactical operations.

We have worked out a good solution for this year on JMIP, Next year's possible reorganization of the Intelligence Community could produce a whole new aggregation of intelligence programs. So I look forward to joining in a working group with the Armed Services Committee to determine how the Senate should authorize and oversee these programs so the needs of the policymaker and the tactical commander are fully addressed in the coming years. The Intelligence Committee has great experience and expertise in monitoring all the country's intelligence activities, and we offer them freely to the Senate without concern for turf or pride of authorship.

Mr. President, I yield to the distinguished Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Nebraska. The Senator from Pennsylvania was quite right when he said that the creation of this new joint military budget account was a sign of the times. The old accounting categories are becoming blurred by the versatility of intelligence systems today. The creation of JMIP put a strain on the relationship between the two committees, but I think we have fixed it for this year in a satisfactory way. Next year may bring additional change, and we are creating an intercommittee working group to determine how we adapt our procedures to the changed circumstances. I understand, and I believe my Intelligence Committee colleagues understand, that each committee has a distinct and complementary role in authorizing these programs. We will do a far better job working together than separately.

Let me explain the Armed Services Committee's concerns about these programs. There have been occasions in the past when the Intelligence Committee and the Armed Services Committee disagreed about systems to support the military which we and the military thought were extremely important. One of these was Joint STARS, a program that made a great contribution during the gulf war and is now a mainstay of tactical intelligence. We had sole authorization over the budget category of which Joint STARS had a part. If our Committee had not supported it strongly, our military, might not have this system today. So we take our responsibilities regarding intelligence support to the military very seriously. The chairman and vice chairman of the Intelligence Committee are no less serious, and we have six crossover Members to ensure that our common efforts keep on track. I am, therefore, confident that our close relation will continue, to the country's benefit.

Mr. KERREY. Mr. President, while I believe this bill is the best that can be achieved during this period of tight budgets and a changing world, there is one part of it that makes me uneasy. All of us were presented earlier this week with media stories that the National Reconnaissance Office once again has secretly kept large sums of money stashed away. Supposedly, DOD, CIA, and the Congress didn't know anything about $1 billion that had been "hoarded" away in carry-forward accounts.

The committee has already held a hearing on this subject. Based on the information presented and on the tough questions asked by committee members, several things are quite clear.

One, this is not a secret "slush" fund that no one knew anything about. In fact, these were funds maintained in accordance with the appropriate DOD manual. Moreover, DOD has known about the account since at least 1989 when the DOD Inspector General audited the NRO and agreed with the NRO's proposal on the size and method of accounting for these funds.

Second, the committee has been overseeing and not overlooking the NRO's budget. We are all very much aware of the debate about the NRO in which the previous Director of Central Intelligence and the Congress were engaged. I say we are aware of it because even though the NRO's activities are highly classified—and they should be for good reasons—the news media carried the stories about the intensity of the debate between the committee and the DIC. That debate has ended because we have a new DCI, and the committee is moving ahead with its close scrutiny of the NRO.

Third, the manager's amendment to the bill conforms our authorization level for the NRO's carry-forward accounts to the amount of the reductions in these accounts legislated by the Defense appropriations conference bill. The committee has done this so we can move ahead to a conference with our House counterparts. But, Mr. President, I want everyone to understand the implications of what is happening here.

In the opinion of the Director of the Intelligence Community Management Staff, the cuts being taken against these accounts could have far-reaching effects on the country's ability to collect extremely valuable information involving our most vital interests. The National Reconnaissance Office collects sensitive information better than anyone else, anywhere else in the world. Let me repeat that: no one, anywhere—the Russians, the French, the Germans, the Japanese, even DOD—is better at this business than the NRO.

If any of my colleagues believes I may be exaggerating about the importance and usefulness of this information, let me make a standing invitation to those of my colleagues who might have doubts. You can pick any day of any week, and we will go together to find out what the NRO has collected, and is collecting on that day. I can guarantee you, you will walk away from the experience with a far better appreciation of just how good our satellite systems are, and with a better understanding that the NRO's contributions are vital to our military and foreign policy successes.

This year, when the NRO presented its future years defense plan to the Congress, it gave us a very aggressive plan. It provides for big savings by consolidating operations. It restructures our satellite constellations, moving them away from a cold war focus and instead directing them against future problems. In order to execute that plan, the NRO says it needs all of the money contained in its request. The size of the cut contained in the Defense appropriations conference bill and mirrored in the manager's amendment offered with the intelligence authorization bill probably means the plan cannot be executed unless the money is restored. So I just want my colleagues to know that if the NRO is correct, next year important satellite programs will be cut and others will be pushed far out into the future if a substantial amount of this money is not restored.

It is very difficult to discuss—in an unclassified statement on the floor of the Senate—the enormous problem this cut could create. I could tell my colleagues that as result of these cuts, when they, or their successors, get a classified briefing in S-407 5 years from now, there may not be any satellite images available to help explain the situation. But I don't know for certain if this is true. Nevertheless, I want to alert my colleagues to the potential repercussion this cut could have, if the money is not restored in subsequent years of the NRO's future years defense plan.

Mr. COHEN. Mr. President, I rise to urge my colleagues to support the fiscal year 1996 intelligence authorization bill. Although most of the programs authorized by this bill remain classified, there are a number of general

points that are worth noting as the Senate considers this important legislation.

First, the time has long since passed when the intelligence budget escaped serious scrutiny within Congress or the executive branch. Let me briefly outline the current process:

Prior to its submission to Congress, the intelligence budget is reviewed by the DCI's Community Management Staff, the Office of the Secretary of Defense, and the Office of Management and Budget.

The intelligence budget is then reviewed by no less than six congressional committees. It is available to all 535 members of Congress, and indeed, every year the Senate Intelligence Committee sends a written invitation to each member of the Senate inviting them to review the President's request and the committee's recommendations. To the best of my knowledge, this degree of access is not available to members of the British or French Parliaments, the Israeli Knesset, or representatives of the world's other great democracies. Every Senator has the right to review the classified annex accompanying this bill prior to voting on it.

In addition to the scrutiny provided by the House and Senate Intelligence, Armed Services, and Appropriations Committees, GAO has personnel who routinely audit a variety of intelligence programs.

The President's Foreign Intelligence Advisory Board [PFIAB] also has access to budget and operational information as does the congressionally mandated Presidential Commission on Intelligence Roles and Missions.

The CIA has a statutory IG with broad powers to investigate programmatic issues as well as alleged improprieties.

In short, the intelligence community's black budget is subjected to careful scrutiny each and every year.

Some may say, if that is all true, how could the NRO secretly hoard over $1 billion without Congress, DOD, or the DCI being aware of these funds? The fact is that the DOD IG became aware of the NRO's policy with regard to carry forward accounts in 1989. Further, in 1992 the audit staff of the Senate Intelligence Committee uncovered the NRO 3-month carry-forward policy and learned that this policy was a response to increased technical risks associated with launch problems that developed in the mid-eighties. The committee was assured that the 3-month carry-forward policy would be reduced to a 1-month margin by 1996. That did not occur in a timely fashion as promised, and the Congress has intervened to remedy the problem. So I would submit to my colleagues that although the oversight process continues to evolve and improve, it was that very process which brought the NRO carry-forward accounts to light.

I think we all need to be clear about the NRO issue. There is no evidence that funds were misspent or laws broken. Every dollar was duly authorized and appropriated and every dollar that is taken out of the NRO's so-called carry forward accounts this year will need to be restored in future budgets. The NRO was excessively conservative in its planning and budgeting, which has not increased the overall acquisition costs for satellites, but has reduced the funds available in the near term for other important intelligence programs. That problem has been brought to light and is being rectified.

Because there are a number of misperceptions about the NRO funding issue, as well as other aspects of the intelligence budget, I would like to briefly comment on what we are authorizing in this bill and why it is still necessary, notwithstanding the end of the cold war, to devote considerable resources to intelligence programs.

We are not buying a crystal ball that will bring future events clearly into focus. No matter how much we spend on intelligence, there will never be a foolproof method for predicting the future of Bosnia, Russia, or the Middle East. There are no documents we can acquire, photographs we can take, or sources we can recruit that will foretell the future of these turbulent regions.

As my colleagues may know, the intelligence community was not able to predict the Iraqi invasion of Kuwait with certainty. It is quite possible that Saddam Hussein himself did not decide to proceed with the invasion until the final hours—therefore no matter what access the United States had had in Baghdad the invasion of Kuwait could not have been confidently predicted in advance. What United States intelligence could and did do, however, was provide substantial detail on the Iraqi troop buildup along the Kuwaiti border in the weeks prior to the invasion. Developing a policy in response to the buildup then became a matter for the President and Congress. Then, after the invasion, the intelligence community provided General Schwarzkopf with the information needed to decisively defeat Iraq with a minimum of allied casualties. That is the primary rationale for the programs authorized in this bill—to provide critical information to policymakers and if diplomacy fails, to fight and prevail with a minimum of casualties.

As a member of both the Senate Intelligence and Armed Services Committees, I am keenly aware of the vital linkage between intelligence programs and military operations. Roughly 85 percent of the intelligence budget is executed by the military services or defense department agencies such as the National Reconnaissance Office [NRO], the National Security Agency [NSA], and the Defense Intelligence Agency [DIA]. These agencies, which are designated Combat Support Agencies pursuant to the Goldwater-Nichols Act, provide intelligence and warning in peacetime and direct combat support in wartime. The Defense Department is by far the Nation's leading consumer of intelligence information and most of the programs authorized by this bill have been developed in response to military requirements. Many of the systems that support the U.S. military, however, are also used on a daily basis to monitor arms control agreements, detect and track illegal narcotics, monitor the proliferation of weapons of mass destruction, and monitor terrorist organizations. To a large extent, the intelligence produced on these topics is a dividend made possible in peacetime by an intelligence system geared for the wartime requirements of the U.S. military.

My colleagues should also appreciate the fact that the dependence of the U.S. military on sophisticated intelligence systems is increasing. As the U.S. military force structure shrinks, the Pentagon has consciously decided to compensate for smaller numbers of men and equipment by placing increased reliance on sophisticated intelligence and communications systems. Precision guided munitions require precise targeting information; smaller numbers of more advanced ships and planes need to be allocated against the highest priority targets; and as the force structure shrinks each of our remaining military assets becomes more valuable and its potential loss more costly to the military. Further, in many of the politically sensitive conflicts underway in the world today, an option that involves substantial, so-called collateral damage is not a politically viable option for the President. For all of these reasons, the Department of Defense needs and expects voluminous amounts of precise intelligence information to support military operations. In sum, intelligence is a force multiplier that permits the U.S. military to do more with less.

In conclusion, all Senators should understand that the Armed Forces are the primary advocates for the programs in this bill, and the overwhelming majority of the funds this bill authorizes will be executed by the Department of Defense. I should also point out that the DCI has publicly stated that his top priority is support to the U.S. military. As a former Deputy Secretary of Defense, he certainly understands the importance of this mission, and I know he is dedicated to providing the best support possible to our men and women in uniform.

The world we live in is turbulent and dangerous. The proliferation of nuclear, chemical, and biological weapons concerns us all. Terrorism is a continuing threat—one that could become far more dangerous in the future given the

spread of weapons of mass destruction. Intelligence is contributing to recent arrests that have severely damaged the Cali cartel. As the Ames case demonstrates, counterintelligence operations remain critical to U.S. national security. And without national intelligence systems, it would be difficult to enter into verifiable arms control agreements. Yet, even if none of these requirements for intelligence collection existed, the great majority of the spending in this bill would still be necessary to support our men and women in uniform.

For all of these reasons, I believe that intelligence activities remain vital to U.S. national security and this legislation deserves the support of every member of the Senate.

Mr. MACK. Mr. President, I rise to express my strong support for the fiscal year 1996 intelligence authorization bill.

As a member of the Senate Intelligence Committee, as well as the Defense Appropriations Subcommittee, I have been involved in reviewing U.S. intelligence requirements and programs. While most of the programs authorized by this legislation are classified, there is much that can be said in general terms about the importance of this measure.

My colleagues should understand that although the end of the cold war has lessened the threat to the United States, it has not reduced the demands for information imposed on the Intelligence Community by its many consumers. We live in an era described as the "age of information," and that applies to the public sector no less than the private sector. In fact, the instability and turbulence unleashed by the collapse of the Soviet empire has led to increased requests for information on a wide variety of new topics, countries, and conflicts.

For example, in recent years the U.S. has become involved in conflicts in Iraq, Somalia, Haiti, and Bosnia. In each case, the Defense Department has depended on the Intelligence Community for the information necessary to perform assigned military missions with a minimum of risk to U.S. personnel. These operations, including the ongoing U.S. military involvement in Bosnia, should demonstrate beyond any doubt that the demise of the Soviet Union has not lead to reduced requirements for intelligence information, either to support the U.S. military, or to support civilian policymakers engaged in arms control, counternarcotics, political or economic negotiations, monitoring international embargoes, or the routine conduct of foreign policy.

Ironically, our national security is becoming more dependent on intelligence collection, rather than less dependent, in the post cold war era. This is primarily the result of a reduced military force structure that is increasingly dependent on superior intelligence to compensate for smaller numbers. For example, the U.S. Army has shrunk from 18 Active Duty Divisions in the mid-eighties to only 10 today. The U.S. Army is now the eighth largest in the world, and it is stretched thin at many points, as in South Korea, where 37,000 U.S. military personnel and 500,000 South Korean soldiers are confronted by a North Korean Army that is twice as large.

The U.S. Navy and Air Force are engaged in similar reductions. The Air Force now has 20 active and reserve fighter wings, down from the 38 fighter wings available during the Reagan Administration. Similarly, the Navy has long since abandoned the goal of a 600 ship fleet and is now planning for a force some 30% smaller. With this reduced force structure, the U.S. can still prevail, even against much larger adversaries fighting close to their own shores, but only if the U.S. maintains superior personnel, weapons systems, and intelligence and communications capabilities. The public and my colleagues should be aware that the overwhelming majority of the funds authorized in this bill directly support, and indeed are executed by, the Department of Defense. There is simply no way to make substantial, additional reductions in intelligence programs without harming U.S. military readiness and capabilities.

In addition to the critical support that the Intelligence Community provides the Department of Defense, there are numerous missions performed by the Intelligence Community that are critical to the conduct of U.S. foreign policies. The Intelligence Community makes it possible to verify arms control agreements; it monitors the proliferation of weapons of mass destruction; it provides unique information regarding the intentions of foreign governments; it tracks international terrorism across the globe; and our intelligence agencies operate on a global basis to penetrate the international drug cartels. Many of these missions involve great difficulty and often danger, but there is no substitute for the painstaking work the Intelligence Community quietly performs in many distant lands.

I believe that the contributions made by the Intelligence Community to the war on drugs merit special consideration and increased support. During the confirmation hearings for DCI John Deutch, I expressed my sentiments to the nominee and asked him to consider the evidence presented by William Bennett and John Walters in their article of February 9, 1995, entitled, "Why aren't we attacking the supply of drugs?" The article points out that after the Bush Administration deployed U.S. military forces to help detect and interdict drug shipments in 1989, the price of cocaine increased by some 30% within a year's time, and the number of hospital admissions for cocaine overdoses declined by a roughly similar amount. The DCI responded to my questions on the counternarcotics issues by saying, "And I must say, Senator, just so there is no misunderstanding, I agree with your point, that here is a place that deserves more resources generally by the Intelligence Community, not less."

After the nomination hearings, I wrote the DCI on this issue, and supported increased expenditures for counternarcotics activities during the committee's budget deliberations. I am pleased to say that the Intelligence Authorization bill contains additional funds for counternarcotics programs that were not in the Administration's request. I am also delighted by the progress that has been made over the last few months in apprehending the leaders of the Cali cartel. U.S. intelligence agencies have contributed to this success and already, once again, the newspapers are reporting an increase in the street price of cocaine. The evidence again clearly suggests that aggressive efforts to attack drug production and transportation can be effective. As a member of the Intelligence Committee, and the Defense Appropriations Subcommittee, I will continue to press for increased counternarcotics efforts by the Defense Department and the Intelligence Community.

Finally, I would like to acknowledge the far-reaching changes being implemented within the Intelligence Community because too often the public only hears the bad news. The Intelligence Community has tightened its belt in terms of both budget and personnel. Substantial changes are being made in the way that the CIA operates overseas; in hiring and promotion practices, and in the way that the CIA interacts with its oversight committees. This Intelligence Community is not treading water—DCI John Deutch is implementing profound changes that will increase efficiency, improve intelligence support to consumers, and rectify the problems recently brought to light in Guatemala and the Ames case. Further, although there was no illegality or impropriety involved, he is working to ensure that the National Reconnaissance Office [NRO] is not overly conservative in estimating costs and risks, leading to excess funds in carry-forward accounts. We are most fortunate, in my view, to have a Director of Central Intelligence who is intimately familiar with military requirements for intelligence as well as the many technical matters which are so critical to modern intelligence collection. I believe that Director Deutch and his team will continue to aggressively implement the changes necessary to assure accountability and restore public confidence in the CIA.

In conclusion, I believe that the Intelligence Community is moving rapidly to keep pace with new missions and new technologies. I also believe that the programs authorized by this bill are vital to the security of the United States and deserve the support of every Senator.

Mr. President, I ask unanimous consent that a copy of a statement recently made by the DCI addressing the future of the Intelligence Community, together with my correspondence with him and a relevant newspaper article on counternarcotics issues, be printed in the RECORD.

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 1, 1995.

Hon. JOHN M. DEUTCH,
Deputy Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY DEUTCH: As you know, I am delighted that the President has nominated you to be the next Director of Central Intelligence. You bring a great deal of energy and integrity to the position, as well as a nearly unique blend of scientific and governmental experience. I look forward to working with you on intelligence issues in the years ahead.

During the course of your confirmation hearings last week, you may recall that I raised the issue of illegal narcotics during both the open and closed sessions. Due to the format of the hearings, however, and the limited amount of time available, I do not feel as though I was able to obtain all the information I sought. Due to the critical importance I attach to this matter, I would therefore like to pursue this issue somewhat further.

Specifically: Would you agree that the experience of the early 1900's indicates that increased spending on interdiction, eradication, and disruption of narcotics organizations can substantially reduce drug use in this country? The information in the article I entered into the record during the open hearing, which I have attached, suggests that we have not reached the point of diminishing marginal returns with regard to intelligence and defense programs intended to reduce the supply of illegal narcotics in the United States. If confirmed, will you task the Crime and Narcotics Center, or other appropriate office, to conduct an assessment of this issue and make the results available to the Committee prior to the August recess?

Does DoD have a threat assessment with regard to illegal narcotics? Despite the rhetoric we often hear, it seems as though drug smuggling is still treated primarily as an issue for law enforcement rather than a national security matter. As you know, threat assessments drive force structure and planning within the Department of Defense. If there is a DoD threat assessment that I am not aware of? I would appreciate a copy of the report as well as any supporting documentation which explains how the threat assessment has been converted into programmatics. Again, if a threat assessment is not available, I would like to ask that you task the DCI's Crime and Narcotics Center, or the Department of Defense if appropriate, to produce such an assessment prior to the conferences on the Defense and Intelligence Authorization bills this fall.

I know that you will face many challenges as the next Director of Central Intelligence. There are many threats facing our country in the uncertain world in which we live. It is worth noting, however, that as horrific as terrorism is, the number of Americans who die or suffer mental or physical damage from illegal narcotics is far greater. I believe that there is much more that can and should be done to staunch the massive flow of illegal narcotics into the United States.

I appreciate your consideration of this request. Again, I look forward to working with you in the years ahead.

Sincerely,

CONNIE MACK,
U.S. Senator.

THE FUTURE OF U.S. INTELLIGENCE—CHARTING A COURSE FOR CHANGE
(By John Deutch, Director of Central Intelligence)

Thank you very much for that introduction.

There are two challenges facing the Intelligence Community today:

First, we must be effective. We must deploy our considerable resources against the most pressing security threats of the post-Cold War era.

Second, we must be accountable. We must carry out our intelligence operations in an efficient and responsible manner. At the same time we must maintain an effective espionage service.

When President Clinton asked me to be the Director of Central Intelligence, he instructed me to make whatever changes were necessary to assure that our nation has the best intelligence service in the world and that we carry out our duties with integrity.

Today I will outline five broad changes underway to make the Intelligence Community—and the CIA in particular—more effective and more accountable. They are not quick fixes. They do not involve massive new legislation or reorganization. These are measures that lay a foundation for fundamental change in the way we do our business. They will strengthen our intelligence capability, they will not tear it down. There are many things that the Intelligence Community does well. We intend to build on these strengths, but we are determined to address the problems that have damaged the reputation and diminished the effectiveness of the Intelligence Community.

These changes are going to require a great deal of work on the part of members of the Community and extensive consultation with the policy makers and military commanders who use our intelligence on a day-to-day basis. I look forward to working with these changes with Members of Congress and others who have the responsibility to review our nation's intelligence programs.

I also want to public to understand what we are doing so that they will have confidence that our intelligence activities are carried out in a manner consistent with this nation's interests and values. Accordingly, our process of reform and change will be open for discussion.

Our success in strengthening the Intelligence Community is of critical importance to all Americans. The nation faces a multitude of challenges that will test our leadership and influence in post-Cold War world: The proliferation of chemical, biological, and nuclear weapons of mass destruction; the activities of hostile countries like Iran, Iraq, and North Korea; the growing threat of international crime, terrorism and narcotics trafficking; and we must maintain the economic security of our nation

We must also keep an eye on the larger, longer term developments. Will an emergent China redraw the political and economic landscape of Asia? Will Russia abandon its steps toward democracy and return to authoritarian rule?

When President Clinton visited CIA in July he spoke to the importance of intelligence in addressing these challenges and these questions. President Clinton said: "The intelligence I receive informs just about every foreign policy decision we make. It's easy to take it for granted. But we couldn't do without it. Unique intelligence makes it less likely that our forces will be sent into battle, less likely that American lives will have to be put at risk. It gives us the chance to prevent crises rather than forcing us to manage them."

1. CUSTOMER FOCUS

Customer focus is the first change I want to discuss.

Our primary mission in intelligence is to provide the President and other senior leaders with the information they need to make and implement foreign policy.

When the Intelligence Community focuses closely on what intelligence customers need, when we make the policy makers deadlines and requirements our own, we provide superb support. That means getting the right information to the right person at the right time—that goal hasn't changed. But we are changing significantly the way we get the job accomplished.

Interagency intelligence teams have been particularly effective in providing critical, round-the-clock support, from detailed maps of remote areas to human intelligence and amazingly vivid pictures taken from space. For example, both policy makers and military commanders give high marks to Intelligence Community support to humanitarian and peacekeeping operations in Bosnia, Haiti, and Somalia.

Permanent interdisciplinary centers that bring together collectors and analysts from the CIA and other intelligence agencies have also been the most successful approach to the complex transnational issues of weapons proliferation, terrorism, organized crime and narcotics trafficking.

Making sure that our information is the most thorough, most objective available on a day-to-day basis requires discipline on our part, and it requires close and continuous contact with our intelligence customers.

Here I would note that giving policy makers the information that they need is not the same as giving them the intelligence judgments that they would like to see. If we want our products to be used, we also have to maintain an unassailable reputation for objectivity. Any effort to tailor our analysis to policy would quickly destroy our credibility.

Closer contact with our customers begins, but does not end, with the DCI. I am meeting more often with our key intelligence consumers—at least once a week with the Secretary of State, the Secretary of Defense, and the National Security Advisor, and, at least monthly with the Attorney General, the Chairman of the Joint Chiefs, and those officials involved with economic security and trade. And, of course, I meet with the President and Vice President whenever necessary.

This contact and awareness of consumer needs must extend to all working levels of the Intelligence Community. Accordingly, we are assigning more intelligence officers on rotation to policymaking offices and to work on site with military units.

At a time of tight budgets and a proliferation of intelligence challenges, we cannot afford to collect for the sake of collection or

pursue every promising technology. Guided by customer needs, the Intelligence Community must exercise discipline in pursuing only those systems that offer significant promise for meeting customer needs better and more cheaply.

For example, we will not only buy expensive new satellites unless there is a significant demand from our national security customers. I have already taken several steps to improve efficiency in the management of our satellite systems.

Defense Secretary Bill Perry and I are putting into place a new decisionmaking process—the new Joint Space Management Board—to assure that both intelligence and military satellite acquisition decisions are made efficiently and meet user needs.

We are also moving toward consolidating the eight agencies now involved in imagery intelligence into a single National Imagery Agency, organized to serve better the joint military commander in wartime and top policy makers in peacetime. The new National Imagery Agency will put together all aspects of collection, analysis, and distribution of imagery. The goal will be to provide the military commander near real time, all source intelligence that will give our forces a unique "dominant battlefield awareness."

Both these management initiatives will provide better service to our customers and will save money.

2. HUMAN INTELLIGENCE: ASSURING INTEGRITY

The second area I would like to discuss is major change in the CIA's Directorate of Operations, or DO. The DO manages our spies. Even in this day of highly sophisticated satellites and technical collection systems, there are some types of information that can only be collected by people.

Espionage is the core mission of the Central Intelligence Agency. Despite set backs, we must continue to take risks that result in the collection of information that is available by no other means. If we do not take such risks because we are afraid to fail or we are afraid of controversy, then we will fail as an intelligence service in protecting the national security interests of the United States. Therefore we shall not slacken our efforts to recruit informants in hostile governments, terrorist groups or drug trafficking organizations.

Let me be clear, we will continue to need to work with unsavory people. We will actively seek out any individual who can provide important intelligence from within a terrorist cell or a factory supplying arms to a rogue state. Why are we doing this? Because such human intelligence can save American lives or avert conflict.

What will be different is that we will not do these things blindly, without thorough vetting and established procedures for accoutability. We will not fool ourselves or fool our customers about the risks we have taken.

The new Deputy Director for Operations has ordered a complete "scrub" of all DO "assets," as the Intelligence Community refers to human agents. This is a rigorous evaluation of each one of the agents that we recruit to give us information. If the information these assets provide is no longer relevant, if we can get the same information elsewhere, if questions of human rights violations or criminal involvement outweigh the value of the information to our national interest, then we will end the relationship with the asset.

We are developing new guidelines to ensure that concerns about human rights and criminal activity are taken into account in recruiting, evaluating and managing assets. The guidelines will also include mandatory steps to provide accurate and timely information to Congressional Oversight Committees and law enforcement agencies.

Thus these new guidelines will allow us to make informed decisions on asset recruitment and retention; this does not mean that we will slacken our efforts to recruit informants in hostile governments, terrorist organizations, or international crime and drug trafficking organizations. To do so would be to deny our government information that leads to actions that better protect our citizens and their interests.

I would like to say a word about covert action—those activities CIA undertakes to influence events overseas that are intended not to be attributable to this country. Since the public controversies of the eighties over Iran-Contra and activities in Central America, we have greatly reduced our capability to engage in covert action. I believe that the US needs to maintain, and perhaps even expand, covert action as a policy tool. But here again, we will not undertake covert action to support policy objectives, unless it is approved at the highest level of government and only if the President authorizes such action after a scrupulous review process, including timely notification of the appropriate Congressional oversight bodies.

Finally, the Ames case has taught us that counter intelligence—guarding against penetration of our intelligence or national security agencies by agents of a foreign government—requires constant vigilance. I recently created the position of Associate Deputy Director of Operations for Counterintelligence to assure permanent, high level attention to counter intelligence issues.

3. LAW ENFORCEMENT AND INTELLIGENCE

The third area of change is to greatly increase our cooperation with the law enforcement community. In the past, we used the borders of the United States as a convenient dividing line between the responsibilities of intelligence agencies and law enforcement agencies. The CIA handled everything that involved foreign intelligence outside the US. The FBI and the Drug Enforcement Agency handled law enforcement within the US. Unfortunately international criminals, drug traffickers, and terrorists do not respect these neat distinctions that were introduced over a half century ago.

Cooperation between intelligence and law enforcement can produce fantastic success—the arrest of the leaders of the Cali drug cartel in recent months is a tremendous example—but this cooperation has yet to be as effective, extensive, and routine as it needs to be.

President Clinton and Vice President Gore are not satisfied, and correctly so, that we have in place the interagency mechanisms that we need to address these threats adequately. We cannot waste any more time worrying about bureaucratic rivalries that go back to the days of J. Edgar Hoover and Allen Dulles.

It's time for a fresh approach: a new division of responsibility that realistically reflects the pattern of international activity that exists today in terrorism, crime and drugs. The Intelligence Community must learn that in these areas, the law enforcement community—the FBI, the Drug Enforcement Agency, and US Customs—is the customer for intelligence, just as the Department of State and Defense are the customer for intelligence in the national security arena.

And the law enforcement community must accept that it is not necessary or efficient to establish an elaborate new and separate foreign collection system for intelligence.

Intelligence and law enforcement professionals need to develop new procedures that will result in more effective cooperation. For example, intelligence and law enforcement must modify some of their most strongly held beliefs about not sharing information about their sources with each other.

This does not mean that intelligence agencies will spy on US citizens. Our collection activities will not infringe on the rights of US citizens. Nor will CIA or other intelligence agencies take on any law enforcement duties. Attorney General Reno and I are simply seeking to build a new relationship between intelligence and law enforcement that will improve the country's performance in curbing international crime, drugs, and terrorism.

4. CARRYING OUT INTELLIGENCE OPERATIONS IN AN EFFICIENT FASHION

The fourth change that I want to address is the initiation of an integrated approach to resource planning and programming for all the agencies of the Intelligence Community.

In this era of tight budgets, the Intelligence Community has to undergo serious reexamination of its needs and its resources and, indeed, downsizing has been going on for some time—for example, since 1990, the number of people in the Intelligence Community has been reduced by 17% and an additional 10% reduction is planned by the end of the century.

However, up to the present, the Intelligence Community has been relatively free from the systematic planning, programming, and budgeting process that is the hallmark of efficient government.

The reason for this absence of management scrutiny is not because the intelligence budget is "secret." The reason is that intelligence activities are carried out by different agencies—NSA, DIA, CIA—and are carried out under separate budgets. There is no mechanism to compare the budgets of the various intelligence agencies and assess how they contribute to the missions of U.S. intelligence. The present system does not permit resource-saving tradeoff analysis: for example, the possibility of substituting satellites for aircraft imagery or signals collection, or assigning intelligence analysis responsibilities among the different agencies, considering the capabilities of the entire community.

It is the responsibility of the Director of Central Intelligence to review the nation's intelligence budget as a whole and justify it to Congress. As the system now stands, the DCI does not have the tools to do this job properly.

In preparing the FY97 budget, I am insisting that all agencies present their intelligence budgets in a manner that will allow us to make more informed hard decisions on resource allocation.

Simply put, the problem is to make a "symphony" from the diverse instruments represented by the various agencies. We need to assure that all elements of the community work in harmony. A mission oriented Intelligence Community multi-year program period will identify the resources needed to carry out our activities and assess the value of individual programs. An added benefit of this approach is that it will provide a clear description of what the Intelligence Community is doing and what is the value to both President Clinton and to the Congress.

5. IMPROVING THE QUALITY OF THE PEOPLE

The most important element of success in the Intelligence Community is the quality of

its people. Historically, we have attracted outstanding and highly motivated individuals. Unfortunately, some parts of the Intelligence Community are in danger of losing the ability to attract and retain the best people. This is particularly true of the Central Intelligence Agency and its Directorate of Operations. The fifth and last change I will discuss today is a new approach to personnel management.

We must replace CIA's personnel system with one that is better suited to the special nature of the work its employees must perform. We must reexamine the use of the polygraph in hiring and create a system that encourages employees to gain wider experience within the agency and discourages the development of barriers between the different directorates and cultures within CIA.

I have assigned CIA's Executive Director the task of reviewing past studies and designing a new system that will allow individuals to advance according to their accomplishments without regard to gender or race, a system that will be perceived as fair by employees throughout CIA. As intelligence officers, it is our job to understand and be able to operate in widely different cultures. A diverse workforce is absolutely essential to our ability to be an effective intelligence Agency in the next century.

This same emphasis on personnel management must extend to all other agencies of the Intelligence Community. All agencies need to recruit top people; all need career development programs; and all need to welcome diversity in the workplace. We need health promotion opportunities that are comparable across the Intelligence Community, and we need a retirement system that upholds the contract we have made with the good people who have dedicated their careers to our national security.

We will need to seek new authority to allow more flexible management of the very special Intelligence Community work force to assure, in a time of downsizing, that there is a reasonable prospect for advancement and provisions for early retirement within the Community.

CONCLUDING REMARKS

I have presented five fundamental changes that are necessary to improve the performance of the Intelligence Community: a significantly sharper focus on the needs of the intelligence customer; more selective and effective human intelligence; a new cooperative relationship between law enforcement and the Intelligence Community; a more efficient system for allocating the resources of the Intelligence Community; and revitalizing the personnel system to better serve all of the employees of the Intelligence Community.

These changes will enable the Intelligence Community to efficiently and effectively address the intelligence challenges of the post-Cold War era. I will devote my energy and my influence to assuring that each of these changes is made—thoroughly and promptly.

I hope that the media, Congress, and public opinion will give the Intelligence Community a chance to demonstrate what it can do. In a democracy, all the failures become public, the successes do not. It takes good will along with vigilant skepticism to give the intelligence enterprise a fair shake—to balance accounts about past excesses with reporting that assesses current accomplishments. Thank you very much.

[From the New York Times]

COLUMBIA ARRESTS RAISE PRICE OF COCAINE IN NEW YORK CITY

(By Clifford Brauss)

Only a few months after the Colombian Government began arresting the top leaders of the Cali drug cartel, law enforcement officials said the supply and potency of cocaine in New York City is dwindling, forcing wholesale and street prices to soar.

In what officials described as the most precipitous shift in almost six years, the wholesale price of cocaine has increased nearly 50 percent since May, while retail prices have gone up 30 percent. Similar increases, they said, are evident in other big Eastern cities dependent on New York-based Cali operatives for supplies.

In addition, they said, recent seizures and intelligence indicate that the size and number of shipments of cocaine into the New York area have declined. Only four months ago, Federal agents say, shipments weighing 1,000 pounds or more were coming into the city in trucks, ships and airplanes; now, they typically weigh less than 200 pounds.

The shifts are also evident in the city's drug markets. Drug dealers in Washington Square Park said this week that the same gram of cocaine that sold for $50 in May now goes for $80, an increase that they said was beginning to drive away younger buyers who come to Greenwich Village from New Jersey.

"I've been around 39 years," said one Washington Square dealer, whispering as he gave knowing glances to prospective buyers walking through the park. "So I know when they bust the big guys in Colombia, that's when the coke goes up."

Law enforcement authorities cautioned that the shifts in supply and price might be temporary, evidence of another periodic realignment of international trafficking networks with little long-lasting importance. But they said that the declining sizes of cocaine shipments and five recent fatal shootings between competing drug gangs in Queens appeared to be strong signs that the world's richest drug trafficking organization is at least going through a painful period of adjustment.

"Maybe it's only a breather that is benefiting the community," said Peter A. Crusco, chief of narcotics investigations in the Queens District Attorney's office "But relatively little is coming in. The big-level people are not risking moving the cocaine."

Officials say cocaine buyers can still find the drug in neighborhoods across the city, but New York police officials say laboratory tests show that dealers are now mixing their small bags and tins of cocaine power with 30 percent more sugar or baking powder to stretch supplies.

On the other hand, officials say supplies and prices of crack—the cocaine-based drug of choice among many poor users—have not been affected, because its purity is low to begin with and abusers need little to become intoxicated.

Though they are encouraged by the tightened supply of cocaine, some police officials expressed concern that shortages of cocaine could eventually increase demand for heroin, which is already gaining in popularity and is mostly distributed by organized crime groups that compete with the Cali cartel.

They also worry that if drug profits continue to be stretched, street gangs competing for customers, territory and supplies could turn more violent, much as they did when crack first became popular in the late 1980's.

Investigators said information collected through wiretaps and informers indicate that supplies of cocaine are being held up in Colombia and Mexico, where they are stockpiled before moving across the border, because the leaders who once personally supervised their release are in jail or on the run.

Middle-level traffickers, the wiretaps and informers indicated are holding back shipments, in part because they feared that the captured leaders might be trading information about cartel operations in exchange for more lenient treatment.

"The one person who moved the cocaine between Colombia and Mexico, Miguel Angel Rodriguez Orejuela, is out of commission for at least the moment," said a senior Drug Enforcement Administration official who spoke on condition that he not be named. "One can logically surmise that right now there is a quandary, a state of confusion, and problems with people hooking up with the traffickers both in Colombia and Mexico."

The most striking effect of the arrests in Colombia have so far been at the wholesale level of the drug trade, officials said. Responding to the decreased supplies, several law enforcement officials said top cocaine dealers have increased their prices to their largest distributors to an average of $26,000 per kilogram, from $18,000 only four months ago.

In Detroit, the Drug Enforcement Administration has reported an increase in wholesale prices from $22,000 to $32,000 per kilogram in the last two months alone.

A bodega owner in Washington Heights with broad knowledge of the cocaine trade in New York said the recent increase had forced middle-level dealers to drop some street sellers, shave profits, dilute their inventory and hoard supplies in case the current shortages continued.

"A lot of people are just holding onto their good stuff for when prices really go up," he said.

The last time cocaine prices in New York rose so much and so fast was in late 1989, when a shooting war broke out between the Medellin cartel and the Colombian Government. The Medellin group never recovered, but within months the Cali cartel picked up the trafficking slack, and prices returned to normal levels.

State Department and law enforcement officials said that Mexican trafficking groups and smaller Colombian cartels operating on Colombia's northern coast are now jockeying for new markets. Mexican traffickers have already taken control of much of the cocaine market in the Southwest, they said, and wholesale prices there have not risen as sharply as in New York.

But Thomas A. Constantine, the head of the Drug Enforcement Administration, said in a recent interview that there was no cartel waiting in the wings that could match the Cali group's financial resources, political clout in Colombia, and international trafficking connections.

"Nobody out there even compares," he said, saying that the Cali group had already surpassed the Medellin cartel in sophistication and resources at the time of the Medellin group's downfall.

But Mr. Constantine and other officials cautioned that it was too soon to tell how harshly the Colombian authorities would punish the six top Cali leaders they captured this year. United States officials noted that the cartel leaders were able to negotiate some of the terms of their surrender, and none have suffered confiscations of ill-gotten gains like their mountainside mansions or fleets of yachts.

In addition, the United States officials say, the cartel leaders are still able to communicate with their lieutenants sporadically

through family members who visit them in jail and by paying off guards. But perhaps because their telephone conversations are being monitored the officials say, they have not directed their underlings to release huge loads of cocaine warehoused in Colombia and Mexico.

Whatever the long-term impact, law-enforcement officials say, the latest price rises demonstrate that the cartel's top leaders direct the most minute details of their cocaine wholesale operations in the New York area. Recent captures of cartel records include items like personnel evaluations and Con Edison bills.

"We have done investigations involving wiretaps," said Robert H. Silbering, the Special Assistant District Attorney in charge of citywide narcotics cases, "that show a direct link from the streets of New York to the estates of Cali."

Mr. COATS. Mr. President, I ask unanimous consent the amendments be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, the bill be then deemed read a third time.

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

So the bill was deemed read a third time.

Mr. COATS. Further, that the Intelligence Committee be immediately discharged from further consideration of H.R. 1655, the Senate proceed immediately to its consideration, that all after the enacting clause be stricken, the text of S. 922 as amended be inserted, H.R. 1655 then be deemed read a third time and passed, the motion to reconsider be laid upon the table.

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

So the bill (H.R. 1655), as amended, was deemed read a third time and passed.

Mr. COATS. Mr. President, I move the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. SPECTER, Mr. LUGAR, Mr. SHELBY, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mrs. HUTCHISON, Mr. MACK, Mr. COHEN, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. JOHNSTON, Mr. ROBB, and, from the Committee on Armed Services, Mr. THURMOND and Mr. NUNN.

The PRESIDING OFFICER. The Senator from Indiana.

DESIGNATING "NATIONAL CHILDREN'S DAY"

Mr. COATS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 178, submitted earlier today by Senator PRESSLER.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 178) designating the second Sunday in October of 1995 as National Children's Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRESSLER. Mr. President, all parents understand the pride and joy we have in our children. They are the apple of our eyes, our most precious resource, our future, and our hope. Today I rise with many of my colleagues to submit a bipartisan resolution declaring the second Sunday in October, "National Children's Day." National Children's Day is about hope—the hopes we have for children and the hope they should have for themselves.

We live in a rapidly changing world—a world of difficulties and uncertainties for many children. Many children growing up today must overcome tremendous obstacles and challenges, such as drug and alcohol abuse, illiteracy, poverty, pregnancy, physical abuse, absentee parents, and neighborhood violence. How does the future appear for children who do not have a supportive, nurturing environment? To some, the future is uncertain and dark. According to the Children's Defense Fund, 15.7 million children lived in poverty in 1993 and every 98 minutes a child was killed in 1992.

Children need nurturing, guidance, time, understanding and the reassurance of a childhood and hope in their future. The fortunate children receive all the love and support they need. However, many children do not receive the appreciation they deserve. Children are our most precious human resource, for they hold our future in their hands, hearts, and minds.

Mr. President, you may be interested to learn that the first Children's Day was celebrated on the second Sunday in October 46 years ago on the campus of Notre Dame University. Dr. Patrick McCusker and his wife Mary decided to honor not only their children but children throughout the country. This year marks the 6th year a Senate resolution has commemorated this traditional day.

The intent of National Children's Day has not changed. National Children's Day assures children, as a Nation, that we will be here for them. As a Nation, we will try our best to provide for them, look out for them, and to give them the best our Nation can. National Children's Day reaffirms that we will keep our children in mind. National Children's Day is a celebration of America's hope in the children of today and tomorrow.

Mr. COATS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 178) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 178

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas the children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans, thus everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved, That the Senate designates the second Sunday in October of 1995 as "National Children's Day" and requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

JOINT MEETING OF CONGRESS AND CLOSING COMMEMORATIONS FOR THE FIFTIETH ANNIVERSARY OF WORLD WAR II

Mr. COATS. Mr. President, I ask unanimous consent the Senate immediately proceed to consideration of Senate Resolution 179, submitted earlier today by Senator THURMOND.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 179) concerning a joint meeting of Congress and the closing of the commemorations for the fiftieth anniversary of World War II.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. THURMOND. Mr. President, I rise today to submit, along with 34 of my colleagues, a resolution which commemorates the 50th anniversary of the end of World War II.

September 2d of this year marked this 50th anniversary. World War II changed the face of the world like no other in our history. We owe this distinction to our veterans, their families, and those who served on the home front to support the war effort. Americans made tremendous sacrifices to protect the ideals of freedom and democracy. Their accomplishments should not be forgotten. Many American men and women answered the call of their country, left their homes and jobs, and boldly entered the war. Civilians on the home front performed the impossible by manufacturing goods at a rate that astonished the world. Our country joined together to ration food and grow victory gardens which aided the war effort. American farmers stepped forward and grew enough produce to support the allied forces.

The troops overseas offered the ultimate sacrifice as they fought in the deserts of North Africa, on the streets of European cities, under the Atlantic Ocean, and on the islands of the Pacific. The Americans that served and died gave the greatest honor possible to their families and their country. We should honor these veterans to show that we are a grateful nation.

Our support of this resolution sends a clear message to all Americans. It is a reminder to them that we will not forget those that answered the call of duty. This resolution designates the week of November 4–11 as the Closing Week of Commemorations for the 50th Anniversary of World War II. This week will be celebrated across the United States. Activities and honors will be held to recognize the 17-million Americans that served. The President will also be asked to arrange for any celebrations he deems appropriate. It is of vital importance that we not only honor these men and women, but also ensure that the current generation of Americans are educated about this war and its consequences. The Bells of Peace will ring on November 11th at 11 a.m., striking 50 times for the 50 years without a world war and symbolizing the hope for at least 50 more years of peace and freedom.

This national recognition of Veterans, their families, and all those who served at home is well deserved. The dedication and sacrifice of all our Americans must not be forgotten. We celebrate the valor of those involved to honor the past.

Mr. COATS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 179) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 179

Whereas 50 years ago, this Nation had just emerged from a war that found Americans fighting a common foe with 32 allied countries and in which over 17,000,000 Americans served in the military;

Whereas the United States suffered over 670,000 casualties, with more than 290,000 deaths, while over 105,000 Americans were held as prisoners of war;

Whereas on the home front, Americans mobilized to support the war by increasing the output of manufactured goods by 300 percent and by causing a second agricultural revolution through the efforts and imagination of our people as the American farmers mobilized to support the world;

Whereas the war led to dramatic social changes as more than 19,500,000 women joined the workforce at the Nation's defense plants and 350,000 joined the military;

Whereas the roles of minorities in both the military and industry were changed forever as more opportunities for employment and involvement in the defense of the United States presented themselves;

Whereas the contributions by women, minorities, and all those on the home front were legion;

Whereas the bringing to a close of the commemorations for the Fiftieth Anniversary of World War II should be celebrated across the Nation with programs and activities to thank and honor the World War II generation, our veterans, their families, those who lost loved ones, and all who served on the home front; and

Whereas it is important to educate the generations that followed World War II on the lessons of this horrific conflict and to reaffirm the values of human decency: Now, therefore, be it

Resolved, That—

(1) the Senate and the House of Representatives, by previous agreement, shall assemble in the Hall of the House of Representatives on October 11, 1995, for the purpose of saying to the Nation and the world that the American people will never forget those who served our Nation and saved the world, our veterans, and those who served on the home front as we close the commemoration of the Fiftieth Anniversary of World War II;

(2)(A) November 4, 1995, through November 11, 1995, is designated as a "Week of National Remembrance and the Closing of the Fiftieth Anniversary of World War II", with National Days of Prayer on November 4 and November 5, 1995, and a World War II Education Day across America on November 8, 1995, and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that period with appropriate ceremonies and activities;

(B) commemorations during the "Week of National Remembrance and the Closing of the Fiftieth Anniversary of World War II" shall include the dedication of the future site of the Nation's World War II Memorial in Washington, D.C.;

(3) Veterans Day, November 11, 1995, is designated as a "National Day of Observance and Celebration of the Fiftieth Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities; and

(4) each State Governor and each chief executive of each political subdivision of each State, is urged to issue a proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to participate on November 11, 1995, at 11 a.m., in the ringing of the Bells of Peace and Freedom by striking all bells of the Nation 50 times to signify the 50 years without a world war and the world's hope to achieve another 50 years of peace and freedom.

CELEBRATION OF JERUSALEM'S 3000TH ANNIVERSARY

Mr. COATS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Concurrent Resolution 29, submitted earlier by Senator DOLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 29) providing for marking the celebration of Jerusalem on the occasion of its 3000th anniversary.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. COATS. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 29) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 29

Whereas the Senate wishes to mark the 3,000th anniversary of King David's establishment of Jerusalem as the capital of Israel; and

Whereas Jerusalem, the City of David, has been the focal point of Jewish life; and

Whereas Jerusalem, the City of Peace, has held a unique place and exerted a unique influence on the moral development of Western Civilization; and

Whereas no other city on Earth is today the capital of the same country, inhabited by the same people, speaking the same language, and worshipping the same God as it was 3,000 years ago: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Architect is directed to make the necessary arrangements for a date in October to be mutually agreed upon by the Speaker of the House and the majority leader of the Senate, after consultation with the minority leaders of the two Houses, for the use of the rotunda for a celebration of the founding of the city of Jerusalem.

CHILD AND SPOUSAL SUPPORT

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 200, H.R. 2288.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2288) to amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of States' plans for child and spousal support.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COATS. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

So the bill (H.R. 2288) was deemed read for a third time and passed.

ORDERS FOR TUESDAY, OCTOBER 10, 1995

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:15 a.m. on Tuesday, October 10, that following the prayer the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m. with Senators to speak for up to 5 minutes each.

I further ask unanimous consent that following morning business at 9:30 a.m., the Senate begin consideration of S. 143, the job training bill, under a previous consent agreement.

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

Mr. COATS. Mr. President, I further ask that at the hour of 11:30 a.m. there be a period for morning business for 60 minutes to be controlled by Senators HUTCHISON and NUNN, and that at the hour of 12:30 p.m., the Senate stand in recess for the weekly party caucuses to meet until 2:15 p.m.

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

AUTHORITY FOR COMMITTEES TO REPORT

Mr. COATS. Mr. President, I further ask that during the adjournment of the Senate, committees may file reports on executive and legislative business on Wednesday, October 4, between the hours of 10 a.m. and 3 p.m.

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

PROGRAM

Mr. COATS. Mr. President, for the information of all Senators, any votes ordered with respect to S. 143 would be postponed to occur not before 2:15 p.m. on Tuesday.

Also, it is the leader's intention to complete action on Senate S. 143 on Tuesday, and since the bill has an agreement of 9 hours, a late session can be expected.

Mr. FORD. Mr. President, I would just want to say that we have already started when we come back, that we are going to be in late hours. This family friendly Senate that we were going to have at the beginning of the year—it is very difficult—to already say we are going to have 9 hours on Tuesday and we will work late into the evening, I am sure that will be music to everyone's ears. I hope that the Senator can use his persuasive powers and that we will get a normal dinner time when we return.

Mr. COATS. I say to my friend from Kentucky that my persuasive manner and nature has allowed us now to—as I read the clock, it is 10:07 p.m. on Friday evening. So we are not doing real well with the family friendly schedule. We hope this is an exceptional year. We are in the midst of doing an extraordinary amount of work.

Mr. FORD. It is going to be an exceptional year, all right.

ADJOURNMENT UNTIL 9:15 A.M. TUESDAY, OCTOBER 10, 1995

Mr. COATS. Mr. President, the hour being late, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of House Concurrent Resolution No. 104.

There being no objection, the Senate, at 10:07 p.m., adjourned until Tuesday, October 10, 1995, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 1995:

THE JUDICIARY

PATRICIA A. GAUGHAN, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE ANN ALDRICH, RETIRED.

JOAN A. LENARD, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES LAWRENCE KING, RETIRED.

CLARENCE J. SUNDRAM, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK VICE AN ADDITIONAL POSITION CREATED OCTOBER 23, 1992 PURSUANT TO PROVISIONS OF TITLE 28 SECTION 372(B) OF THE UNITED STATES CODE.

CONFIRMATION

Executive Nomination Confirmed by the Senate September 29, 1995:

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A):

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

To be general

GEN. JOHN M. SHALIKASHVILI, 331-30-8495, U.S. ARMY.

DEPARTMENT OF STATE

DAVID C. LITT, OF FLORIDA, 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 UNITED ARAB EMIRATES.

PATRICK NICKOLAS THEROS, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

DAVID L. HOBBS, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

WILLIAM J. HUGHES, OF NEW JERSEY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

MICHAEL WILLIAM COTTER, OF THE DISTRICT OF COLUMBIA, 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 REPUBLIC OF TURKMENISTAN.

A. ELIZABETH JONES, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

JOHN K. MENZIES, 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 REPUBLIC OF BOSNIA AND HERZEGOVINA.

JOHN TODD STEWART, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

PEGGY BLACKFORD, OF NEW JERSEY, 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 REPUBLIC OF GUINEA-BISSAU.

EDWARD BRYNN, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

VICKI J. HUDDLESTON, OF ARIZONA, 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 REPUBLIC OF MADAGASCAR.

ELIZABETH RASPOLIC, 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 GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

DANIEL HOWARD SIMPSON, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAIRE.

JOHN M. YATES, TO WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

JAMES E. GOODBY, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS PRINCIPAL NEGOTIATOR AND SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR NUCLEAR SAFETY AND DISMANTLEMENT.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN T. CONWAY, OF NEW YORK, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM OF EXPIRING OCTOBER 18, 1999.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

HARRIS WOFFORD, OF PENNSYLVANIA, TO BE CHIEF EXECUTIVE OFFICER OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

U.S. POSTAL SERVICE

NED R. MCWHERTER, OF TENNESSEE, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DUTY CONSTITUTED COMMITTEE ON THE SENATE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER TITLE 10, UNITED STATES CODE, SECTION 624.

to be brigadier general

COL. WILLIAM J. DENDINGER, [redacted] U.S. AIR FORCE.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE SUPPLY CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

SUPPLY CORPS

To be rear admiral

REAR ADM. (LH) RALPH MELVIN MITCHELL, JR. [redacted] U.S. NAVY.

REAR ADM. (LH) LEONARD VINCENT [redacted] U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE RESTRICTED LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) BARTON D. STRONG [redacted] U.S. NAVY.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral

REAR ADM. (LH) THOMAS F. STEVENS [redacted] U.S. NAVY.

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

SENIOR HEALTH CARE EXECUTIVE

To be rear admiral

REAR ADM. (LH) S. TODD FISHER [redacted] U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE UNITED STATES NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, UNITED STATES CODE:

To be admiral

ADM. WILLIAM O. STUDEMAN [redacted]

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE UNITED STATES NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, UNITED STATES CODE:

To be vice admiral

VICE ADM. NORMAN W. RAY [redacted]

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

CIVIL ENGINEER CORPS

To be rear admiral

REAR ADM. (1H) DAVID J. NASH [redacted] U.S. NAVY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

MAJ. GEN. JEFFERSON D. HOWELL, JR. [redacted]

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING JOHN H. WYSS, AND ENDING JAMES J. BLYSTONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 1995.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING VON S. BASHAY, AND ENDING JANICE L. ENGSTROM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 24, 1995.

AIR FORCE NOMINATIONS BEGINNING MICHAEL D. BOUWMAN, AND ENDING PHILIP S. VUOCOLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

AIR FORCE NOMINATIONS BEGINNING GARY L. EBBEN, AND ENDING STEVEN A. KLEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

AIR FORCE NOMINATIONS BEGINNING MARIA A. BERG, AND ENDING WARREN R.H. KNAPP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

AIR FORCE NOMINATIONS BEGINNING MARK B ALLEN, AND ENDING JOHN J WOLF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING *JOHN D. PITCHER, AND ENDING RAY J. RODRIGUEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 20, 1995.

ARMY NOMINATIONS BEGINNING GERHARD BRAUN, AND ENDING ROBERT M. SUNDBERG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 3, 1995.

ARMY NOMINATIONS BEGINNING JOHN A. BELZER, AND ENDING CHAUNCEY L. VEATCH III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 3, 1995.

Army nominations beginning Robert Bellhouse, and ending Cheryl B. Person, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 1995.

Army nominations beginning Terry C. Amos, and ending Stephen C. Ulrich, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 1995.

Army nominations beginning *Jeffrey S. Almony, and ending David S. Zumbro, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 1995.

Army nominations beginning David G. Barton, and ending Denise L. Winland, which nominations were received by the Senate and appeared in the Congressional Record on August 10, 1995.

Army nomination of Col. Michael L. Jones, which was received by the Senate and appeared in the Congressional Record on September 5, 1995.

Army nominations beginning Gerard H. Barloco, and ending Earl M. Yerrick, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1995.

Army nominations beginning Lillian A. Foerster, and ending Joann S. Moffitt, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1995.

IN THE MARINE CORPS

Marine Corps nominations beginning Bradley J. Harms, and ending Joseph T. Krause, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1995.

Marine Corps nominations beginning Charles H. Allen, and ending Robert J. Womack, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1995.

Marine Corps nominations beginning Douglas E. Akers, and ending Marc A. Workman, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1995.

NAVY

Navy nominations beginning Kyujin J. Choi, and ending Murzban F. Morris, which nominations were received by the Senate and appeared in the Congressional Record on July 20, 1995.

Navy nominations beginning Scott A. Avery, and ending Amy M. Witheiser, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1995.

Navy nominations beginning Glenn M. Amundson, and ending John F. Nesbitt, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1995.

Navy nominations beginning Richard J. Alioto, and ending Frank J. Giordano, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1995.

Navy nominations beginning Andrew W. Acevedo, and ending John L. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 1995.

Navy nominations beginning Jeremy L. Hilton, and ending Clayton S. Christman, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1995.

Navy nominations beginning Gary E. Sharp, and ending Leah M. Ladley, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1995.